FEDERAL REGISTER

Vol. 80 Wednesday,

No. 198 October 14, 2015

Pages 61717–61974

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 80 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Contents

Federal Register

Vol. 80, No. 198

Wednesday, October 14, 2015

Agriculture Department
See Forest Service
See National Agricultural Statistics Service

Centers for Disease Control and Prevention
NOTICES
Vaccine Information Materials for Meningococcal ACWY and Serogroup B Meningococcal Vaccines; Proposed Revisions, 61819

Children and Families Administration
PROPOSED RULES
Family Violence Prevention and Services Programs, 61890–61915
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61819–61820

Coast Guard
RULES
Drawbridge Operations:
Upper Mississippi River, Dubuque, IA, 61750

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
RULES
Amendment to Clarify When Component Part Testing Can be Used and Which Textile Products Have Been Determined Not to Exceed the Allowable Lead Content Limits, 61729–61733
PROPOSED RULES
Amendment to Clarify When Component Part Testing Can be Used and Which Textile Products Have Been Determined Not to Exceed the Allowable Lead Content Limits, 61773–61774

Defense Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61796–61797
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Novation/Change of Name Requirements, 61818–61819
Service Contracting, 61817–61818
U.S. Court of Appeals for the Armed Forces Proposed Rules Changes, 61796

Economic Development Administration
NOTICES
Trade Adjustment Assistance Eligibility; Petitions, 61791–61792

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Delaware; Low Emission Vehicle Program, 61752–61757
New Mexico; Infrastructure for the Sulfur Dioxide National Ambient Air Quality Standards, 61751–61752
Ocean Dumping:
Expansion of an Ocean Dredged Material Disposal Site Offshore of Jacksonville, FL, 61757–61765
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Delaware; Low Emission Vehicle Program, 61774–61775
South Carolina: Redesignation of the Charlotte-Rock Hill 2008 8-Hour Ozone Nonattainment Area to Attainment, 61775–61789
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Emergency Planning and Release Notification Requirements, 61815–61816
Trade Secrets Claims for Community Right-to-Know and Emergency Planning, 61814–61815
Meetings:
Farm, Ranch, and Rural Communities Committee, 61815
Mobile Sources Technical Review Subcommittee, 61816

Executive Office for Immigration Review
PROPOSED RULES
Recognition of Organizations and Accreditation of Non-Attorney Representatives, 61773

Federal Aviation Administration
RULES
Airworthiness Directives:
General Electric Company Turboshaft Engines, 61720–61722
Piper Aircraft, Inc. Airplanes, 61725–61727
Pratt and Whitney Canada Corp. Turboprop Engines, 61719–61720
Pratt and Whitney Canada Corp. Turboshaft Engines, 61717–61719
Schempp-Hirth Flugzeugbau GmbH Sailplanes, 61722–61725
Modification to Restricted Areas R–3602A and R–3602B; Manhattan, KS, 61727–61729
NOTICES
Environmental Impact Statements; Availability, etc.:
O'Hare Modernization, Final Re-Evaluation, 61881–61882

Federal Communications Commission
RULES
Procedures for Competitive Bidding:
Broadcast Incentive Auction 1000, 61918–61970

Federal Emergency Management Agency
NOTICES
Adjustment of Countywide Per Capita Impact Indicator, 61835
Adjustment of Minimum Project Worksheet Amount, 61835–61836

Disaster Grant Amounts; Adjustments, 61836
Statewide Per Capita Impact Indicators; Adjustments, 61836

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61800–61801, 61812–61813
Applications:
Gulf South Pipeline Co., LP, 61811–61812
Total Peaking Services, LLC, 61797–61798
Authorizations for Continued Project Operation:
Erie Boulevard Hydropower, LP; Saint Regis Mohawk Tribe, 61809
Combined Filings, 61801–61803, 61807–61811
Environmental Impact Statements; Availability, etc.:
Venture Global Plaquemines LNG, LLC, Plaquemines LNG Project, 61804–61807
Exempt Wholesale Generator or Foreign Utility Company Status:
Grant Wind, LLC, et al., 61814
Exemption Transfers:
Peer Electric, LLC; KC Pittsfield, LLC, 61807
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Greenidge Generation, LLC, 61807
NRG Chalk Point CT, LLC, 61804
Meetings; Sunshine Act, 61798–61799
Petitions for Declaratory Orders:
8point3 Energy Partners, LP, 61801
Petitions for Waivers:
Heartland Consumers Power District, 61803–61804
Preliminary Permit Applications:
Energy Resources USA Inc., 61813–61814
Lock(plus) Hydro Friends Fund X, LLC; Energy Resources USA, Inc., 61808–61809
Lock(plus) Hydro Friends Fund XI, LLC; Energy Resources USA, Inc., 61803

Federal Railroad Administration
NOTICES
Petitions for Waivers of Compliance, 61883–61884

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 61817
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 61817

Food and Drug Administration
NOTICES
Guidance:
General Considerations for Animal Studies for Medical Devices, 61820–61822
Recommendations for Microbial Vectors Used for Gene Therapy, 61822–61824
Prescription Drug User Fee Act, 61822

Foreign-Trade Zones Board
NOTICES
Production Authority Applications:
Coleman Co., Inc., Subzone 119I, Sauk Rapids, MN, 61792

Forest Service
NOTICES
Meetings:
Daniel Boone Resource Advisory Committee, 61790
Land Between the Lakes Advisory Board, 61790–61791

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Novation/Change of Name Requirements, 61818–61819
Service Contracting, 61817–61818

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service
See National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61824–61826

Health Resources and Services Administration
NOTICES
Meetings:
Advisory Committee on Training in Primary Care Medicine and Dentistry, 61824

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Citizenship and Immigration Services

Housing and Urban Development Department
NOTICES
Deadlines for Installers' Licenses under the HUD Manufactured Housing Installation Program, 61838–61840
Meetings:
Manufactured Housing Consensus Committee, Regulatory Subcommittee; Teleconference, 61840

Indian Health Service
NOTICES
Senior Executive Service Performance Review Board Member Listing, 61826

Interior Department
See National Park Service
NOTICES
Meetings:
Invasive Species Advisory Committee, 61840–61841

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan, 61793–61794
Large Residential Washers from Mexico, 61792–61793

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Boltless Steel Shelving Units Prepackaged for Sale from China, 61841–61842
Certain Personal Transporters, Components Thereof, and Manuals Therefor, 61842–61843

Justice Department
See Executive Office for Immigration Review
NOTICES
Proposed Settlement Agreements under CERCLA, 61843–61844

Labor Department
See Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Claims and Payment Activities, 61844–61845
Self-Employment Assistance of the Federal Emergency Unemployment Compensation Program, 61845

Labor Statistics Bureau
NOTICES
Meetings:
Bureau of Labor Statistics Technical Advisory Committee, 61846

Millennium Challenge Corporation
NOTICES
Entering into a Compact with the Republic of Liberia, 61846–61849

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Novation/Change of Name Requirements, 61818–61819
Service Contracting, 61817–61818

National Agricultural Statistics Service
NOTICES
Meetings:
Advisory Committee on Agriculture Statistics, 61791

National Endowment for the Arts
NOTICES
Meetings:
Arts Advisory Panel, 61849

National Foundation on the Arts and the Humanities
See National Endowment for the Arts

National Highway Traffic Safety Administration
NOTICES
Petitions for Inconsequential Noncompliance; Approvals:
BMW of North America, LLC, 61884–61886

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Population Assessment of Tobacco and Health Study, 61829–61830
Draft Report on Carcinogens Monographs on Five Viruses, 61832–61833
Meetings:
Center for Scientific Review, 61827–61828
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 61834
National Cancer Institute, 61830–61831
National Institute of Diabetes and Digestive and Kidney Diseases, 61826
National Institute of General Medical Sciences, 61834
National Institute of Mental Health, 61828
National Institute of Neurological Disorders and Stroke, 61834–61835
National Institute on Minority Health and Health Disparities, 61829, 61834
National Toxicology Program Board of Scientific Counselors, 61831–61832
Office of the Director, 61829
Requests for Information:
Nominations to the Report on Carcinogens and Office of Health Assessment and Translation, 61833

National Oceanic and Atmospheric Administration
RULES
Fisheries Off West Coast States:
Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Amendments; Correction, 61765–61767
Pacific Island Pelagic Fisheries:
2015 U.S. Territorial Longline Bigeye Tuna Catch Limits for the Commonwealth of the Northern Mariana Islands, 61767–61772
NOTICES
Meetings:
Fisheries of the South Atlantic Southeast Data, Assessment, and Review, 61795
Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review, 61795–61796
Permits:
Endangered Species; Take of Abalone, 61794–61795

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 61841

National Science Foundation
NOTICES
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 61849–61850

Nuclear Regulatory Commission
NOTICES
Meetings:
Advisory Committee on the Medical Uses of Isotopes; Rescheduled, 61850–61851

Personnel Management Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
CSRS/FERS Documentation in Support of Disability Retirement Application, 61852
Federal Annuitant Benefits Survey, 61851–61852
Initial Certification of Full-Time School Attendance, 61851

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61886–61887
Meetings:
International Standards on the Transport of Dangerous Goods, 61887

Presidential Documents
PROCLAMATIONS
Special Observances:
Leif Erikson Day (Proc. 9344), 61971–61974

Securities and Exchange Commission
NOTICES
Applications:
ARK ETF Trust, et al., 61869–61879
CLA Strategic Allocation Fund and CLA Asset Management, LLC, 61857–61860
Meetings; Sunshine Act, 61864
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 61855–61857
BATS Y-Exchange, Inc., 61853–61855
EDGA Exchange, Inc., 61863–61864
EDGX Exchange, Inc., 61879–61880
Miami International Securities Exchange, LLC, 61866–61869
National Securities Clearing Corp., 61860–61863
New York Stock Exchange, LLC, 61857
NYSE Arca, Inc., 61865–61866

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61881
Major Disaster Declarations:
South Carolina, 61880–61881

Social Security Administration
RULES
Collection of Administrative Debts, 61733–61750

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
NOTICES
Draft Test Plan to Obtain Interference Tolerance Masks for GNSS Receivers in the L1 Radiofrequency Band 1559–1610 MHz, 61888

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Naturalization, 61836–61837
Petition for Alien Relative, 61837–61838

Separate Parts In This Issue

Part II
Health and Human Services Department, Children and Families Administration, 61890–61915

Part III
Federal Communications Commission, 61918–61970

Part IV
Presidential Documents, 61971–61974

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:
9334 61973

8 CFR

Proposed Rules:
1001 61773
1003 61773
1103 61773
1212 61773
1292 61773

14 CFR
39 (5 documents) 61717, 61719, 61720, 61722, 61725
73 61727

16 CFR
1109 61729
1500 61729

Proposed Rules:
1109 61773
1500 61773

20 CFR
422 61733

33 CFR
117 61750

40 CFR
52 (2 documents) 61751, 61752
228 61757

Proposed Rules:
52 (2 documents) 61774, 61775
81 61775

45 CFR

Proposed Rules:
1370 61890

47 CFR
20 61918

50 CFR
660 61765
665 61767

Rules and Regulations

Federal Register
Vol. 80, No. 198
Wednesday, October 14, 2015

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0486; Directorate Identifier 2015–NE–07–AD; Amendment 39–18282; AD 2015–20–04]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) PT6B–37A turboshaft engines. This AD requires initial and repetitive inspections until replacement of the No. 10 bearing, and eventual replacement of the No. 9 bearing, both located in the engine reduction gearbox (RGB) assembly. This AD was prompted by reports of incorrect engine torque for PT6B–37A engines. We are issuing this AD to prevent axial migration of the No. 10 bearing in the engine RGB assembly, which could result in engine overtorque, failure of the engine, in-flight shutdown, and loss of the rotorcraft.

DATES: This AD becomes effective November 18, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 18, 2015.

ADDRESSES: For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *http://www.pwc.ca.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0486.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0486; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on June 19, 2015 (80 FR 35260). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Five incidences of incorrect engine torque indication have been reported for PT6B–37A engine installations on AW119MKII helicopters. A lower than actual engine torque indication due to a faulty indication system, particularly on a helicopter being operated at max allowable torque (90 to 110%) range, may result in undetected over-torque condition.
>
> Repeated over-torque conditions that are undetected and consequently are not corrected in accordance with conditional inspection requirements of original equipment manufacturer (OEM) Instructions for Continued Airworthiness (ICAs), may have a negative impact on the operational safety of the aircraft. Investigation by P&WC has determined the root cause of the subject torque indication anomaly to be the axial migration of part number (P/N) 3310433–03 bearings at the engine torque sensing gear location.
>
> The axial migration of the No. 10 bearing is caused by non-optimal bearing internal clearance. This migration may cause an erroneous torque reading, possibly leading to engine overtorque and engine failure. We are also requiring replacement of the No. 9 bearing since it may also migrate, has the same part number as a No. 10 bearing, and could be installed in the same location as a No. 10 bearing.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 35260, June 19, 2015).

Conclusion

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

Related Service Information Under 1 CFR Part 51

P&WC has issued Service Bulletin (SB) No. PT6B–72–39095, Revision No. 3, dated December 29, 2014. The service information describes procedures for inspecting affected bearings. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this final rule.

Other Related Service Information.

P&WC has also issued SB No. PT6B–72–39092, Revision No. 4, dated December 29, 2014. The service information describes procedures for removing affected bearings.

Costs of Compliance

We estimate that this AD affects 83 engines installed on rotocraft of U.S. registry. We estimate that it will take about 3 hours per engine to comply with this AD. We also estimate that it would take about 1 hour per engine to replace the affected bearings. The average labor rate is $85 per hour. Required parts cost about $49,800 per engine. Based on

these figures, we estimate the cost of this AD on U.S. operators to be $4,161,620.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–20–04 Pratt & Whitney Canada Corp.: Amendment 39–18282; Docket No. FAA–2015–0486; Directorate Identifier 2015–NE–07–AD.

(a) Effective Date

This AD becomes effective November 18, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PT6B–37A turboshaft engines with engine serial numbers identified in Table 1 of paragraph 4, Appendix, in P&WC Service Bulletin (SB) No. PT6B–72–39095, Revision No. 3, dated December 29, 2014.

(d) Reason

This AD was prompted by reports of incorrect engine torque for PT6B–37A turboshaft engines. We are issuing this AD to prevent axial migration of the No. 10 bearing in the engine reduction gearbox (RGB) assembly, which could lead to engine overtorque, failure of the engine, in-flight shutdown, and loss of the rotorcraft.

(e) Actions and Compliance

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

(1) Initial Inspection

(i) Within 50 flight hours (FHs) time in service after the effective date of this AD, inspect the No. 10 bearing, part number (P/N) 3310433–03, in the RGB assembly for axial movement. Use paragraphs 3.A. to 3.C. in the Accomplishment Instructions in P&WC SB No. PT6B–72–39095, Revision No. 3, dated December 29, 2014, to do the inspection. If the bearing fails the inspection, replace the No. 9 and No. 10 bearings before further flight.

(2) Repetitive Inspection

(i) For engines with 500 FHs or less total time since new (TSN), repeat the inspection required by paragraph (e)(1) of this AD every 100 FHs time since last inspection (TSLI) until 500 hours total TSN, and, thereafter, every 200 FHs TSLI until removal.

(ii) For engines with more than 500 FHs total TSN perform the inspection required by paragraph (e)(1) to this AD within 200 FHs TSLI, and, thereafter, every 200 FHs TSLI until removal.

(3) Removal and Replacement of Affected Bearings

(i) For engine serial numbers (S/Ns) PCE–PU0192, PU0193, PU0201, PU0208, PU0209, PU0212, PU0213, PU0214, PU0216, PU0219, and PU0220, remove the No. 9 and No. 10 bearings, P/N 3310433–03, within 450 FHs or 42 months after the effective date of this AD, whichever occurs first, and replace with parts eligible for installation.

(ii) For all engine S/Ns identified in Applicability paragraph (c) of this AD, other than those listed in paragraph (e)(3)(i) of this AD, remove the No. 9 and No. 10 bearings, P/N 3310433–03, and replace with parts eligible for installation within 42 months after the effective date of this AD.

(iii) Replacement of the No. 9 and No. 10 bearing, P/N 3310433–03, with the No. 9 and No. 10 bearing, P/N 3310233–03 or P/N 3310533–03, is terminating action for this AD.

(f) Reporting Requirements

You do not have to contact your Local Field Service Representative as discussed in paragraph 3.C.(3) of P&WC SB No. PT6B–72–39095, Revision No. 3, dated December 29, 2014.

(g) Credit for Previous Action

If you previously replaced the No. 9 and No. 10 bearings in accordance with the instructions contained in P&WC SB No. PT6B–72–39092, Revision No. 2, dated August 8, 2014, or earlier revisions, then you have complied with this AD.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to MCAI Transport Canada AD CF–2015–01, dated January 20, 2015, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0486.*

(j) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Canada Corp. Service Bulletin (SB) No. PT6B–72–39095, Revision No. 3, dated December 29, 2014.

(ii) Reserved.

(3) For Pratt & Whitney Canada Corp. service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada,

J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on September 22, 2015.

Colleen M. D'Alessandro,

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

[FR Doc. 2015–25711 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1059; Directorate Identifier 2013–NE–36–AD; Amendment 39–18281; AD 2015–20–03]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2014–14–02 for certain Pratt & Whitney Canada Corp. (P&WC) PW120, PW121, PW121A, PW124B, PW127, PW127E, PW127F, PW127G, and PW127M turboprop engines. AD 2014–14–02 required removal of the O-ring seal from the fuel manifold fitting. This new AD requires replacement of the fuel nozzle and the fuel manifold flow adapter. This AD was prompted by reports of fuel leaks at the interface between the fuel manifold and the fuel nozzle that resulted in engine fire. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective November 18, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 2015.

ADDRESSES: For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1059.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1059; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–14–02, Amendment 39–17896 (79 FR 39958, July 11, 2014), (''AD 2014–14–02''). AD 2014–14–02 applied to certain P&WC PW120, PW121, PW121A, PW124B, PW127, PW127E, PW127F, PW127G, and PW127M turboprop engines. The NPRM published in the **Federal Register** on June 2, 2015 (80 FR 31325). The NPRM proposed to require replacement of the fuel nozzle and the fuel manifold flow adapter.

Related Service Information Under 1 CFR Part 51

We reviewed P&WC SB No. PW100–72–21861, dated November 21, 2014, which identifies the final fuel nozzle configuration. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 31325, June 2, 2015) or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 150 engines installed on airplanes of U.S. registry. We also estimate that it will take about 2.5 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $146,594 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $22,020,975.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2014–14–02], Amendment 39–17896 (79 FR 39958, July 11, 2014), and adding the following new AD:

2015–20–03 Pratt & Whitney Canada Corp.: Amendment 39–18281; Docket No. FAA–2013–1059; Directorate Identifier 2013–NE–36–AD.

(a) Effective Date

This AD is effective November 18, 2015.

(b) Affected ADs

This AD replaces AD 2014–14–02, Amendment 39–17896 (79 FR 39958, July 11, 2014).

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PW120, PW121, and PW121A turboprop engines with post SB 21610 configuration; PW124B, PW127, PW127E, and PW127F turboprop engines with post SB 21607 configuration; PW127E and PW127F turboprop engines with serial numbers (S/Ns) PCE–EB0366 and earlier; PW127G turboprop engines with S/Ns PCE–AX0275 and earlier; and PW127M turboprop engines with S/Ns PCE–ED0810 and earlier.

(d) Unsafe Condition

This AD was prompted by reports of fuel seepage past the metal-to-metal sealing surfaces of the fuel nozzle and fuel manifold flow adapter. We are issuing this AD to prevent in-flight fuel leakage, engine fire, damage to the engine, and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done. Within 1,500 flight hours after the effective date of this AD, or at the next engine shop visit, whichever occurs first:

(1) Remove the O-ring seal from the fuel manifold fitting,

(2) Remove fuel manifold flow adapter, part numbers (P/Ns) 3059754–01, 3059757–01, and 3059760–01; and

(3) Install a fuel nozzle gasket and fuel manifold flow adapter that are eligible for installation, in accordance with paragraphs 3.A, 3.B, and 3.C of P&WC SB No. PW100–72–21861, dated November 21, 2014.

(f) Installation Prohibition

After the effective date of this AD, fuel manifold adapter, P/Ns 3059754–01, 3059757–01, and 3059760–01, and fuel manifold gasket, P/N 3079354–01, are not eligible for installation in any engine.

(g) Definition

For the purpose of this AD, an engine shop visit is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. The separation of engine flanges solely for the purpose of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to MCAI Transport Canada AD CF–2014–41, dated November 26, 2014, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1059.

(j) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Canada Corp. Service Bulletin (SB) No. PW100–72–21861, dated November 21, 2014.

(ii) Reserved.

(3) For Pratt & Whitney Canada Corp. service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin Blvd., Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on September 22, 2015.

Colleen M. D'Alessandro,

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

[FR Doc. 2015–25718 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0808; Directorate Identifier 2008–NE–18–AD; Amendment 39–18288; AD 2015–20–09]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directives (AD) 2001–18–06 and AD 2008–22–16, for all General Electric Company (GE) CT58 turboshaft engines. AD 2001–18–06 and AD 2008–22–16 required recalculating the lives of life-limited rotating parts using a repetitive heavy-lift (RHL) multiplying factor and removal from service of parts that exceed the recalculated cyclic or hourly life limit. This new AD would consolidate AD 2001–18–06 and AD 2008–22–16, and further reduce the life capability of certain parts. This AD was prompted by recalculation of life for parts installed on engines used in Utility operations, and a reduced life for compressor spools in all operations. We are issuing this AD to prevent failure of life-limited rotating parts, uncontained part release, damage to the engine, and damage to the aircraft.

DATES: This AD is effective November 18, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 2015.

ADDRESSES: For service information identified in this proposed AD, contact General Electric Company, GE Aviation, Room 285, One Neumann Way, Cincinnati, OH, 45215; phone: 513–552–3272; email:

aviation.fleetsupport@ge.com. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2008–0808; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2001–18–06, Amendment 39–12432 (66 FR 47575, September 13, 2001, (''AD 2001–18–06'') and AD 2008–22–16, Amendment 39–15712 (73 FR 63629, October 27, 2008, (''AD 2008–22–16''). AD 2001–18–06 and AD 2008–22–16 applied to certain GE CT58 turboshaft engines. The NPRM published in the **Federal Register** on May 1, 2015 (80 FR 24852). The NPRM was prompted by GE updating the life limits of compressor spools. GE also updated the calculation method for the life consumption of compressor spools and of life-limited rotating parts flown in Utility operations. This update resulted in generally reduced lives for compressor spools and all other life-limited parts used in Utility operations. The NPRM proposed to consolidate AD 2001–18–06 and AD 2008–22–16, and further reduce the life capability of certain parts. We are issuing this AD to prevent failure of life-limited rotating parts, uncontained part release, damage to the engine, and damage to the aircraft.

Related Service Information Under 1 CFR Part 51

We reviewed GE CT58 Alert Service Bulletin (ASB) No. SB 72–A0162, Revision 16, dated January 7, 2015. The service information describes procedures for calculating life limits for the affected life-limited rotating parts. This service information is reasonably available because the interested parties have access to it through their normal course of business or see **ADDRESSES** for other ways to access this service information.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request New Method for Determining Reduced Life Limits

AAR Airlift Group (AAR) requested replacement of the current method for determining reduced life limits because current limits do not agree with operators field experience. AAR independent testing revealed that expired critical rotating parts showed no fatigue cracks.

We disagree. FAA-approved life limits for rotating parts are specified to prevent fatigue crack initiation, using conservative analytical margins. The number of parts that AAR had inspected would not be sufficient to show a likelihood of part cracking consistent with FAA regulatory guidelines for rotating part life limits. We did not change this AD.

Request Reassessment of Cost Impact

AAR disagrees that the NPRM has minimal impact on their company. AAR stated that their cost per flight would increase and company revenue would be reduced.

We agree that this AD will impose an economic impact to operators. How an operator absorbs or passes on the cost is left to the operator to determine. We did not change this AD.

Clarification Requirements

Since we issued the proposed AD, we discovered that ASB formatting discrepancies exist due to documentation changes implemented by GE. We changed paragraphs (e)(2), (e)(3), and (e)(4) to reflect the correct SB paragraph numbers.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect about 60 engines installed on aircraft of U.S. registry. The average pro-rated cost of the life-limited rotating parts is $20,000. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $8,715,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing airworthiness directives (AD) 2001–18–06, Amendment 39–12432 (66 FR 47575, September 13, 2001) (''AD 2001–18–06''); and AD 2008–22–16, Amendment 39–15712 (73 FR 63629, October 27, 2008) (''AD 2008–22–16''), and

■ b. Adding the following new AD:

2015–20–09 General Electric Company: Amendment 39–18288; Docket No. FAA–2008–0808; Directorate Identifier 2008–NE–18–AD.

(a) Effective Date

This AD is effective November 18, 2015.

(b) Affected ADs

This AD replaces AD 2001–18–06 and AD 2008–22–16.

(c) Applicability

This AD applies to all General Electric Company (GE) CT58–100–2, CT58–110–1, CT58–110–2, CT58–140–1, and CT58–140–2 turboshaft engines.

(d) Unsafe Condition

This AD was prompted by recalculation of life for parts installed on engines used in Utility operations, and a reduced life for compressor spools in all operations. We are issuing this AD to prevent failure of life-limited rotating parts, uncontained part release, damage to the engine, and damage to the aircraft.

(e) Compliance

Do the actions required by this AD, unless already done.

(1) Calculating Cyclic Life Consumption

Re-calculate the cycles-since-new for all compressor spools, and for life-limited rotating parts other than compressor spools used in Utility operations. Use paragraphs 3.A.(1) and 3.B.(1) in the Accomplishment Instructions of GE CT58 Alert Service Bulletin (ASB) No. SB 72–A0162, Revision 16, dated January 7, 2015, to perform the calculations.

(2) Removal of Compressor Spools

After the effective date of this AD, remove compressor spools, part numbers (P/Ns) 5124T94G02, 6010T57G04, 6010T57G07, and 6010T57G08 from service, before reaching the life limits specified in paragraph 4.A., Appendix A, in GE CT58 ASB No. SB 72–A0162, Revision 16, dated January 7, 2015, as re-calculated per paragraph (e)(1) of this AD.

(3) Removal of Rotating Parts Used in Utility Operations Other Than Compressor Spools

After the effective date of this AD, remove from service any life-limited rotating part used in Utility operations, other than the compressor spools with P/Ns listed in paragraph (e)(2) of this AD, that exceeds its life limit as re-calculated per paragraph (e)(1) of this AD. Use Tables I, II, III, and IV in paragraphs 3.D. through 3.G. in the Accomplishment Instructions in GE CT58 ASB No. SB 72–A0162, Revision 16, dated January 7, 2015, and paragraph 4.D., Appendix A of this GE CT58 ASB, to determine when to remove these parts.

(4) Removal of Rotating Parts Not Used in Utility Operations Other Than Compressor Spools

After the effective date of this AD, remove from service any life-limited rotating part not used in Utility operations, other than the compressor spools with P/Ns listed in paragraph (e)(2) of this AD, that exceeds its life limit. Use Tables I, II, III, and IV in paragraphs 3.D. through 3.G. in the Accomplishment Instructions in GE CT58 ASB No. SB 72–A0162, Revision 16, dated January 7, 2015, and paragraph 4.C., Appendix A of this GE CT58 ASB, to determine when to remove these parts.

(f) Alternative Methods of Compliance (AMOCs)

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

(g) Related Information

For more information about this AD, contact Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

(h) Material Incorporated by Reference

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

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

(i) General Electric Company (GE) CT58 Alert Service Bulletin No. SB 72–A0162, Revision 16, dated January 7, 2015.

(ii) Reserved.

(3) For GE service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, One Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

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

Colleen M. D'Alessandro,

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

[FR Doc. 2015–25719 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3224; Directorate Identifier 2015–CE–026–AD; Amendment 39–18290; AD 2015–20–11]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Sailplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Schempp-Hirth Flugzeugbau GmbH Models Duo Discus and Duo Discus T powered sailplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as excessive load on the air brake system. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 18, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 18, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3224; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; telephone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* Internet: *http://*

www.schempp-hirth.com. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–3224.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Schempp-Hirth Flugzeugbau GmbH Models Duo Discus and Duo Discus T powered sailplanes. The NPRM was published in the **Federal Register** on August 4, 2015 (80 FR 46206). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> Operational experience shows that application of an excessive load on the air brake system may induce damage to the drive funnels in the fuselage and to the air brake bellcrank at the root rips of the wing.
>
> This condition, if not detected and corrected, could lead to an uncontrolled actuation of the air brakes (symmetric and asymmetric), possibly resulting in reduced control of the (powered) sailplane.
>
> To address this potential unsafe condition, Schempp-Hirth Flugzeugbau GmbH issued Technical Note (TN) 380–2, 396–17, 868–22 and 890–14 (published as a single document) to provide inspection instructions.
>
> Consequently EASA issued AD 2015–0139 to require to repetitive inspections of the air brake bellcrank, the air brake drive funnels and the airbrake control system, and replacement of damaged parts.
>
> Since that AD was issued, it was found that the drawing number of the reinforced air brake drive funnel was incorrectly stated in the original issue of the Schempp-Hirth TN. The wrongly referred drawing S14FB703 refers to an existing part, different from air brake drive funnel and cannot be installed as a replacement part for air brake drive funnel. Consequently, Schempp-Hirth Flugzeugbau GmbH issued Revision 1 of TN 380–2, 396–17, 868–22 and 890–14, hearafter referenced to as 'the revised TN' in this AD.
>
> For the reasons described above, this AD is revised to require using the revised TN.

The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-3224-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 46206, August 4, 2015) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (80 FR 46206, August 4, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 46206, August 4, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380–2/396–17/868–22/890–14, Revision 1, issued July 13, 2015 (published as a single document), and Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015. The service information describes procedures for inspecting and replacing the airbrake bell crank and the airbrake drive funnels and inspecting the airbrake control system for proper clearance and making necessary adjustments. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

Costs of Compliance

We estimate that this AD will affect 31 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic inspection requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of the AD on U.S. operators to be $5,270, or $170 per product.

We estimate that it will take about 4 work-hours per product to comply with the airbrake bell crank replacement requirement of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $500 per product.

Based on these figures, we estimate the cost of this portion of the AD on U.S. operators to be $26,040, or $840 per product.

We estimate that it will take about 4 work-hours per product to comply with the airbrake drive funnel replacement requirement of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $500 per product.

Based on these figures, we estimate the cost of this portion of the AD on U.S. operators to be $26,040, or $840 per product.

In addition, we estimate that any necessary follow-on actions to make any necessary adjustments to the airbrake control system will take about 2 work-hours for a cost of $170 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3224; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2015–20–11 Schempp-Hirth Flugzeugbau GmbH: Amendment 39–18290; Docket No. FAA–2015–3224; Directorate Identifier 2015–CE–026–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 18, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau GmbH Model Duo Discus powered sailplanes, serial numbers 1 through 639, and Model Duo Discus T powered sailplanes, serial numbers 1 through 110 and 112 through 247, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as excessive load on the air brake system. We are issuing this AD to prevent uncontrolled actuation of the air brakes (symmetric or asymmetric), which could result in reduced control.

(f) Actions and Compliance

Unless already done, do the actions in paragraph (f)(1) through (f)(5) of this AD.

(1) Within 40 days after November 17, 2015 (the effective date of this AD) and repetitively thereafter at intervals not to exceed 100 hours time-in-service until the terminating replacement action required in paragraphs (f)(2) and (f)(3) of this AD (as applicable) is done, inspect the airbrake bell crank, the airbrake drive funnels, and the airbrake control system.

(i) Inspect the airbrake bell crank and the airbrake drive funnels for cracks and damage following Action 1 in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380–2/396–17/868–22/890–14, Revision 1, issued July 13, 2015 (published as a single document).

(ii) Inspect the airbrake control system for proper clearance following Paragraph 2.d. of Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(2) If cracks or damage is found on the airbrake bell cranks or the airbrake drive funnels during any inspection required in paragraph (f)(1) of this AD, before further flight, replace each cracked or damaged part with a reinforced part. Installing a reinforced part terminates the repetitive inspections required in paragraph (f)(1) of this AD for that part.

(i) For replacement of the airbrake bell cranks, follow Picture 2: Reinforced version of airbrake bell crank according to HS 11–50.016, Revision a or later, in Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(ii) For replacement of the airbrake drive funnels, follow Picture 5: Airbrake drive funnel in fuselage ''Reinforcement of airbrake drive funnel according to drawing S14RB703, Revision a, in Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(3) If no cracks or damage were found on the airbrake bell cranks or the airbrake drive funnels during any inspection required in paragraph (f)(1) of this AD, within 12 months after November 17, 2015 (the effective date of this AD), replace each of the airbrake bell cranks and airbrake drive funnels with a reinforced part. These replacements terminate the repetitive inspections required in paragraph (f)(1) of this AD.

(i) For replacement of the airbrake bell cranks, follow Picture 2: Reinforced version of airbrake bell crank according to HS 11–50.016, Revision a or later, in Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(ii) For replacement of the airbrake drive funnels, follow Picture 5: Airbrake drive funnel in fuselage, ''Reinforcement of airbrake drive funnel according to drawing S14RB703, Revision a,'' in Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(4) If the airbrake control system is found to not have proper clearance during the inspection required in paragraph (f)(1) of this AD, before further flight, make all necessary corrective adjustments following Paragraph 2.d. of Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(5) As of November 17, 2015 (the effective date of this AD), only install an airbrake bell crank or an airbrake drive funnel that corresponds to Picture 2: Reinforced version of airbrake bell crank according to HS 11–50.016, Revision a or later, and Picture 5: Airbrake drive funnel in fuselage, ''Reinforcement of airbrake drive funnel according to drawing S14RB703, Revision a,'' in Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015, as applicable.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any sailplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2015–0139R1, dated July 15, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-3224-0002.*

(i) Material Incorporated by Reference

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

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

(i) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380–2/396–17/868–22/890–14, Revision 1, issued July 13, 2015 (published as a single document).

(ii) Schempp-Hirth Flugzeugbau GmbH Working instruction for Technical Note No. 380–2/396–17/868–22/890–14, Ausgabe (English translation: issue) 1, Datum (English translation: dated) May 11, 2015.

(3) For Schempp-Hirth Flugzeugbau GmbH service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; telephone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* Internet: *http://www.schempp-hirth.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3224.

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

Issued in Kansas City, Missouri, on October 1, 2015.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25710 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–4085; Directorate Identifier 2015–CE–033–AD; Amendment 39–18292; AD 2015–20–13]

RIN 2120–AA64

Airworthiness Directives; Piper Aircraft, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Piper Aircraft, Inc. Models PA–28–161, PA–28–181, and PA–28R–201 airplanes. This AD requires inspecting the right wing rib at wing station 140.09 for cracks and taking necessary corrective action. This AD was prompted by a report of cracks found in the wing rib bead radius that were formed during production. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective October 29, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 29, 2015.

We must receive comments on this AD by November 30, 2015.

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

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

For service information identified in this AD, contact Piper Aircraft, Inc., Customer Service, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (877) 879–0275; fax: none; email: *customer.service@piper.com*; Internet: *www.piper.com.* You may review the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2015–4085.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4085; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Gregory ''Keith'' Noles, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5551; fax: (404) 474–5606; email: *gregory.noles@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We received a report from Piper Aircraft, Inc. of a production quality control problem on certain Models PA–28–161, PA–28–181, and PA–28R–201 airplanes. A change in production tooling and processes caused cracks to form along the edge of rib stiffening beads during manufacture. These cracks cause reduced structural integrity of the wing, which results in the inability of the wing rib to carry ultimate load.

This condition, if not corrected, could result in reduced structural integrity of the wing with consequent loss of control. We are issuing this AD to correct the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed Piper Aircraft, Inc. Service Bulletin No. 1279, dated August 26, 2015. The service bulletin describes procedures for inspecting the right wing rib at wing station 140.09 for cracks and for obtaining an FAA-approved repair if cracks are found. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the wing rib, if not detected and corrected immediately,

could result in reduced structural integrity of the wing with consequent loss of control. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2015–4085 and Directorate Identifier 2015–CE–033–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 15 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the right wing rib at wing station 140.09 for cracks.	1 work-hour × $85 per hour = $85	Not applicable	$85	$1,275

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspection. This estimate is based on replacement of the rib. We have no way of determining the number of airplanes that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair of the of the wing rib	35 work-hours × $85 per hour = $2,975	$125	$3,100

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator.

''Subtitle VII: Aviation Programs'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–20–13 Piper Aircraft, Inc.: Amendment 39–18292; Docket No. FAA–2015–4085; Directorate Identifier 2015–CE–033–AD.

(a) Effective Date

This AD is effective October 29, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Piper Aircraft, Inc. Model PA–28–161 airplanes, serial numbers 2842393 through 2842395; Model PA–28–181 airplanes, serial numbers 2843769 through

2843775 and 2843779 through 2843791; and Model PA–28R–201 airplanes, serial number 2844152, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5712, Wing Ribs/Bulkhead.

(e) Unsafe Condition

This AD was prompted by a report of cracks found in the wing rib bead radius that were formed during production. We are issuing this AD to detect and correct cracks in the wing rib, which if not corrected, could result in reduced structural integrity of the wing with consequent loss of control.

(f) Compliance

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

(g) Inspect

(1) Within the next 25 hours time-in-service after October 29, 2015 (the effective date of this AD), inspect the right wing rib at wing station (WS) 140.09 for cracks following the INSTRUCTIONS section of Piper Aircraft, Inc. Service Bulletin No. 1279, dated August 26, 2015.

(2) If any crack is detected during the inspection required by paragraph (g)(1) of this AD, before further flight, obtain and implement an FAA-approved repair scheme, approved specifically for this AD. At the operator's discretion, assistance may be provided by contacting Piper Aircraft, Inc. at the address identified in paragraph (k)(3) of this AD.

(h) Special Flight Permit

A special flight permit is allowed without limitations for the inspection required in paragraph (g)(1) of this AD. If a crack is found during the inspection required in paragraph (g)(1) of this AD, a special flight permit is allowed with the following limitations:

(1) Flight must be planned to the nearest location where repairs can be done;

(2) Indicated airspeed must be 120 knots or less for the entire flight;

(3) Bank angle is not to exceed 30 degrees for the entire flight;

(4) Maximum load factors must be between +3.0 and −1.0 for the entire flight; and

(5) Flight must be performed VFR, with no turbulence greater than ''light'' forecast for the planned flight route and altitude.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD.

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

(j) Related Information

For more information about this AD, contact Gregory ''Keith'' Noles, Aerospace Engineer, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5551; fax: (404) 474–5606; email: *gregory.noles@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Piper Aircraft, Inc. Service Bulletin No. 1279, dated August 26, 2015.

(ii) Reserved.

(3) For Piper Aircraft, Inc. service information identified in this AD, contact Piper Aircraft, Inc., Customer Service, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (877) 879–0275; fax: none; email: *customer.service@piper.com*; Internet: *www.piper.com.*

(4) You may review the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2015–4085.

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

Issued in Kansas City, Missouri, on October 1, 2015.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25723 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–3758; Airspace Docket No. 15–ACE–1]

RIN 2120–AA66

Modification to Restricted Areas R–3602A and R–3602B; Manhattan, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Restricted Areas R–3602A and R–3602B, Manhattan, KS, to accurately identify the R–3602A and R–3602B boundary segments described using the Chicago, Rock Island and Pacific Railroad right-of-way, the R–3602A and R–3602B shared boundary segment described using Old U.S. Highway 77, and the R–3602A and Riley Military Operations Area (MOA) shared boundary segment described using the Milford Reservoir shoreline. The restricted area ceilings are also amended to be expressed as flight levels (FL), the Marshall Army Air Field Radio Beacon (RBN) referenced in R–3602B is changed to the Cavalry Nondirectional Beacon (NDB), and the restricted areas using agency information is 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 Riley MOA, ancillary to the restricted area amendments, are being made. Since the R–3602A and R–3602B restricted areas share boundaries with the Riley MOA, the FAA included discussion of the Riley MOA amendments in this rule. Lastly, the MOA 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–3602A and R–3602B, Fort Riley, KS.

Background

In July 1967, the FAA published a rule in the **Federal Register** (32 FR 10296, July 13, 1967) establishing the Manhattan, KS, restricted areas R–3602A and R–3602B in support of U.S. Army requirements for firing various munitions including artillery, mortar, and rockets. Then, in November 1979, the FAA published another rule in the **Federal Register** (44 FR 68452, November 29, 1979) that amended R–3602B by reducing airspace in the southeast corner of the restricted area sufficient to permit an instrument approach to Runway 03 at the Manhattan Municipal Airport.

When established in 1967, and subsequently amended in 1979, the boundary descriptions for R–3602A and R–3602B used visual landmarks, including the Chicago, Rock Island and Pacific Railroad right-of-way; Old U.S. Highway 77; and the Milford Reservoir shoreline, to identify segments of the restricted area boundaries. However, the FAA has become aware that the railroad track was removed, portions of the railroad right-of-way are obscured by trees or has been plowed under for agriculture, and segments of the Old U.S. Highway 77 have been renamed S. Main Street in Riley, KS; 12400 Rd W.; and Governor Harvey Canyon Road. The visual landmarks originally used to define the restricted area boundaries are no longer useful for determining where the restricted area boundaries are located or where hazardous activities may be occurring to pilots unfamiliar with the Riley, KS, local area.

The FAA worked with the U.S. Army to redefine the affected boundary segments using geographic (latitude/longitude) coordinates. New restricted area boundary descriptions, using geographic coordinates, were developed to 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 Riley MOA boundary were also deemed necessary to ensure the shared boundary segments between the restricted areas and MOA continued to align.

Additionally, when R–3602A and R–3602B were originally proposed and established, the FAA noted that numerous aircraft, both fixed and rotary wing, would participate in the training activities being accomplished. The restricted areas were established with the ceilings being expressed in feet above mean sea level (MSL); however, since aircraft operations were planned in the restricted areas, in addition to the artillery, mortar, and rocket fires being conducted, the ceilings should have been expressed in flight levels (FL). As such, the designated altitudes ceiling information listed in the restricted area descriptions are being amended accordingly.

Finally, the Marshall Army Air Field RBN navigation aid referenced in R–3602B was renamed the Cavalry NDB and the using agency information for R–3602A and R–3602B does not reflect the military service of the using agency listed, nor does it match the using agency for the associated Riley MOA which surrounds the restricted areas. To overcome these issues, the Marshall Army Air Field RBN name in R–3602B and the using agency information for the restricted areas and MOA are also being updated accordingly.

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 Riley MOA amendments are ancillary to the R–3602A and R–3602B amendments being made, the MOA changes are addressed in this rule as well as being published in the NFDD.

The Riley MOA boundary description is being amended to incorporate the geographic coordinates used in the R–3602A and R–3602B boundary descriptions to redefine the boundary segments previously defined by the Chicago, Rock Island and Pacific Railroad right-of-way, Old U.S. Highway 77, and the Milford Reservoir shoreline. 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. With the advent of digital charting techniques and tools, the restricted area and MOA boundary coordinates associated with defining the pre-existing railroad right-of-way, the highway, and the reservoir shoreline are able to be accurately reflected by geographic coordinates. Lastly, the Riley MOA using agency is being amended to match the associated restricted areas using agency amendment. The amended boundaries description, and using agency information will be published in the NFDD; the rest of the MOA legal description is unchanged.

The Rule

This action amends 14 CFR part 73 by modifying restricted areas R–3602A and R–3602B at Fort Riley, KS. The FAA is taking this action to accurately define the restricted area boundaries using geographic coordinates to overcome the loss of the visual landmarks used previously, amend how the restricted area ceilings are expressed, correct the Marshall Army Air Field RBN name in R–3602B, and update the using agency information to include the military service. The following restricted area boundary, designated altitudes, and using agency information is amended as indicated:

The R–3602A boundary segment previously described by the Chicago, Rock Island and Pacific Railroad right-of-way is redefined using the geographic coordinates, ''lat. 39°17′54″ N., long. 96°50′12″ W.; to lat. 39°17′43″ N., long. 96°52′27″ W.; to lat. 39°18′21″ N., long. 96°53′49″ W.; to lat. 39°18′09″ N., long. 96°55′04″ W.; to lat. 39°18′23″ N., long. 96°55′59″ W.; to lat. 39°18′24″ N., long. 96°57′39″ W.''

The R–3602B boundary segment previously described by the Chicago, Rock Island and Pacific Railroad right-or-way is redefined using the geographic coordinates, ''lat. 39°13′15″ N., long. 96°42′36″ W.; to lat. 39°13′59″ N., long. 96°45′25″ W.; to lat. 39°14′34″ N., long. 96°45′58″ W.; to lat. 39°15′20″ N., long. 96°46′29″ W.; to lat. 39°16′57″ N., long. 96°48′47″ W.''

The R–3602A and R–3602B shared boundary segment previously described by Old U.S. Highway 77 is redefined using the geographic coordinates, ''lat. 39°17′45″ N., long. 96°49′51″ W.; to lat. 39°08′22″ N., long. 96°49′53″ W.''

The R–3602A geographic coordinates used for identifying where the boundary intercepts the main body of the Milford Reservoir shoreline are updated to reflect ''lat. 39°12′40″ N., long. 96°57′40″ W.″ and ''lat. 39°10′58″ N., long. 96°54′39″ W.''

The R–3602A and R–3602B designated altitudes are amended to express the restricted area ceiling in terms of flight levels. The restricted area designated altitudes are changed to read, ''Surface to FL 290.''

The R–3602B boundary information reference to the Marshall Army Air Field RBN navigation aid is amended to reflect the ''Cavalry NDB.''

Lastly, the R–3602A and R–3602B using agency information is changed by prefacing the existing using agency with ''U.S. Army.''

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 previously are also made to the Riley MOA boundary information, as needed, to retain shared boundary segments with R–3602A and R–3602B. And, the Riley MOA using agency information is amended to match the restricted areas using agency information. The amended Riley MOA 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 MOA.

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–3602A Manhattan, KS [Amended]

Boundaries. Beginning at lat. 39°17′45″ N., long. 96°49′51″ W.; to lat. 39°17′54″ N., long. 96°50′12″ W.; to lat. 39°17′43″ N., long. 96°52′27″ W.; to lat. 39°18′21″ N., long. 96°53′49″ W.; to lat. 39°18′09″ N., long. 96°55′04″ W.; to lat. 39°18′23″ N., long. 96°55′59″ W.; to lat. 39°18′24″ N., long. 96°57′39″ W.; to lat. 39°12′40″ N., long. 96°57′40″ W.; thence along the shoreline of the main body of Milford Reservoir to lat. 39°10′58″ N., long. 96°54′39″ W.; to lat. 39°10′58″ N., long. 96°53′14″ W.; to lat. 39°08′22″ N., long. 96°53′14″ W.; to lat. 39°08′22″ N., long. 96°49′53″ W.; to the point of beginning.

Designated altitudes. Surface to FL 290.

Time of designation. Continuous.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Army, Commanding General, Fort Riley, KS.

R–3602B Manhattan, KS [Amended]

Boundaries. Beginning at lat. 39°17′45″ N., long. 96°49′51″ W.; to lat. 39°08′22″ N., long. 96°49′53″ W.; to lat. 39°07′54″ N., long. 96°49′53″ W.; to lat. 39°04′24″ N., long. 96°52′23″ W.; to lat. 39°04′24″ N., long. 96°51′16″ W.; thence clockwise along the arc of a 4 nautical mile radius circle centered on the Cavalry NDB at lat. 39°01′34″ N., long. 96°47′40″ W.; to lat. 39°05′25″ N., long. 96°46′18″ W.; to lat. 39°06′25″ N., long. 96°44′41″ W.; to lat. 39°08′20″ N., long. 96°43′01″ W.; to lat. 39°09′23″ N., long. 96°43′01″ W.; to lat. 39°10′43″ N., long. 96°40′56″ W.; to lat. 39°12′17″ N., long. 96°40′56″ W.; to lat. 39°13′00″ N., long. 96°42′36″ W.; to lat. 39°13′15″ N., long. 96°42′36″ W.; to lat. 39°13′59″ N., long. 96°45′25″ W.; to lat. 39°14′34″ N., long. 96°45′58″ W.; to lat. 39°15′20″ N., long. 96°46′29″ W.; to lat. 39°16′57″ N., long. 96°48′47″ W.; to the point of beginning.

Designated altitudes. Surface to FL 290.

Time of designation. Continuous.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Army, Commanding General, Fort Riley, KS.

* * * * *

Issued in Washington, DC, on October 7, 2015.

Gary A. Norek,

Manager, Airspace Policy Group.

[FR Doc. 2015–26134 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1109 and 1500

[Docket No. CPSC–2011–0081]

Amendment To Clarify When Component Part Testing Can Be Used and Which Textile Products Have Been Determined Not To Exceed the Allowable Lead Content Limits

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: The Consumer Product Safety Act (''CPSA'') requires third party testing and certification of children's products that are subject to children's product safety rules. The Consumer Product Safety Commission (''Commission,'' or ''CPSC'') has previously issued regulations related to this requirement: A regulation that allows parties to test and certify component parts of products under certain circumstances; and a regulation determining that certain materials or products do not require lead content testing. The Commission is issuing a direct final rule clarifying when component part testing can be used and clarifying which textile products have been determined not to exceed the allowable lead content limits.

DATES: The rule is effective on December 14, 2015, unless we receive significant adverse comment by November 13, 2015. If we receive a timely significant adverse comment, we will publish notification in the **Federal Register,** withdrawing this direct final rule before its effective date.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2011–0081, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail

(email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

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

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

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number CPSC–2011–0081, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; (301) 987–2558; email; *khatlelid@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

Section 14(a) of the CPSA, as amended by the Consumer Product Safety Improvement Act of 2008 (''CPSIA''), requires that manufacturers of products subject to a consumer product safety rule or similar rule, ban, standard or regulation enforced by the CPSC must certify that the product complies with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). For children's products, certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body. *Id.* Public Law 112–28 (August 12, 2011) directed the CPSC to seek comment on ''opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.'' In response to Public Law 112–28, the Commission published in the **Federal Register** a Request for Comment (''RFC''). *See http://www.cpsc.gov//PageFiles/103251/3ptreduce.pdf*. As directed by the Commission, staff submitted a briefing package to the Commission that described opportunities that the Commission could pursue to potentially reduce the third party testing costs consistent with assuring compliance. *See http://www.cpsc.gov/PageFiles/129398/reduce3pt.pdf*.

In addition to soliciting and reviewing comments as required by Public Law 112–28, the Commission published in the **Federal Register** on April 16, 2013 a Request for Information (''RFI'') on four potential opportunities to reduce testing burdens. *See http://www.gpo.gov/fdsys/pkg/FR-2013-04-16/pdf/2013-08858.pdf*. In February 2014, the Commission also published a notice in the **Federal Register** of a CPSC workshop on potential ways to reduce third party testing costs through determinations consistent with assuring compliance. *See http://www.gpo.gov/fdsys/pkg/FR-2014-02-27/pdf/2014-04265.pdf*. The workshop was held on April 3, 2014.

The Commission has issued several regulations concerning third party testing and certification. In this direct final rule, the Commission clarifies provisions in two such regulations. The Commission believes that these clarifications will enable manufacturers to better understand their testing obligations so that they can avoid unnecessary testing.

B. Amendment to Part 1109

1. Background

In November 2011, the Commission promulgated 16 CFR part 1109, *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification, to Meet Testing and Certification Requirements* (''component part testing rule''). Through the component part testing rule the Commission sought to help manufacturers meet their testing, continuing testing, and certification obligations under section 14 of the CPSA. The component part testing rule is intended to give all parties involved in testing and certifying consumer products pursuant to section 14 of the CPSA the flexibility to procure or rely on required certification testing where such testing is easiest to conduct or least expensive.

2. Description of the Amendment

Subpart A of 16 CFR part 1109 provides the general requirements for component part testing, and subparts B and C provide for additional conditions for specific products and requirements. Although the component part testing rule does not specifically limit the applicability of component part testing to just those products and requirements included in subparts B and C, the inclusion in the rule of conditions and requirements for specific products and requirements may have been misinterpreted by stakeholders as excluding the option of component part testing for other products and requirements that are not explicitly specified in the requirements currently referenced in subpart B (paint, lead content of children's products, and phthalates in children's toys and child care articles). An example of a requirement not explicitly specified in subpart B of 16 CFR part 1109 where component part testing may be used is the requirement for the solubility of specified chemicals for toy substrate materials other than paints in the ASTM F963 mandatory toy standard.

This amendment makes the following revisions to the component part testing rule. Section 1109.1(c) is revised to clarify that subpart B applies only to products or requirements expressly identified in subpart B rather than placing limitations on the use of component part testing of chemical content. Section 1109.5(a) is revised to clarify that the requirements of subpart B and C are only required if applicable in the circumstances identified in subparts B and C. Thus, manufacturers are free to use component part testing in addition to the specific circumstances in subpart B (paint, lead content of children's products, and phthalates in children's toys and child care articles) and subpart C (composite testing).

In addition, the amendment brings two other provisions in the component part rule up to date. Section 1109.11(a) currently refers to an older version of the mandatory toy standard, ASTM F963–08. However, the toy standard has been revised, and the appropriate reference should be ASTM F963–11. The amendment revises section 1109.11(a) to update the obsolete references to the mandatory toy standard. The amendment also updates section 1109.13 to refer to guidance that the Commission issued after publication of the component part rule. Section 1109.13 addresses when a certifier may rely on component part testing for phthalates in children's toys and child care articles. The amendment adds a reference to the Commission's guidance concerning inaccessible component parts (16 CFR part 1199). This change will make the provision concerning phthalates (section 1109.13) consistent

with the provision concerning lead (section 1109.12) and will help certifiers understand which components are inaccessible and do not need to be tested for phthalate content.

These revisions to part 1109 do not, and are not intended to, make any substantive revisions to the existing rule, but rather clarify what the Commission intended when the rule was originally promulgated and bring the rule up to date by referencing current regulations.

C. Amendment to Part 1500

1. Background

The Commission determined by rule that certain products and materials inherently do not contain lead at levels that exceed the lead content limits under section 101(a) of the CPSIA, so long as those materials have not been treated or adulterated with materials that could add lead. 16 CFR 1500.91. The effect of these determinations is to relieve the material or product from the third party testing requirement.

Section 1500.91(d)(7) states that such a determination applies to ''textiles (excluding after-treatment applications, including screen prints, transfers, decals, *or other prints*) consisting of [various fibers].'' 16 CFR 1500.91(d)(7) (emphasis added). Thus, the rule determined that dyes and dyed textiles do not contain lead. As explained in the preamble to the determination rule, dyes are organic chemicals that can be dissolved and made soluble in water or another carrier so that they penetrate into the fiber. 74 FR 43031, 43036 (Aug. 26, 2009). Dyes can be applied to textiles at the fiber, yarn, fabric or finished product stage. Although some dye baths may contain lead, the colorant that is retained by the finished textile after rinsing would not contain lead above a non-detectable lead level. In contrast to dyes, pigments may be either organic or inorganic and they are insoluble in water. Some textiles may have lead based paints and pigments that are directly incorporated onto the textile product or added to the surface of textiles. Examples are decals, transfers, and screen printing. *Id.* The reference in the rule to ''other prints'' referred only to those after-treatment applications that use non-dye substances. Such prints, in which the non-dye substances do not become part of the fiber matrix but remain a surface coating, could contain lead, and are subject to the testing required under the CPSIA for children's products.

The American Apparel & Footwear Association (''AAFA'') has expressed confusion about the phrase ''or other prints'' in 16 CFR 1500.91(d)(7). AAFA argues that this phrase can be read to exclude from the determination rule items that are dyed (and are lead free) merely because of the technique used to apply colorant.[1] AAFA asserts that this interpretation has resulted in a ''significant amount of unnecessary testing.'' The Commission is amending the rule to reduce any confusion about the meaning of the phrase ''or other prints'' in 16 CFR 1500.91(d)(7).

As discussed above, the preamble to the determination rule explained the parameters of the determination regarding textiles. Whether textiles require testing for lead content depends on whether the products are dyed or include other non-dye finishes, decorations, colorants, or prints, and not on the techniques that are used in manufacturing, printing, or applying such products. Some printing, treatments, and applications involve dyes that do not contain lead, others may use paints, pigments, or inks that may contain lead. The phrase ''or other prints'' in the exclusion in 1500.91(d)(7) may mistakenly give the impression that the application process (*e.g.,* printing) is a determining factor. The Commission is amending the provision to clarify that dyed textiles, regardless of the techniques used to produce such materials and apply such colorants, are not subject to required testing for lead in paint or for total lead content.

2. Description of the Amendment

Section 1500.91(d)(7) is revised to clarify that the Commission has determined that textiles that have treatments and applications consisting entirely of dyes do not exceed the lead content limits, and are not subject to the third party testing requirements for children's products, so long as those materials have not been treated or adulterated with materials that could add lead. The amendment does not make any substantive change in the requirements of the current rule.

D. Direct Final Rule Process

The Commission is issuing these amendments as a direct final rule (''DFR''). The Administrative Procedure Act (''APA'') generally requires notice and comment rulemaking 5 U.S.C. 553(b). In Recommendation 95–4, the Administrative Conference of the United States (''ACUS'') endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because we believe the clarifications will not be controversial. The rule will not impose any new obligations, but rather will clarify existing rules to make clear what is permissible and what is required to be third party tested. We expect that the clarifications will be supported by stakeholders. The clarifications respond to the desire expressed by numerous stakeholders and Congress that the Commission provide relief from the burdens of third party testing while also ensuring that products will comply with all applicable children's product safety rules. We expect that these clarifications will not engender any significant adverse comments.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on December 14, 2015. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change.

Should the Commission receive a significant adverse comment, the Commission will withdraw this direct final rule. If a significant adverse comment is received for an amendment to only one of the two rules being revised in the direct final rule, the Commission will only withdraw the amendment to the rule receiving a significant adverse comment. A notice of proposed rulemaking (''NPR''), providing an opportunity for public comment, is also being published in this same issue of the **Federal Register**.

E. Effective Date

The APA generally requires that a substantive rule must be published not less than 30 days before its effective date. 5 U.S.C. 553(d)(1). Because the final rule provides relief from existing testing requirements under the CPSIA, the effective date is December 14, 2015. However, as discussed in section D of the preamble, if the Commission receives a significant adverse comment the Commission will withdraw the DFR and proceed with the NPR published in this same issue of the **Federal Register**.

[1] Letter from the American Apparel and Footwear Association to Robert Adler, Acting Chairman of the Consumer Product Safety Commission (June 2, 2014). Available as document CPSC–2011–0081–0059 in docket CPSC–2011–0081 at *www.regulations.gov*.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') generally requires that agencies review proposed and final rules for the rules' potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604.

The revisions to the component part testing rule clarify that component part testing can be used whenever tests on a component part will provide the same information about the compliance of the finished product as would be provided by tests of the component after it is incorporated into or applied to a finished product. The revisions do not make any substantive changes in the requirements of the current component part rule. Therefore, the number of manufacturers affected should be small. The changes will not increase costs for any entities. Therefore, the changes to the rule are not expected to have a significant impact on a substantial number of small entities.

The revision to the lead determination rule clarifies that textiles that have treatments and applications that consist entirely of dyes are determined by the Commission not to exceed the lead content limits, and are not subject to the third party testing requirements for children's products. The amendment does not make any substantive change in the requirement of the current rule. The change will not increase costs for any entities. Therefore, the change to the rule is not expected to have a significant impact on a substantial number of small entities.

Due to the small number of entities affected and the limited scope of the impact, the Commission certifies that this rule will not have a significant impact on a substantial number of small entities pursuant to section 605(b) of the RFA, 5 U.S.C. 605(b).

G. Environmental Considerations

The Commission's regulations provide a categorical exclusion for Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

List of Subjects

16 CFR Part 1109

Business and industry, Children, Consumer protection, Imports, Product testing and certification, Records, Record retention, Toys.

16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends Title 16 of the Code of Federal Regulations, as follows:

PART 1109—CONDITIONS AND REQUIREMENTS FOR RELYING ON COMPONENT PART TESTING OR CERTIFICATION, OR ANOTHER PARTY'S FINISHED PRODUCT TESTING OR CERTIFICATION, TO MEET TESTING AND CERTIFICATION REQUIREMENTS

■ 1. The authority citation for part 1109 continues to read as follows:

Authority: Secs. 3 and 102, Pub. L. 110–314, 122 Stat. 3016; 15 U.S.C 2063.

■ 2. Amend § 1109.1 by revising paragraph (c) to read as follows:

§ 1109.1 Scope.

* * * * *

(c) Subpart A establishes general requirements for component part testing and certification, and relying on component part testing or certification, or another party's finished product certification or testing, to support a certificate of compliance issued pursuant to section 14(a) of the Consumer Product Safety Act (CPSA) or to meet continued testing requirements pursuant to section 14(i) of the CPSA. Subpart B sets forth additional requirements for component part testing for specific consumer products, component parts, and chemicals. Subpart B is applicable only to those products or requirements expressly included in subpart B. Subpart C describes the conditions and requirements for composite testing.

■ 3. Amend § 1109.5 by revising the first sentence in paragraph (a) to read as follows:

§ 1109.5 Conditions, requirements, and effects generally.

(a) *Component part testing allowed.* Any party, including a component part manufacturer, a component part supplier, a component part certifier, or a finished product certifier, may procure component part testing as long as it complies with the requirements in this section, and with the requirements of subparts B and C of this part, if applicable in the circumstanced identified in subparts B and C. * * *

* * * * *

■ 4. Amend § 1109.11 by revising paragraph (a) to read as follows:

§ 1109.11 Component part testing for paint.

(a) *Generally.* The Commission will permit certification of a consumer product, or a component part of a consumer product, as being in compliance with the lead paint limit of part 1303 of this chapter or the content limits for paint on toys of section 4.3 of ASTM F 963–11 or any successor standard of section 4.3 of ASTM F 963–11 accepted by the Commission if, for each paint used on the product, the requirements in § 1109.5 and paragraph (b) of this section are met.

* * * * *

■ 5. Revise § 1109.13 to read as follows:

§ 1109.13 Component part testing for phthalates in children's toys and child care articles.

A certifier may rely on component part testing of appropriate component parts of a children's toy or child care article for phthalate content provided that the requirements in § 1109.5 are met, and the determination of which, if any, parts are inaccessible pursuant to section 108(d) of the CPSIA and part 1199 of this chapter is based on an evaluation of the finished product.

■ 6. Revise part 1500 to read as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES: ADMINISTRATION AND ENFORCEMENT REGULATIONS

■ 7. The authority citation for part 1109 continues to read as follows:

Authority: 15 U.S.C. 1261–1278, 122 Stat. 3016.

■ 8. Amend § 1500.91 by revising paragraph (d)(7) introductory text to read as follows:

§ 1500.91 Determinations regarding lead content for certain materials or products under section 101 of the Consumer Product Safety Improvement Act.

(d) * * *

(7) Textiles (excluding any textiles that contain treatments or applications

that do not consist entirely of dyes) consisting of:

* * * * *

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–25932 Filed 10–13–15; 8:45 am]

BILLING CODE 6355–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 422

[Docket No. SSA–2011–0053]

RIN 0960–AH36

Collection of Administrative Debts

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts the notice of proposed rulemaking (NPRM) that we published in the **Federal Register** on March 24, 2014. This final rule creates our own administrative debt collection regulations, and it improves our authorities to pursue collection of administrative debts from current and separated employees and non-employee debtors as authorized by the Debt Collection Act (DCA) of 1982, amended by the Debt Collection Improvement Act (DCIA) of 1996 and other existing debt collection statutes. We expect that this final rule will have no impact on the public.

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

FOR FURTHER INFORMATION CONTACT: Jennifer C. Pendleton, Office of Payment and Recovery Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–5652. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: This final rule adopts the notice of proposed rulemaking (NPRM) that we published in the **Federal Register** on March 24, 2014.[1]

Background

This final rule creates our own administrative debt collection regulations. This final rule will improve our authorities to pursue collection of administrative debts from current and separated employees and non-employee debtors as authorized by the DCA of 1982, amended by the DCIA of 1996 and other existing debt collection statutes.

Employee debts include, but are not limited to, salary overpayments, advanced travel pay, and debts resulting from overpayments of benefit premiums. Non-employee debts include, but are not limited to, vendor overpayments and reimbursable agreements.

This change will authorize us to pursue collection of administrative debts under the authorities prescribed in the following statutes and legislations:

- Debt Collection Act (DCA) 1982, Public Law 97–365 (5 U.S.C. 5514; 31 U.S.C. 3701 *et seq.*)
- Debt Collection Improvement Act (DCIA) 1996, Public Law 104–134 (5 U.S.C. 5514; 31 U.S.C. 3701 *et seq.*)
- 5 U.S.C. 5512—Withholding pay; individuals in arrears
- 5 U.S.C. 5514—Installment deduction for indebtedness to the United States
- 31 U.S.C. 3711—Collection and compromise
- 31 U.S.C. 3716—Administrative offset
- 31 U.S.C. 3717—Interest and penalty on claims
- 31 U.S.C. 3720A—Reduction of tax refund by amount of debt
- 31 U.S.C. 3720B—Barring delinquent federal debtors from obtaining federal loans or loan insurance guarantees
- 31 U.S.C. 3720C—Debt Collection Improvement Account
- 31 U.S.C. 3720D—Garnishment
- 31 U.S.C. 3720E—Dissemination of information regarding identity of delinquent debtors
- Office of Personnel Management (OPM) Regulations (5 CFR part 550—Salary Offset)
- Federal Claims Collection Standards (31 CFR parts 901–904)
- Department of the Treasury Regulations (31 CFR part 285)

Digital Accountability and Transparency Act of 2014 (Data Act)

We updated this final rule in accordance with the Data Act (Pub. L. 113–101), which was enacted on May 9, 2014. Section five of the Data Act requires Federal agencies to refer all debts 120 or more days delinquent to the Department of the Treasury for offset. Prior to the Data Act, Federal agencies were required to refer all debts 180 or more days delinquent.

Public Comments on the NPRM

In the notice of proposed rulemaking, we provided a 60-day comment period, which ended on May 23, 2014. We carefully considered the one public comment we received. We present a summary of that comment below, and respond to the significant issues relevant to this rulemaking.

Comment: The one commenter stated that he agreed with our efforts to collect debts. However, the commenter was concerned that the proposed rule's ''minimum amount of referrals'' exception in § 422.850(d)(2)(i) ''is so broad, subjective, and vague that it could apply to anything.'' The commenter suggested that we focus the exception on specific situations or remove it.

Response: We are unable to adopt the commenter's suggestion to change or remove the language in § 422.850 (d)(2)(i). This section follows the Federal Claims Collection Standards as set forth by Treasury and the Department of Justice (DOJ) that all Federal Agencies must follow to complete debt collection activities. Since administrative debts include debts from employees, vendors, and States, as well as other debts listed in § 422.801(c), we handle each case individually, following the guidelines in § 422.850(d)(2)(i), to determine if referring a debt to the DOJ for civil suit is necessary.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Thus, OMB did not review the final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it applies to individuals only. Thus, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This final rule does not contain information collection requirements. Therefore, we need not submit the rule to Office of Management and Budget for review under the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Social Security.

[1] The NPRM is available at: *https://www.federalregister.gov/articles/2014/03/24/2014-06182/collection-of-administrative-debts.*

Dated: July 1, 2015.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we add subpart I of part 422 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 422—ORGANIZATION AND PROCEDURES

■ 1. Add subpart I to part 422 to read as follows:

Subpart I—Administrative Claims Collection

Part 422, Subpart I: Administrative Claims Collection

Sec.

422.801 Scope of this subpart.
422.803 Collection activities.
422.805 Demand for payment.
422.807 Interest, penalties, and administrative costs.
422.809 Collection in installments.
422.810 Salary offset for current employees.
422.811 Discretionary referral for cross-servicing.
422.813 Mandatory referral for cross-servicing.
422.815 Referral of administrative debts to the Department of the Treasury.
422.817 Required certification.
422.819 Fees.
422.821 Administrative offset.
422.822 Notification of intent to collect by administrative offset.
422.823 Debtor rights to review or copy records, submit repayment proposals, or request administrative review.
422.824 Non-centralized administrative offset.
422.825 Centralized administrative offset.
422.827 Offset against tax refunds.
422.829 Federal salary offset.
422.833 Administrative wage garnishment for administrative debts.
422.835 Debt reporting and use of credit reporting agencies.
422.837 Contracting with private collection contractors and with entities that locate and recover unclaimed assets.
422.839 Offset against amounts payable from civil service retirement and disability fund and the Federal employees' retirement system.
422.842 Liquidation of collateral.
422.846 Bases for compromise.
422.848 Suspension and termination of collection activities.
422.850 Referrals to the Department of Justice.

Subpart I—Administrative Claims Collection

Authority: Sec. 97, Pub. L. 97–365, 96 Stat. 1749; Sec. 104, Pub. L. 104–134, 110 Stat. 1321; 5 U.S.C. 552; 5 U.S.C. 553; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 31 U.S.C. 3720A; 31 U.S.C. 3720B; 31 U.S.C. 3720C; 31 U.S.C. 3720D; 31 U.S.C. 3720E; 31 CFR parts 901–904; 31 CFR part 285; 5 U.S.C. 5514; 5 CFR part 550; 42 U.S.C. 902(a)(5).

§ 422.801 Scope of this subpart.

(a) The regulations in this part are issued under the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of (DCIA) 1996 (31 U.S.C. 3701, *et seq.*) and the Federal Claims Collection Standards (31 CFR parts 901–904) issued pursuant to the DCIA by the Department of the Treasury (Treasury) and the Department of Justice (DOJ). These authorities prescribe government-wide standards for administrative collection, compromise, suspension, or termination of agency collection action, disclosure of debt information to credit reporting agencies, referral of claims to private collection contractors for resolution, and referral to the DOJ for litigation to collect debts owed the Government. The regulations under this part also are issued under the Commissioner's general rule-making authority in the Social Security Act at section 702(a)(5), 42 U.S.C. 902(a)(5), the Treasury's regulations implementing the DCIA (31 CFR part 285), and related statutes and regulations governing the offset of Federal salaries (5 U.S.C. 5512, 5514; 5 CFR part 550, subpart K) and the administrative offset of tax refunds (31 U.S.C. 3720A).

(b) This subpart describes the procedures relating to the collection, compromise, and suspension of administrative debts owed to us, the Social Security Administration (SSA).

(c) Administrative debts include claims against current employees, separated employees, and non-employee debtors.

(1) Employee debts include salary overpayments; advanced sick and annual leave, advanced religious compensatory time, overpayments of health benefit premiums, leave buy back, emergency employee payments, travel, and transit subsidies.

(2) Non-employee debts include vendor overpayments, reimbursable agreements, Supplemental Security Income Medicaid determinations, and economic recovery payments.

(d) This subpart does not apply to programmatic overpayments described in subparts D and E of this part, and §§ 404.527 and 416.590 of this title.

(e) This subpart does not apply to civil monetary penalties arising from sections 1129 and 1140 of the Social Security Act and collected pursuant to part 498 of this title.

§ 422.803 Collection activities.

(a) We will collect all administrative debts arising out of our activities or that are referred or transferred to us, the Social Security Administration, for collection actions. We will send an initial written demand for payment no later than 30 days after an appropriate official determines that a debt exists.

(b) In accordance with 31 CFR 285.12(c) and (g), we transfer legally enforceable administrative debts that are 120 calendar days or more delinquent to Treasury for debt collection services (*i.e.,* cross-servicing). This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program within one year of becoming eligible for sale;

(3) Has been referred to a private collection contractor for a period acceptable to the Secretary of the Treasury;

(4) Is at a debt collection center for a period of time acceptable to Treasury (see paragraph (c) of this section);

(5) Will be collected under internal offset procedures within three years after the debt first became delinquent; or

(6) Is exempt from this requirement based on a determination by Treasury that exemption for a certain class of debt is in the best interest of the United States.

(c) Pursuant to 31 CFR 285.12(h), we may refer debts less than 120 calendar days delinquent to Treasury or, with the consent of Treasury, to a Treasury-designated debt collection center to accomplish efficient, cost effective debt collection. Referrals to debt collection centers will be at the discretion of, and for a period acceptable to, the Secretary of the Treasury. Referrals may be for servicing, collection, compromise, suspension, or termination of collection action.

(d) We may refer delinquent administrative debts to Treasury for offset through the Treasury Offset Program (TOP). Administered by Treasury, TOP's centralized offset process permits Treasury to withhold funds payable by the United States to a person to collect and satisfy delinquent debts the person owes Federal agencies and States.

(e) We may collect an administrative debt by using Administrative Wage Garnishment.

(f) We may collect an administrative debt by using Federal Salary Offset.

§ 422.805 Demand for payment.

(a) *Written demand for payment.* (1) We will make a written demand, as described in paragraph (b) of this section, promptly to a debtor in terms that inform the debtor of the consequences of failing to cooperate with us to resolve the debt.

(2) We will send a demand letter no later than 30 days after the appropriate official determines that the debt exists.

We will send the demand letter to the debtor's last known address.

(3) When necessary to protect the Government's interest, we may take appropriate action under this part, including immediate referral to DOJ for litigation, before sending the written demand for payment.

(b) *Demand letters.* The specific content, timing, and number of demand letters will depend upon the type and amount of the debt and the debtor's response, if any, to our letters or telephone calls.

(1) The written demand for payment will include the following information:

(i) The nature and amount of the debt, including the basis for the indebtedness;

(ii) The date by which payment should be made to avoid late charges and enforced collection, which must be no later than 30 days from the date the demand letter is mailed;

(iii) Where applicable, the standards for imposing any interest, penalties, or administrative costs as specified under § 422.807;

(iv) The rights, if any, the debtor may have to:

(A) Seek review of our determination of the debt, and for purposes of salary offset or Administrative Wage Garnishment, request a hearing. To request a hearing see §§ 422.810(h) and 422.833(f)); and

(B) Enter into a reasonable repayment agreement when necessary and authorized.

(v) An explanation of how the debtor may exercise any of the rights described in paragraph (b)(1)(iv) of this section;

(vi) The name, address, and phone number of a contact person or office to address any debt-related matters; and

(vii) Our remedies to enforce payment of the debt, which may include:

(A) Garnishing the debtor's wages through Administrative Wage Garnishment;

(B) Offsetting any Federal or State payments due the debtor, including income tax refunds, salary, certain benefit payments;

(C) Referring the debt to a private collection contractor;

(D) Reporting the debt to a credit bureau or other automated database;

(E) Referring the debt to the DOJ for litigation; and

(F) Referring the debt to the Department of the Treasury for any of the collection actions described in paragraphs (b)(1)(vii)(A) through (E) of this section.

(2) The written demand for payment should also include the following information:

(i) The debtor's right to review our records pertaining to the debt, or, if the debtor or the debtor's representative cannot personally review the records, to request and receive copies of such records;

(ii) Our willingness to discuss alternative methods of payment with the debtor;

(iii) If a Federal employee, the debtor may be subject to disciplinary action under 5 CFR part 752 or other applicable authority;

(iv) Any amounts collected and ultimately found to not be owed by the debtor will be refunded;

(v) For salary offset, up to 15 percent of the debtor's current disposable pay may be deducted every pay period until the debt is paid in full; and

(vi) Dependent upon applicable statutory authority, the debtor may be entitled to consideration for a waiver.

(c) *Evidence retention.* We will retain evidence of service indicating the date of mailing of the demand letter. The evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(d) *Pursue offset.* Prior to, during, or after the completion of the demand process, if we determine to pursue, or are required to pursue offset, the procedures applicable to offset should be followed (see § 422.821). The availability of funds for debt satisfaction by offset and our determination to pursue collection by offset will release us from the necessity of further compliance with paragraphs (a), (b), and (c) of this section.

(e) *Communications from debtors.* Where feasible, we will respond promptly to communications from debtors within 30 days, and will advise debtors who dispute debts to furnish available evidence to support their contentions.

(f) *Exception.* This section does not require duplication of any notice already contained in a written agreement, letter, or other document signed by, or provided to, the debtor.

§ 422.807 Interest, penalties, and administrative costs.

(a) Except as provided in paragraphs (g), (h), and (i) of this section, we will charge interest, penalties, and administrative costs on delinquent debts owed to the United States. These charges will continue to accrue until the debtor pays the debt in full or otherwise resolves the debt through compromise, termination, or an approved waiver.

(b) *Interest.* We will charge interest on delinquent administrative debts owed the agency as follows:

(1) Interest will accrue from the date of delinquency or as otherwise provided by law. For debts not paid by the date specified in the written demand for payment made under § 422.805, the date of delinquency is the date of mailing of the notice. The date of delinquency for an installment payment is the due date specified in the payment agreement.

(2) Unless a different rate is prescribed by statute, contract, or a repayment agreement, the rate of interest charged will be the rate established annually by the Treasury pursuant to 31 U.S.C. 3717. We may charge a higher rate if necessary to protect the rights of the United States, and the Commissioner has determined and documented a higher rate for delinquent debt is required to protect the Government's interests.

(3) Unless prescribed by statute or contract, the initial rate of interest charged will remain fixed for the duration of the indebtedness. A debtor who defaults on a repayment agreement may seek to enter into a new agreement. If we agree to a new agreement, we may require additional financial information and payment of interest at a new rate that reflects the Treasury rate in effect at the time the new agreement is executed or at a higher rate consistent with paragraph (b)(2) of this section. Interest will not be compounded. That is, we will not charge interest on the interest, penalties, or administrative costs required by this section, except as permitted by statute or contract. If, however, the debtor defaults on a previous repayment agreement, we will add charges that accrued but were not collected under the defaulted agreement to the principal of any new repayment agreement.

(c) *Penalty.* Unless otherwise established by contract, repayment agreement, or statute, we will charge a penalty pursuant to 31 U.S.C. 3717(e)(2) and 31 CFR 901.9 on the amount due on a debt that is delinquent for more than 90 days. This charge will accrue from the date of delinquency.

(d) *Administrative costs.* We will assess administrative costs incurred for processing and handling delinquent debts. We will base the calculation of administrative costs on actual costs incurred or a valid estimate of the actual costs. Calculation of administrative costs will include all direct (personnel, supplies, etc.) and indirect collection costs, including the cost of providing a hearing or any other form of administrative review requested by a debtor and any costs charged by a collection agency under § 422.837. We will assess these charges monthly or per payment period throughout the period that the debt is overdue. Such costs may also be in addition to other

administrative costs if collection is being made for another Federal agency or unit.

(e) *Cost of living adjustment.* When there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt, we may increase an administrative debt by the cost of living adjustment in lieu of charging interest and penalties under this section. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the debt was determined or last adjusted. We will manually compute such increases to administrative debts.

(f) *Priority.* When a debt is paid in partial or installment payments, amounts received will be applied first to outstanding penalties, second to administrative charges, third to interest, and last to principal.

(g) *Waiver.* (1) We will waive the collection of interest and administrative costs imposed pursuant to this section on the portion of the debt that is paid within 30 days after the date on which interest began to accrue. Excepting debt affected by fraud or other misconduct, we may extend this 30-day period on a case-by-case basis if we determine that such action is in the best interest of the Government or is otherwise warranted by equity and good conscience.

(2) We may waive interest, penalties, and administrative charges charged under this section, in whole or in part, without regard to the amount of the debt, based on:

(i) The criteria set forth at § 422.846 (b)(1) for the compromise of debts; or

(ii) A determination by the agency that collection of these charges is:

(A) Against equity and good conscience; or

(B) Not in the best interest of the United States.

(h) *Review.* (1) Except as provided in paragraph (h)(2) of this section, administrative review of a debt will not suspend the assessment of interest, penalties, and administrative costs. While agency review of a debt is pending, the debtor may either pay the debt or be liable for interest and related charges on the uncollected debt. When agency review results in a final determination that any amount was properly a debt and the debtor failed to pay the full amount of the disputed debt, we will collect from the debtor the amount determined to be due, and interest, penalties and administrative costs on the debt amount. We will calculate and assess interest, penalties, and administrative costs under this section starting from the date the debtor was first made aware of the debt and ending when the debt is repaid.

(2) *Exception.* Interest, penalties, and administrative cost charges will not be imposed on a debt for periods during which collection activity has been suspended under § 422.848(c)(1) pending agency review or consideration of waiver, if a statute prohibits collection of the debt during this period. This exception does not apply to interest, penalties, and administrative cost charges on debts affected by fraud or other misconduct unless a statute so requires.

(i) *Common law or other statutory authority.* We may impose and waive interest and related charges on debts not subject to 31 U.S.C. 3717 in accordance with the common law or other statutory authority.

§ 422.809 Collection in installments.

Whenever feasible, we will collect the total amount of a debt in one lump sum payment. If a debtor claims a financial inability to pay a debt in one lump sum, by funds or Administrative Offset, we may accept payment in regular installments provided the debtor establishes the financial need and no evidence indicates that fraud or similar fault affected the debt. We will request financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations as described in § 422.846.

(a) When we agree to accept payments in regular installments, we will obtain a legally enforceable written agreement from the debtor that specifies all the terms and conditions of the agreement and includes a provision accelerating the debt in the event of a default.

(b) The size and frequency of the payments will reasonably relate to the size of the debt and the debtor's ability to pay. Whenever feasible, the installment agreement will provide for full payment of the debt, including interest and charges, in three years or less.

(c) When appropriate, the agreement will include a provision identifying security obtained from the debtor for the deferred payments, such as a surety bond or confession of judgment supporting a lien on any property of the debtor.

(d) An approved installment agreement does not prevent the use of Administrative Wage Garnishment or other collection tools in this subpart.

§ 422.810 Salary offset for current employees.

(a) *Purpose.* This part prescribes the Social Security Administration's (SSA) standards and procedures for the collection of debts owed by current SSA employees to SSA through involuntary salary offset.

(b) *Authority.* 5 U.S.C. 5514; 5 CFR part 550.

(c) *Scope.* (1) This part applies to internal collections of debt by Administrative Offset from the current pay accounts of SSA employees without his or her consent. The part does not apply to current SSA employees indebted to another Federal agency or employees who separate from SSA.

(2) The procedures contained in this part do not apply to any case where an employee consents to collection through deduction(s) from the employee's pay account, or to debts arising under the Internal Revenue Code or the tariff laws of the United States, or where another statute explicitly provides for or prohibits collection of a debt by salary offset (*e.g.,* travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(3) This part does not preclude an employee from requesting a waiver of an erroneous payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt. Similarly, this part does not preclude an employee from requesting waiver of the collection of a debt under any other applicable statutory authority.

(4) Provided a debt is not affected by fraud and does not exceed $100,000, nothing in this part precludes the compromise of the debt or the suspension or termination of collection actions in accordance with §§ 422.846 and 422.848 of this title.

(d) *Definitions.*

Administrative Offset means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

Agency means an executive department or agency, a military department, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, a court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, or a Government Corporation.

Creditor agency means the agency to which the debt is owed or SSA, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal holiday, in which case the next business day will be considered the last day of the period.

Debt means an amount of funds or other property determined by an appropriate official of the Federal Government to be owed to the United States from any person, organization, or entity or any other debt that meets the definition of ''claim'' or ''debt'' under 31 U.S.C. 3701(b), excluding program overpayments made under title II or title XVI of the Social Security Act.

Debt collection center means the Department of the Treasury (Treasury) or other Government agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

Debtor means an employee currently employed by SSA who owes a delinquent non-tax debt to the United States.

Delinquent debt means a debt that the debtor does not pay or otherwise resolve by the date specified in the initial demand for payment, or in an applicable written repayment agreement or other instrument, including a post-delinquency repayment agreement.

Disposable pay means that part of the debtor's current basic, special, incentive, retired, and retainer pay, or other authorized pay remaining after deduction of amounts we are required by law to withhold. For purposes of calculating disposable pay, legally required deductions that must be applied first include: Tax levies pursuant to the Internal Revenue Code (title 26, United States Code); properly withheld taxes; Federal Insurance Contributions Act (FICA); Medicare; health, dental, vision, and life insurance premiums; and Thrift Savings Plan and retirement contributions. Amounts deducted under garnishment orders, including child support garnishment orders, are not legally permissible deductions when calculating disposable pay as specified in 5 CFR 550.1103.

Employee means any individual currently employed by SSA, as defined in this section, including seasonal and temporary employees and current members of the Armed Forces or a Reserve of the Armed Forces (Reserves).

Evidence of service means information retained by the agency indicating the nature of the document to which it pertains, the date of mailing the document, and the address and name of the debtor to whom it is being sent. A copy of the dated and signed notice provided to the debtor pursuant to this part may be considered evidence of service for purposes of this part. We may retain evidence of service electronically so long as the manner of retention is sufficient for evidentiary purposes.

Hearing means a review of the documentary evidence to confirm the existence or amount of a debt or the terms of a repayment schedule. If we determine that the issues in dispute cannot be resolved by such a review, such as when the validity of the claim turns on the issue of credibility or veracity, we may provide an oral hearing.

Hearing official means an administrative law judge or appropriate alternate.

Paying agency means the agency employing the employee and authorizing the payment of his or her current pay.

Salary offset means an Administrative Offset to collect a debt under 5 U.S.C. 5514 owed by a current SSA employee through deductions at one or more officially established pay intervals from the current pay account of the current SSA employee without his or her consent.

Waiver means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to the agency or another agency as required or permitted by 5 U.S.C. 5584, 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

(e) *General rule.* (1) Whenever an employee owes us a delinquent debt, we may, subject to paragraph (e)(3) of this section, involuntarily offset the amount of the debt from the employee's disposable pay.

(2) Except as provided in paragraph (e)(3) of this section, prior to initiating collection through salary offset under this part, we will first provide the employee with the following:

(i) A notice as described in paragraph (f) of this section; and

(ii) An opportunity to petition for a hearing, and, if a hearing is provided, to receive a written decision from the hearing official within 60 days on the following issues:

(A) The determination concerning the existence or amount of the debt; and

(B) The repayment schedule, unless it was established by written agreement between the employee and us.

(3) The provisions of paragraph (e)(2) of this section do not apply to:

(i) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a federal benefits program requiring periodic deduction from pay, if the amount to be recovered was accumulated over four pay periods or less;

(ii) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided a notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(iii) Any adjustment to collect a debt amount in accordance with the amount stated in 5 U.S.C. 5514 as amended by the DCIA, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided a notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(f) *Notice requirements before offset.* (1) At least 30 days before the initiation of salary offset under this part, we will send a notice to the employee's last known address, informing the debtor of the following:

(i) We have reviewed the records relating to the debt and have determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(ii) Our intention to collect the debt by means of deduction from the employee's current disposable pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

(iii) The amount, stated either as a fixed dollar amount or as a percentage of pay not to exceed 15 percent of disposable pay, the frequency, the commencement date, and the duration of the intended deductions;

(iv) An explanation of our policies concerning the assessment of interest, penalties, and administrative costs, stating that such assessments must be made unless waived in accordance with 31 CFR 901.9 and § 422.807 of this part;

(v) The employee's right to review and copy all of our records pertaining to the debt or, if the employee or the employee's representative cannot personally review the records, to request and receive copies of such records;

(vi) If not previously provided, the opportunity to establish a schedule for the voluntary repayment of the debt through offset or to enter into an agreement to establish a schedule for repayment of the debt in lieu of offset provided the agreement is in writing, signed by both the employee and us, and documented in our files;

(vii) The right to a hearing conducted by an impartial hearing official with respect to the existence and amount of the debt, or the repayment schedule, so long as a petition is filed by the employee as prescribed in paragraph (h) of this section;

(viii) Time limits and other procedures or conditions for reviewing our records pertaining to the debt, establishing an alternative repayment agreement, and requesting a hearing;

(ix) The name, address, and telephone number of the person or office who may be contacted concerning the procedures for reviewing our records, establishing an alternative repayment agreement, and requesting a hearing;

(x) The name and address of the office to send the petition for a hearing;

(xi) A timely and properly filed petition for a hearing will suspend the commencement of the collection proceeding;

(xii) We will initiate action to effect salary offset not less than 30 days from the date of mailing the notice, unless the employee properly files a timely petition for a hearing,

(xiii) A final decision on a hearing, if one is requested, will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceeding;

(xiv) Notice that an employee who knowingly makes false or frivolous statements or submits false or frivolous representations or evidence may be subject to disciplinary procedures under chapter 75 of title 5, United States Code, Part 752 of title 5, CFR, or any other applicable statutes or regulations;

(xv) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(xvi) Unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt that are later waived or found not owed to the United States will be promptly refunded to the employee; and

(xvii) Proceedings with respect to such debt are governed by 5 U.S.C. 5514.

(2) We will retain evidence of service indicating the date of mailing of the notice.

(g) *Review of records relating to the debt.* (1) To review or copy our records relating to the debt, the employee must send a written request stating his or her intention. We must receive the written request within 15 days from the employee's receipt of the notice.

(2) In response to a timely request as described in paragraph (1) of this section, we will notify the employee of the location and time when the employee may review and copy such records. If the employee or employee's representative is unable to review personally such records as the result of geographical or other constraints, we will arrange to send copies of such records to the employee.

(h) *Hearings*—(1) *Petitions for hearing.* (i) To request a hearing concerning the existence or amount of the debt or the offset schedule established by us, the employee must send a written petition to the office we identified in the notice (see paragraph (f)(1)(x) of this section) within 15 days of receipt of the notice.

(ii) The petition must:

(A) Be signed by the employee;

(B) Fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes support his or her position; and

(C) Specify whether an oral or paper hearing is requested. If an oral hearing is requested, the request should explain why the matter cannot be resolved by a paper hearing, which is a determination of the request for reconsideration based upon a review of the written record.

(iii) The timely filing of a petition for hearing will suspend any further collection proceedings.

(2) *Failure to timely request a hearing.* (i) If the petition for hearing is filed after the 15-day period provided in paragraph (h)(1)(i) of this section, we may grant the request if the employee can establish either that the delay was the result of circumstances beyond the employee's control or that the employee failed to receive actual notice of the filing deadline.

(ii) An employee waives the right to a hearing and will have his or her disposable pay offset in accordance with the offset schedule established by us, if the employee:

(A) Fails to file a timely request for a hearing unless such failure is excused; or

(B) Fails to appear at an oral hearing of which the employee was notified unless the hearing official determines that the failure to appear was due to circumstances beyond the employee's control.

(3) *Form of hearings*—(i) *General.* After the employee requests a hearing, the hearing official must notify the employee of the type of hearing that will occur. If an oral hearing will occur, the notice will state the date, time, and location of the hearing. If a paper hearing will occur, the employee will be notified and required to submit evidence and arguments in writing to the hearing official by the date specified in the notice, after which the record will be closed.

(ii) *Oral hearing.* An employee who requests an oral hearing will be provided an oral hearing if the hearing official determines that the matter cannot be resolved by review of documentary evidence alone because an issue of credibility or veracity is involved. Where an oral hearing is appropriate, the hearing is not an adversarial adjudication and need not take the form of an evidentiary hearing (*e.g.,* the formal rules of evidence need not apply). Oral hearings may take the form of, but are not limited to:

(A) Informal conferences with the hearing official in which the employee and agency representative will be given full opportunities to present evidence, witnesses, and arguments;

(B) Informal meetings in which the hearing official interviews the employee by phone or videoconferencing; or

(C) Formal written submissions with an opportunity for oral presentations.

(iii) *Paper hearing.* If the hearing official determines that an oral hearing is not necessary, the hearing official will make the determination based upon a review of the available written record.

(iv) *Record.* The hearing official will maintain a summary record of any hearing conducted under this part. Witnesses who testify in oral hearings will do so under oath or affirmation.

(4) *Written decision*—(i) *Date of decision.* The hearing officer will issue a written opinion stating his or her decision. This opinion is based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 days after the date on which the hearing petition was received by the creditor agency. This is dependent upon whether the employee requested a delay in the proceedings and the hearing official grants it, in which case the 60-day decision period will be extended by the number of days by which the hearing was postponed. The recipient of an employee's request for a hearing must forward the request expeditiously to the hearing official to avoid jeopardizing the hearing official's ability to issue a decision within this 60-day period.

(ii) *Content of decision.* The written decision will include:

(A) A statement of the facts presented to support the origin, nature, and amount of the debt;

(B) The hearing official's findings, analysis, and conclusions, including a determination whether the employee's

petition for hearing was baseless and resulted from an intent to delay the creditor agency's collection activity; and

(C) The terms of any repayment schedule, if applicable.

(5) *Failure to appear.* In the absence of good cause shown, an employee who fails to appear at a hearing will be deemed, for the purpose of this part, to admit the existence and amount of the debt as described in the notice. If the representative of the creditor agency fails to appear, the hearing official will proceed with the hearing as scheduled and make a determination based upon oral testimony presented and the documentary evidence submitted by both parties. With the agreement of both parties, the hearing official will schedule a new hearing date, and both parties will be given notice of the time and place of the new hearing.

(i) *Obtaining the services of a hearing official.* The office designated in paragraph (f)(1)(x) of this section will schedule a hearing, if one is requested by an employee, before a hearing official.

(1) When we cannot provide a prompt and appropriate hearing before an administrative law judge or a hearing official furnished pursuant to another lawful arrangement, the office designated in paragraph (f)(1)(x) of this section may contact an agent of any agency designated in 5 CFR part 581, appendix A to arrange for a hearing official.

(2)(i) When another agency is the creditor agency, not SSA, it is the responsibility of that agency to arrange for a hearing if one is requested. We will provide a hearing official upon the request of a creditor agency when the debtor is employed by us and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(ii) Services rendered to a creditor agency under paragraph (i)(2)(i) of this section will be provided on a fully reimbursable basis pursuant to the Economy Act of 1932, as amended by 31 U.S.C. 1535.

(3) The determination of a hearing official designated under this section is considered an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514 and this part. A creditor agency may make a certification to the Secretary of the Treasury under 5 CFR 550.1108 or a paying agency under 5 CFR 550.1109 regarding the existence and amount of the debt based on the certification of a hearing official. If a hearing official determines that a debt may not be collected via salary offset, but we find that the debt is still valid, we may still seek collection of the debt through other means, such as offset of other Federal payments or litigation.

(j) *Voluntary repayment agreement in lieu of salary offset.* (1)(i) In response to the notice, the employee may propose to establish an alternative schedule for the voluntary repayment of the debt by submitting a written request. An employee who wishes to repay the debt without salary offset will also submit a proposed written repayment agreement. The proposal will admit the existence of the debt, and the agreement must be in such form that it is legally enforceable. The agreement must:

(A) Be in writing;

(B) Be signed by both the employee and the agency;

(C) Specify all the terms of the arrangement for payment; and

(D) Contain a provision accelerating the debt in the event of default by the employee, but such an increase may not result in a deduction that exceeds 15 percent of the employee's disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(ii) Any proposal under paragraph (j)(1)(i) of this section must be received within 30 days of the date of the notice.

(2) In response to a timely request as described in paragraph (j)(1) of this section, we will notify the employee whether the proposed repayment schedule is acceptable. It is within our discretion to accept a proposed alternative repayment schedule and to set the necessary terms of a voluntary repayment agreement.

(3) No voluntary repayment agreement will be binding on us unless it is in writing and signed by the employee and us.

(k) *Special review.* (1) At any time, an employee subject to salary offset or a voluntary repayment agreement may request a special review by the agency of the amount of the salary offset or voluntary repayment installments based on materially changed circumstances, such as, but not limited to, catastrophic illness, divorce, death, or disability.

(2)(i) In determining whether an offset would prevent the employee from meeting essential subsistence expenses (*e.g.,* food, housing, clothing, transportation, and medical care), the employee must submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

(A) Income from all sources;

(B) Assets and liabilities;

(C) Number of dependents;

(D) Food, housing, clothing, transportation, and medical expenses; and

(E) Exceptional and unusual expenses, if any.

(ii) When requesting a special review under this section, the employee must file an alternative proposed offset or payment schedule and a statement, with supporting documents as described in paragraph (k)(2)(i) of this section, stating why the current salary offset or payments result in an extreme financial hardship to the employee.

(3)(i) We will evaluate the statement and supporting documents and determine whether the original offset or repayment schedule impose extreme financial hardship on the employee.

(ii) Within 30 calendar days of the receipt of the request and supporting documents, we will notify the employee in writing of such determination, including, if appropriate, a revised offset or repayment schedule.

(4) If the special review results in a revised offset or repayment schedule, we will do a new certification based on the result of the review.

(l) *Procedures for salary offset*—(1) *Method and source of deductions.* Unless the employee and the agency have agreed to an alternative repayment arrangement under paragraph (j) of this section, the agency will collect a debt in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account.

(2) *Limitation on amount of deduction.* Ordinarily, the size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. However, the amount deducted for any pay period must not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount, as outlined in paragraph (j) of this seciton.

(3) *Duration of deductions*—(i) *Lump sum.* If the amount of the debt is equal to or less than 15 percent of the employee's disposable pay for an officially established pay interval, the agency will collect the debt in one lump-sum deduction including lump-sum annual leave amounts.

(ii) If the employee is deemed financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of the employee's disposable pay for an officially established pay interval, the agency will collect the debt in installments. Except as provided in paragraphs (k)(5) and (6) of this section, installment deductions must be made over a period no longer than the

anticipated period of active duty or employment.

(4) *When deductions may begin.* (i) Deductions will begin on the date stated in the notice, unless the agency and individual have agreed to an alternative repayment agreement under paragraph (j) of this section or the employee has filed a timely request for a hearing.

(ii) If the employee files a timely petition for hearing as provided in paragraph (h) of this section, the agency will begin deductions after the hearing official has provided the employee with a hearing and a final written decision has been rendered in favor of the agency.

(5) *Liquidation from final check.* If an employee retires, resigns, or the period of employment ends before collection of the debt is completed, the agency will offset the remainder under 31 U.S.C. 3716 from subsequent agency payments of any nature (*e.g.,* final salary payment or lump-sum leave) due the employee as of the date of separation.

(6) *Recovery from other payments due a separated employee.* If the debt cannot be satisfied by offset from any final payment due the employee on the date of separation, we will liquidate the debt, where appropriate, by Administrative Offset under 31 U.S.C. 3716 from later payments of any kind due the former employee (*e.g.,* lump-sum leave payment).

(m) *Exception to internal salary offset.* SSA may follow Administrative Offset notification requirements when attempting the collection of delinquent travel advances and training expenses, not those associated with Federal employee salary offset. Once the notification procedures have been followed, SSA has the authority to withhold all or part of an employee's salary, retirement benefits, or other amount due the employee including lump-sum payments to recover the amounts owed. No statutory or regulatory limits exist on the amount that can be withheld or offset.

(n) *Salary offset when we are the paying agency but not the creditor agency.* When we are the paying agency and another agency is the creditor agency, the creditor agency must provide written certification to Treasury that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that the Office of Personnel Management has approved the creditor agency's regulations implementing 5 U.S.C. 5514. We are not required or authorized to review the merits of the determination with respect to the amount or validity of the debt certified by the creditor agency.

(o) *Interest, penalties, and administrative costs.* Debts owed will be assessed interest, penalties, and administrative costs in accordance with § 422.807.

(p) *Non-waiver of rights.* An employee's involuntary payment of all or any portion of a debt collected under this part will not be construed as a waiver of any rights the employee may have under 5 U.S.C. 5514 or any other provision of law or contract unless there are statutory or contractual provisions to the contrary.

(q) *Refunds.* (1) We will promptly refund any amounts paid or deducted under this part when:

(i) A debt is waived or otherwise found not owed to us; or

(ii) We are directed by administrative or judicial order to refund amount deducted from the employee's current pay.

(2) Unless required or permitted by law or contract, refunds will not bear interest.

(r) *Additional administrative collection action.* Nothing contained in this part is intended to preclude the use of any other appropriate administrative remedy.

§ 422.811 Discretionary referral for cross-servicing.

We may refer legally enforceable non-tax administrative debts that are less than 120 calendar days delinquent to the Department of the Treasury (Treasury) or to Treasury-designated ''debt collection centers'' in accordance with 31 CFR 285.12 to accomplish efficient, cost effective debt collection.

§ 422.813 Mandatory referral for cross-servicing.

(a) Pursuant to the cross-servicing process, creditor agencies must transfer any eligible debt more than 120 calendar days delinquent to the Department of the Treasury (Treasury) for debt collection services. As one such agency, pursuant to 31 CFR 285.12, we are required to transfer to Treasury any legally enforceable nontax debt in excess of $25. We may transfer to Treasury any combination of legally enforceable nontax debts less than $25 that exceeds $25 (in the case of a debtor whose taxpayer identification number (TIN) is unknown, the applicable threshold is $100) that has or have been delinquent for a period of 120 calendar days. Treasury will take appropriate action on behalf of the creditor agency to collect, compromise, suspend, or terminate collection of the debt, including use of debt collection centers and private collection contractors to collect the debt or terminate collection action.

(b) Debts not eligible for mandatory referral of paragraph (a) of this section include:

(1) Debts owed by a Federal agency;

(2) Debts owed by a deceased debtor;

(3) Debts not legally enforceable: A debt is considered legally enforceable for purposes of referral to the Treasury's Bureau of the Fiscal Service if there has been a final agency determination that the debt is due and there are no legal bars to collection;

(4) Debts that are the subject of an administrative appeal until the appeal is concluded and the amount of the debt is fixed;

(5) Debts owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in bankruptcy proceeding; or

(6) Debts that are less than $25 (including interest, penalties, and administrative costs).

(c) A debt is considered delinquent for purposes of this section if it is 120 calendar days past due and is legally enforceable. A debt is past due if it has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. A debt is legally enforceable if there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action. Where, for example, a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory transfer to the Treasury and is not to be transferred even if the debt is more than 120 calendar days past due. When a final agency determination is made after an administrative appeal or review process, the creditor agency must transfer such debt to Treasury, if more than 120 calendar days delinquent, within 30 days after the date of the final decision.

(d) We may also refer debts owed by a foreign country upon consultation with our Office of the General Counsel.

§ 422.815 Referral of administrative debts to the Department of the Treasury.

(a) Agencies are required by law to transfer delinquent, nontax, and legally enforceable debts to Department of the Treasury (Treasury) for collection through cross-servicing and through centralized Administrative Offset.

Additionally, we may transfer debts to the Treasury for collection through Administrative Wage Garnishment. Agencies need not make duplicate referrals to Treasury for all these purposes; we may refer a debt to Treasury for purposes of simultaneous collection by cross-servicing, centralized Administrative Offset, and Administrative Wage Garnishment where applicable. However, in some instances a debt exempt from cross-servicing collection may be subject to collection by centralized Administrative Offset, so simultaneous referrals are not always appropriate.

(b) When we refer or transfer administrative debts to Treasury, or Treasury-designated debt collection centers under the authority of 31 U.S.C. 3711(g), Treasury will service, collect, or compromise the debts, or Treasury will suspend or terminate the collection action, in accordance with the statutory requirements and authorities applicable to the collection of such debts.

(c) Debts that are not required for referral include:

(1) Debts delinquent for 120 calendar days or less;

(2) Debts less than $100 and we are unable to obtain the debtor's taxpayer identification number;

(3) Debts in litigation or foreclosure as defined in 31 CFR 285.12(d)(2);

(4) Debts that have been referred to a private collection contractor for a period acceptable to Treasury;

(5) Debts that will be disposed of under an approved asset sale program as defined in 31 CFR 285.12(d)(3)(i);

(6) Debts that will be collected under internal offset procedures within three years after the debt first became delinquent;

(7) Debts at a debt collection center for a period of time acceptable to Treasury; or

(8) Debts exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States. Federal agencies may request that the Secretary of the Treasury exempt specific classes of debts. Any such request by an agency must be sent to the Fiscal Assistant Secretary of the Treasury by the agency's Chief Financial Officer.

§ 422.817 Required certification.

Before referring delinquent administrative debts to the Department of the Treasury (Treasury) for collection, we will certify, in writing, that:

(a) The debts we are transferring are valid and legally enforceable;

(b) There are no legal bars to collection; and

(c) We have complied with all prerequisites to a particular collection action under the laws, regulations, or policies applicable to us, unless we agree that Treasury will do so on our behalf.

§ 422.819 Fees.

Federal agencies operating Department of the Treasury-designated debt collection centers are authorized to charge a fee for services rendered regarding referred or transferred debts. The fee may be paid out of amounts collected and may be added to the debt as an administrative cost.

§ 422.821 Administrative offset.

(a) *Scope.* (1) Administrative Offset is the withholding of funds payable by the United States to, or held by the United States for, a person to satisfy a debt. We will use Administrative Offset to recover administrative debts.

(2) This section does not apply to:

(i) Debts arising under the Social Security Act;

(ii) Payments made under the Social Security Act, except as provided for in 31 U.S.C. 3716(c), and 31 CFR 285.4;

(iii) Debts arising under, or payments made under the Internal Revenue Code or the tariff laws of the United States;

(iv) Offsets against Federal salaries to the extent these standards are inconsistent with regulations published to implement such offsets under 5 U.S.C. 5514 and 31 U.S.C. 3716 (see 5 CFR part 550, subpart K; 31 CFR 285.7; §§ 422.810 and 422.829 of this part);

(v) Offsets under 31 U.S.C. 3728 against a judgment obtained by a debtor against the United States;

(vi) Offsets or recoupments under common law, State law, or Federal statutes specifically prohibiting offsets or recoupments for particular types of debts; or

(vii) Offsets in the course of judicial proceedings, including bankruptcy.

(3) Unless otherwise provided for by contract or law, debts or payments that are not subject to Administrative Offset under 31 U.S.C. 3716 may be collected by Administrative Offset under the common law or other applicable statutory authority.

(4) In bankruptcy cases, the agency may seek legal advice from the Office of the General Counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 106, 362, and 553, on pending or contemplated collections by offset.

(b) [Reserved]

§ 422.822 Notification of intent to collect by administrative offset.

(a) Prior to initiation of collection by Administrative Offset, we will:

(1) Send the debtor a notice by mail or hand-delivery. The notice will include the type and amount of the debt, the intention of the agency using internal offset or non-centralized Administrative Offset to collect the debt 30 days after the date of the notice, and the name of the Federal agency from which the creditor agency wishes to collect in the case of a non-centralized Administrative Offset. Additionally, if the debt is not satisfied by offset within the Social Security Administration or by agreement with another Federal agency, the notice will include the intent to refer the debt to the Department of the Treasury (Treasury) for collection through centralized Administrative Offset, including offset of tax refunds 60 days after the date of the notice as well as an explanation of the debtor's rights under 31 U.S.C. 3716.

(2) Give the debtor the opportunity:

(i) To make a voluntary payment;

(ii) To review and copy agency records related to the debt;

(iii) For a review within the agency of the determination of indebtedness;

(iv) To make a written agreement to repay the debt.

(b) The procedures set forth in paragraph (a) of this section are not required when:

(1) The offset is in the nature of a recoupment;

(2) The debt arises under a contract subject to the Contracts Disputes Act or Federal Acquisition Regulations;

(3) In the case of a non-centralized Administrative Offset (see § 422.824), the agency first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, we will give the debtor such notice and an opportunity for review as soon as practicable and will promptly refund any money ultimately found not to have been owed to the agency; or

(4) The agency previously has given a debtor any of the notice and review opportunities required under this part, with respect to a particular debt. Subsequently, any interest accrued or any installments coming due after we initiate an offset would not require a new notice and opportunity to review.

(c) The notice will be included as part of a demand letter issued under § 422.805 to advise the debtor of all debt collection possibilities that the agency will seek to employ.

§ 422.823 Debtor rights to review or copy records, submit repayment proposals, or request administrative review.

(a) A debtor who intends to review or copy our records with respect to the debt must notify us in writing within 30 days of the date of the notice as described in section § 422.822. In response, we will notify the debtor of the location, time, and any other conditions for reviewing and copying. The debtor may be liable for reasonable copying expenses.

(b) In response to the notice as described in section § 422.822, the debtor may propose a written agreement to repay the debt as an alternative to Administrative Offset. Any debtor who wishes to do this must submit a written proposal for repayment of the debt, which we must receive within 30 days of the date of the notice as described in section § 422.822 or 15 days after the date of a decision adverse to the debtor. In response, we will notify the debtor whether we need additional information, for example, financial status information. We will obtain any necessary authorization required to approve the agreement, and we will issue a written determination whether the proposed agreement is acceptable. In exercising our discretion, we will balance the Government's interest in collecting the debt against fairness to the debtor.

(c) A debtor must request an administrative review of the debt within 30 days of the date of the notice as described in section § 422.822 for purposes of a proposed collection by non-centralized Administrative Offset pursuant to § 422.824. A debtor must request an administrative review of the debt within 60 days of the date of the notice as described in section § 422.822 for purposes of a proposed collection by centralized Administrative Offset for offset against other Federal payments that would include tax refunds pursuant to § 422.825.

(1) For purposes of this section, whenever we are required to provide a debtor a review within the agency, we will give the debtor a reasonable opportunity for an oral hearing, either by telephone or in person, when the debtor requests reconsideration of the debt and we determine that the question of the indebtedness cannot be resolved by review of the documentary evidence.

(2) Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although we will carefully document all significant matters discussed at the hearing.

(3) An oral hearing is not required with respect to debts where determinations of indebtedness rarely involve issues of credibility or veracity, and we have determined that a review of the written record is adequate to correct prior mistakes.

(4) In those cases when an oral hearing is not required by this section, we will provide the debtor a paper hearing, that is, a determination of the request for reconsideration based upon a review of the written record.

§ 422.824 Non-centralized administrative offset.

(a) Unless otherwise prohibited by law, when centralized Administrative Offset under § 422.825 is not available or appropriate, we may collect a past due, legally enforceable, nontax delinquent debt by conducting non-centralized Administrative Offset internally or in cooperation with the agency certifying or authorizing payments to the debtor. Generally, non-centralized Administrative Offsets are ad hoc case-by-case offsets that an agency conducts at its own discretion, internally or in cooperation with a second agency certifying or authorizing payments to the debtor. In these cases, we may make a request directly to a payment-authorizing agency to offset a payment due a debtor to collect a delinquent debt. We adopt the procedures in 31 CFR 901.3(c) so that we may request the Department of the Treasury or any other payment-authorizing agency to conduct a non-centralized Administrative Offset.

(b) Administrative Offset may be initiated only after:

(1) The debtor has been sent a notice of the type and amount of the debt, the intention to initiate Administrative Offset to collect the debt, and an explanation of the debtor's rights under 31 U.S.C. 3716; and

(2) The debtor has been given:

(i) The opportunity to review and copy records related to the debt;

(ii) The opportunity for a review within the department of the determination of indebtedness; and

(iii) The opportunity to make a written agreement to repay the debt.

(c) The agency may omit the requirements under paragraph (b) of this section when:

(1) Offset is in the nature of a recoupment (*i.e.,* the debt and the payment to be offset arise out of the same transaction or occurrence);

(2) The debt arises under a contract as set forth in *Cecile Industries, Inc.* v. *Cheney,* 995 F.2d 1052 (Fed. Cir. 1993) (notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets covered by the Contracts Disputes Act); or

(3) In the case of non-centralized Administrative Offset conducted under paragraph (a) of this section, the agency first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, we will give the debtor such notice and an opportunity for review as soon as practical and will promptly refund any money ultimately found not to have been owed to the Government.

(d) When the debtor previously has been given any of the required notice and review opportunities with respect to a particular debt, such as under § 422.805, we need not duplicate such notice and review opportunities before Administrative Offset may be initiated.

(e) Before requesting that a payment-authorizing agency conduct non-centralized Administrative Offset, we will:

(1) Provide the debtor with due process as set forth in paragraph (b) of this section; and

(2) Provide the payment-authorizing agency written certification that the debtor owes the past due, legally enforceable delinquent debt in the amount stated and that we have fully complied with this section.

(f) When a creditor agency requests that we, as the payment authorizing agency, conduct non-centralized Administrative Offset, we will comply with the request, unless the offset would not be in the best interest of the United States with respect to the program of the agency, or would otherwise be contrary to law. Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by Administrative Offset, including salary offset.

(g) When collecting multiple debts by non-centralized Administrative Offset, we will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, particularly the applicable statute of limitations.

§ 422.825 Centralized administrative offset.

(a) *Mandatory referral.* After we provide and meet the notice and review opportunity requirements of § 422.822, we will refer debts that are over 120 calendar days delinquent to the Department of the Treasury (Treasury) for collection through centralized

Administrative Offset 61 days after the date of the notice provided in accordance with § 422.822. If the debtor seeks review, referral of the debt must occur within 30 days of the final decision upholding our decision to offset the debt if the debt is more than 120 calendar days delinquent.

(b) *Discretionary referral.* After we provide and meet the notice and review opportunity requirements of § 422.822, and the debtor does not request administrative review or the result of the review is unsuccessful for the debtor, we may refer a debt that is less than 120 calendar days delinquent.

(c) *Procedures for referral.* We will refer debts to Treasury for collection in accordance with Treasury procedures set forth in 31 CFR 285.5 and 31 CFR 901.3(b).

§ 422.827 Offset against tax refunds.

We will take action to effect Administrative Offset against tax refunds due to debtors in accordance with the provisions of 31 U.S.C. 3720A through referral for centralized Administrative Offset under § 422.825.

§ 422.829 Federal salary offset.

(a) *Referral to the Department of the Treasury for offset.* (1) The Department of the Treasury (Treasury) will recover overdue administrative debts by offsetting Federal payments due the debtor through the Treasury Offset Program (TOP). TOP is a government-wide delinquent debt matching and payment offset process operated by Treasury, whereby debts owed to the Federal Government are collected by offsetting them against Federal payments owed the debtor. Federal payments owed the debtor include current ''disposable pay,'' defined in 5 CFR 550.1103, owed by the Federal Government to a debtor who is an employee of the Federal Government. Deducting from such disposable pay to collect an overdue debt owed by the employee is called ''Federal Salary Offset'' in this subpart.

(2) Treasury will use Federal Salary Offset to collect overdue administrative debts from Federal employees, including employees of the Social Security Administration. A Federal employee's involuntary payment of all or part of a debt collected by Federal Salary Offset does not amount to a waiver of any rights that the employee may have under any statute or contract, unless a statute or contract provides for waiver of such rights.

(b) *Debts we will refer.* We will refer all qualifying administrative debts that meet or exceed the threshold amounts used by Treasury for collection from Federal payments, including Federal salaries.

(c) *Notice to debtor.* Before we refer any administrative debt for collection by Administrative Offset, we will send the debtor a notice that explains all of the following:

(1) The nature and amount of the debt;

(2) That we have determined that payment of the debt is overdue; and

(3) That we will refer the debt for Administrative Offset (except as provided in paragraph (c)(9) of this section) at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60-day period:

(i) The debtor pays the full amount of the debt, or

(ii) The debtor takes any of the actions described in paragraphs (c)(6) or (c)(7) of this section.

(4) The frequency and amount of any Federal Salary Offset deduction (the payment schedule) expressed as a fixed dollar amount or percentage of disposable pay.

(5) The debtor may review or copy our records relating to the debt. If the debtor or his or her representative cannot personally review the records, the debtor may request and receive a copy of such records.

(6) The debtor may request a review of the debt by giving us evidence showing that the debtor does not owe all or part of the amount of the debt or that we do not have the right to collect it. The debtor may also request review of any payment schedule for Federal Salary Offset stated in the notice. If the debtor is an employee of the Federal Government and Federal Salary Offset is proposed, an official designated in accordance with 5 U.S.C. 5514(a)(2) will conduct the review.

(7) The debtor may request to repay the debt voluntarily through an installment payment plan.

(8) If the debtor knowingly furnishes any false or frivolous statements, representations, or evidence, the debtor may be subject to appropriate disciplinary procedures under applicable statutes or regulations when the debtor is a Federal employee.

(9) We will refer the debt for Federal Salary Offset at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60 day period, the debtor takes any actions described in paragraphs (c)(3)(i), (c)(6), or (c)(7) of this section.

(d) *Federal Salary Offset: amount, frequency and duration of deductions.* (1) Treasury may collect the overdue debt from an employee of the Federal Government through the deduction of an amount not to exceed 15 percent of the debtor's current disposable pay each payday.

(2) Federal Salary Offset will begin not less than 60 calendar days after the date of the notice to the debtor described in paragraph (c) of this section.

(3) Once begun, Federal Salary Offset will continue until Treasury recovers the full amount of the debt, the debt is otherwise resolved, or the debtor's Federal employment ceases, whichever occurs first.

(4) After Federal Salary Offset begins, the debtor may request a reduction in the amount deducted from disposable pay each payday. When Treasury determines that the amount deducted causes financial harm under the rules in § 422.833(j), they will reduce that amount. Treasury will not reduce the amount from the debtor's disposable pay if the debt was caused by:

(A) An intentional false statement by the debtor, or

(B) The debtor's willful concealment of, or failure to furnish, material information.

(2) ''Willful concealment'' means an intentional, knowing and purposeful delay in providing, or failure to reveal, material information.

(e) *Refunds.* Treasury will promptly refund to the debtor any amounts collected that the debtor does not owe. Refunds do not bear interest unless required or permitted by law or contract.

§ 422.833 Administrative wage garnishment for administrative debts.

(a) *Purpose.* This part prescribes the standards and procedures for collecting money from a debtor's disposable pay by means of Administrative Wage Garnishment to satisfy delinquent non-tax debts owed to us, the Social Security Administration.

(b) *Authority.* These standards and procedures are authorized under the wage garnishment provisions of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720D, and the Department of the Treasury's (Treasury) Administrative Wage Garnishment regulation at 31 CFR 285.11.

(1) This part will apply notwithstanding any provision of State law.

(2) Nothing in this part precludes the compromise of a debt or the suspension or termination of collection action in accordance with § 422.803 of this title or other applicable law or regulation, and the Commissioner has retained the authority. The Department of Justice has exclusive authority to suspend or

terminate collection action on a debt affected by fraud.

(3) The receipt of payments pursuant to this part does not preclude us from pursuing other debt collection remedies, including the offset of Federal or State payments to satisfy delinquent non-tax debt owed to the United States. We will pursue such debt collection remedies separately or in conjunction with Administrative Wage Garnishment.

(4) This section does not apply to the collection of delinquent non-tax debts owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal Salary Offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(5) Nothing in this section requires us to duplicate notices or administrative proceedings required by contract or other laws or regulations.

(c) *Definitions.* In this section, the following definitions will apply:

(1) *Business day* means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday, in which case the next business day following the holiday will be considered the last day of the period.

(2) *Day* means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal legal holiday, in which case the next business day will be considered the last day of the period.

(3) *Debt* means an amount of funds or other property determined by an appropriate official of the Federal Government to be owed to the United States from any person, organization, or entity or any other debt that meets the definition of ''claim'' or ''debt'' under 31 U.S.C. 3701(b), excluding program overpayments made under title II or title XVI of the Social Security Act.

(4) *Debtor* means an individual who owes a delinquent non-tax debt to the United States.

(5) *Delinquent debt* means any non-tax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable payment agreement or instrument, unless other satisfactory payment arrangements have been made. For purposes of this part, ''delinquent'' and ''overdue'' have the same meaning.

(6) *Disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this part, ''amounts required by law to be withheld'' include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

(7) *Employer* means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government as defined by 31 CFR 285.11(c).

(8) *Garnishment* means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order.

(9) *Hearing* means a review of the documentary evidence concerning the existence or amount of a debt or the terms of a repayment schedule, provided such repayment schedule is established other than by a written agreement entered into pursuant to this part. If the hearing official determines that the issues in dispute cannot be resolved solely by review of the written record, such as when the validity of the debt turns on the issue of credibility or veracity, an oral hearing may be provided.

(10) *Hearing official* means an administrative law judge or appropriate alternate.

(11) *Treasury* means the Department of the Treasury.

(12) *Withholding order* for purposes of this part means ''Wage Garnishment Order (SF329B).'' Also for purposes of this part, the terms ''wage garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

(d) *General rule.* (1) Except as provided in paragraph (d)(2) of this section, whenever an individual owes a delinquent debt, the agency or another Federal agency collecting a debt on our behalf (see § 422.803) may initiate administrative proceedings to garnish the wages of the delinquent debtor.

(2) Treasury will not garnish the wages of a debtor who we know has been involuntarily separated from employment until the debtor has been re-employed continuously for at least 12 months. The debtor has the burden to inform the agency of the circumstances surrounding an involuntary separation from employment.

(e) *Notice*—(1) *Notice requirements.* At least 30 days before the initiation of garnishment proceedings, Treasury will mail, by first class mail, to the debtor's last known address, a notice informing the debtor of:

(i) The nature and amount of the debt;

(ii) The intention to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

(iii) The debtor's right:

(A) To review and copy our records related to the debt;

(B) To enter into a written repayment which is agreeable to the agency;

(C) To a hearing, in accordance with paragraph (f) of this section, concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order, except that the debtor is not entitled to a hearing concerning the proposed repayment schedule if the terms were established by written agreement pursuant to paragraph (1)(iii)(B) of this section; and

(iv) The periods within which the debtor may exercise his or her rights.

(2) *Treasury will keep a copy of the dated notice.* The notice may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(f) *Hearing*—(1) *In general.* Upon timely written request of the debtor, Treasury will provide a paper or oral hearing concerning the existence or amount of the debt, or the terms of a repayment schedule established other than by written agreement under paragraph (e)(1)(iii)(B) of this section.

(2) *Request for hearing.* (i) The request for a hearing must be signed by the debtor, state each issue being disputed, and identify and explain with reasonable specificity all facts and evidence that the debtor believes support the debtor's position. Supporting documentation identified by the debtor should be attached to the request.

(ii) Effect of timely request: Subject to paragraph (e)(10) of this section, if the debtor's written request is received on or before the 15 business days following the mailing of the notice required under this part, a withholding order will not be issued under paragraph (g) of this section until the debtor has been provided the requested hearing, and a decision in accordance with paragraphs (e)(7) and (8) of this section has been rendered.

(iii) Failure to timely request a hearing: If the debtor's written request is received after the 15th business day following the mailing of the notice required under this part, Treasury will provide a hearing to the debtor. However, Treasury may not delay the issuance of a withholding order unless they determine that the delay in submitting such request was caused by factors beyond the control of the debtor,

or receive information that they determine justifies a delay or cancellation of the withholding order.

(3) *Oral hearing.* (i) For purposes of this section, a debtor will be provided a reasonable opportunity for an oral hearing when the hearing official determines that the issues in dispute cannot be resolved by review of the documentary evidence, such as when the validity of the claim turns on the issue of credibility or veracity.

(ii) If the hearing official decides to have a hearing, a debtor can specify to Treasury whether he or she wants to appear in person or by telephone. At the debtor's option, the oral hearing may be conducted in person or by telephone conference. The hearing official will notify the debtor of the date, time, and in the case of an in-person hearing, the location of the hearing. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(4) *Paper hearing.* (i) If the hearing official determines an oral hearing is not required by this section, the hearing official will afford the debtor a paper hearing, that is, the issues in dispute will be decided based upon a review of the written record.

(ii) The hearing official will notify the debtor of the deadline for the submission of additional evidence if necessary for a review of the record.

(5) *Burden of proof.* (i) Treasury has the initial burden of proving the existence or amount of the debt.

(ii) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present Treasury preponderant evidence that no debt exists or that the amount is incorrect. Debtors challenging the terms of a repayment schedule must provide preponderant evidence to Treasury that the terms of the repayment schedule are unlawful, would cause the debtor financial hardship, or that operation of law prohibits collection of the debt.

(6) *Record.* The hearing official will maintain a summary record of any hearing provided under this part. A hearing is not required to be a formal evidentiary-type hearing, but witnesses who testify in an oral hearing must do so under oath or affirmation.

(7) *Date of decision.* (i) The hearing official will issue a written decision, as soon as practicable, but no later than 60 days after the date on which the request for the hearing was received by the agency.

(ii) If the hearing official is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(A) A withholding order may not be issued until the hearing is held and a decision is rendered; or

(B) A withholding order previously issued to the debtor's employer must be suspended beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(8) *Content of decision.* The written decision will include:

(i) A summary of the facts presented;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedule, if applicable.

(9) *Final agency action.* The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act. 5 U.S.C. 701 *et seq.*

(10) *Failure to appear.* In the absence of good cause shown, a debtor who fails to appear at a hearing will be deemed as not having timely filed a request for a hearing.

(g) *Withholding order.* Unless Treasury receives information that determines a justified delay or cancellation of a withholding order, Treasury will send, by first class mail, an SF–329A ''Letter to Employer & Important Notice to Employer,'' an SF–329B ''Wage Garnishment Order,'' an SF–329C ''Wage Garnishment Worksheet,'' and an SF–329D ''Employer Certification'' to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing or, if the timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the agency to proceed with garnishment.

(h) *Certification by employer.* The employer must complete and return the SF–329D ''Employer Certification'' within 20 days of receipt.

(i) *Amounts withheld.* (1) After receipt of a withholding order issued under this part, the employer will deduct from all disposable pay paid to the debtor during each pay period the amount of garnishment described in paragraph (h)(2) of this section. The employer may use the SF–329C ''Wage Garnishment Worksheet'' to calculate the amount to be deducted from the debtor's disposable pay.

(2) Subject to paragraphs (h)(3)(i) and (h)(4) of this section, the amount of garnishment will be the lesser of:

(i) The amount indicated on the garnishment order up to 15 percent of the debtor's disposable pay; or

(ii) The amount set forth in 15 U.S.C. 1673(a)(2) (Maximum allowable garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage. See 29 CFR 870.10.

(3)(i) Except as provided in paragraph (h)(3)(ii) of this section, when a debtor's pay is subject to multiple withholding orders, unless otherwise provided by Federal law, withholding orders issued pursuant to this part will have priority over other withholding orders that are served later.

(ii) Notwithstanding the foregoing, withholding orders for family support will have priority over withholding orders issued under this part.

(iii) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this part, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to a withholding order issued under this part will be the lesser of:

(A) The amount calculated under paragraph (h)(3)(iii)(B) of this section; or

(B) An amount equal to 25 percent of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(4) If the debtor owes more than one debt to the agency, Treasury will issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (h)(2) of this section.

(5) An amount greater than that set forth in paragraphs (h)(2) or (3) of this section may be withheld with the debtor's written consent.

(6) The employer will promptly pay all amounts withheld in accordance with the withholding order issued pursuant to this part.

(7) The employer is not required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(8) Any assignment or allotment by an employee will be void to the extent it interferes with or prohibits execution of the withholding order issued under this part, except for any assignment or allotment made pursuant to a family support judgment or order.

(9) The employer will withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the agency to discontinue wage withholding.

(10) The withholding order, SF–329B ''Wage Garnishment Order,'' sent to the employer under paragraph (g) of this section, requires the employer to commence wage withholding on the first payday after the employer receives

the order. However, if the first payday is within 10 days after receipt of the order, the employer may elect to begin deductions on the second payday.

(11) An employer may not discharge, refuse to employ, or take disciplinary action against any debtor because of the issuance of a withholding order under this part.

(j) *Financial hardship.* (1) A debtor whose wages are subject to a withholding order may, at any time, request a review by Treasury of the amount garnished, based on materially changed circumstances, such as disability, divorce, or catastrophic illness, which result in financial hardship.

(2) A debtor requesting review under paragraph (i)(1) of this section will submit the basis for the claim that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. Treasury will consider any information submitted in accordance with this part.

(3) If Treasury finds financial hardship, to reflect the debtor's financial condition, Treasury will downwardly adjust the amount garnished by an amount and for a period established by the agency. Treasury will notify the employer of any adjustments in the amount to be withheld.

(k) *Fraud and willful concealment or failure to furnish information.* Treasury will not reduce the amount that the employer withholds from disposable pay if the debt was caused by an intentional false statement.

(l) *Refunds.* (1) If the hearing official, pursuant to a hearing under this part, determines that a debt is not legally due and owing to the United States, Treasury will promptly refund any amount collected by means of Administrative Wage Garnishment.

(2) Unless required by Federal law or contract, refunds under this part will not bear interest.

(m) *Ending garnishment.* (1) Once Treasury has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs assessed pursuant to and in accordance with § 422.803 of this title, Treasury will send the debtor's employer notification to discontinue wage withholding.

(2) At least annually, Treasury will review debtors' accounts to ensure that garnishment has ended for accounts that have been paid in full.

(n) *Employers' responsibilities and right of action.* (1) The employer of a debtor subject to wage withholding pursuant to this part will pay the agency as directed in a withholding order issued under this part.

(2) Treasury may bring suit against an employer for any amount that the employer fails to withhold from wages owed and payable to a debtor in accordance with paragraphs (g) and (i) of this section, plus attorney's fees, costs, and, if applicable, punitive damages.

(3) A suit under this section may not be filed before the end of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, ''end of collection action'' occurs when we have completed taking collection action in accordance with part 422, subpart I of this title or other applicable law or regulation.

(4) Notwithstanding any other provision or action referred to in this section, the end of the collection action will be deemed to occur one (1) year after the agency does not receive any payment of wages that were subject to a garnishment order issued under this part.

§ 422.835 Debt reporting and use of credit reporting agencies.

(a) *Reporting delinquent debts.* (1) We may report delinquent debts over $25 to credit bureaus or other automated databases.

(2) We will report administrative debts owed by individuals to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12). We may disclose only the individual's name, address, and Social Security number and the nature, amount, status, and history of the debt.

(3) Once we refer a debt to the Department of the Treasury (Treasury) for collection, Treasury may handle any subsequent reporting to or updating of a credit bureau or other automated database.

(4) Where there is reason to believe that a debtor has filed a bankruptcy petition, prior to proceeding under this paragraph (a), we will contact the Office of the General Counsel for legal advice concerning the impact of the Bankruptcy Code, particularly with respect to the applicability of the automatic stay, 11 U.S.C. 362, and the procedures for obtaining relief from such stay.

(5) If the debtor has not received prior notice under § 422.805, before reporting a delinquent debt under this section, we will provide the debtor at least 60 days notice including:

(i) The amount and nature of the debt;

(ii) That the debt is delinquent and that we intend to report the debt to a credit bureau;

(iii) The specific information that we will disclose;

(iv) The right to dispute the accuracy and validity of the information being disclosed; and

(v) If a previous opportunity was not provided, the right to request review of the debt or rescheduling of payment.

(b) *Use of credit reporting agencies.* We may use credit-reporting agencies to determine a debtor's ability to repay a debt and to locate debtors. In the case of an individual, we may disclose, as a routine use under 5 U.S.C. 552a(b)(3), only the individual's name, address, and Social Security number, and the purpose for which the information will be used.

§ 422.837 Contracting with private collection contractors and with entities that locate and recover unclaimed assets.

(a) Subject to the provisions of paragraph (b) of this section, we may contract with private collection contractors to recover delinquent debts, if:

(1) We retain the authority to resolve disputes, compromise debts, suspend or terminate collection action, and, as appropriate, to refer debts to the Department of Justice for review and litigation;

(2) The private collection contractor is not allowed to offer the debtor, as an incentive for payment, the opportunity to pay the debt less the private collection contractor's fee, unless we have granted such authority prior to the offer;

(3) The contract provides that the private collection contractor is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. 552a(m) and to applicable Federal and State laws and regulations pertaining to debt collection practices, including, but not limited, to the Fair Debt Collection Practices Act, 15 U.S.C. 1692; and

(4) The private collection contractor is required to account for all amounts collected.

(b) We will use government-wide debt collection contracts to obtain debt collection services provided by private collection contractors. However, we may refer debts to private collection contractors pursuant to a contract between the agency and the private collection contractor only if such debts are not subject to the requirement to transfer debts to the Treasury for debt collection under 31 U.S.C. 3711(g) and 31 CFR 285.12(e).

(c) Debts arising under the Social Security Act (which can be collected by private collection contractors only by Department of the Treasury (Treasury) after the debt has been referred to Treasury for collection) are excluded from this section.

(d) We may fund private collection contractor contracts in accordance with 31 U.S.C. 3718(d) or as otherwise permitted by law. A contract under paragraph (a) of this section may provide that the fee a private collection contractor charges the agency for collecting the debt is payable from the amounts collected.

(e) We may enter into contracts for locating and recovering assets of the United States, including unclaimed assets. However, before entering into a contract to recover assets of the United States that may be held by a State Government or financial institution, we must establish procedures that are acceptable to the Secretary of the Treasury.

(f) We enter into contracts for debtor asset and income search reports. In accordance with 31 U.S.C. 3718(d), such contracts may provide that the fee a contractor charges the agency for such services may be payable from the amounts recovered unless otherwise prohibited by statute.

§ 422.839 Offset against amounts payable from civil service retirement and disability fund and the Federal employees' retirement system.

Upon providing the Office of Personnel Management (OPM) written certification that a debtor has been afforded the procedures provided in § 422.823 of this part, we may request OPM to offset a debtor's anticipated or future benefit payments under the Civil Service Retirement and Disability Fund (Fund) and the Federal Employees' Retirement System (FERS) in accordance with regulations codified at 5 CFR 831.1801 through 831.1808, and 5 CFR part 845 Subpart D. Upon receipt of such a request, OPM will identify and ''flag'' a debtor's account in anticipation of the time when the debtor requests, or becomes eligible to receive, payments from the Fund or FERS.

§ 422.842 Liquidation of collateral.

(a)(1) If the debtor fails to pay the debt(s) within a reasonable time after demand and if such action is in the best interests of the United States, we will liquidate security or collateral through the exercise of a power of sale in the security instrument or a non-judicial foreclosure and apply the proceeds to the applicable debt(s).

(2) Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor unless such action is expressly required by statute or contract.

(3) We will give the debtor reasonable notice of the sale and an accounting of any surplus proceeds and will comply with other requirements under law or contract.

(b) Where there is reason to believe that a bankruptcy petition has been filed with respect to a debtor, we will contact the Office of the General Counsel for legal advice concerning the impact of the Bankruptcy Code, particularly with respect to the applicability of the automatic stay, 11 U.S.C. 362, and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

§ 422.846 Bases for compromise.

(a) *Scope and application*—(1) *Scope.* The standards set forth in this subpart apply to the compromise of administrative debts pursuant to 31 U.S.C. 3711. We may exercise such compromise authority for debts arising out of activities of, or referred or transferred for collection services to, the agency when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, does not exceed $100,000 or any higher amount authorized by the Attorney General.

(2) *Application.* Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds $100,000 or any higher amount authorized by the Attorney General, the authority to accept a compromise rests with the Department of Justice (DOJ). We will evaluate the compromise offer using the factors set forth in this subpart. If an offer to compromise any debt in excess of $100,000 is acceptable to the agency, we will refer the debt to the Civil Division or other appropriate litigating division in the DOJ using a Claims Collection Litigation Report (CCLR). A CCLR may be obtained from the DOJ's National Central Intake Facility. The referral will include appropriate financial information and a recommendation for the acceptance of the compromise offer. DOJ approval is not required if we reject a compromise offer.

(b) *Bases for compromise*—(1) *Compromise.* We may compromise a debt if the agency cannot collect the full amount based upon the debtor's inability to pay, inability to collect the full debt, the cost of collection, or if we are doubtful that the debt can be proven in court.

(i) *Inability to pay.* We may compromise a debt if the debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information. In determining a debtor's inability to pay the full amount of the debt within a reasonable time, we will obtain and verify the debtor's claim of inability to pay by using credit reports and/or a current financial statement from the debtor, executed under penalty of perjury, showing the debtor's assets, liabilities, income, and expenses. We may use a financial information form used in connection with the agency's programs or may request suitable forms from the DOJ or the local United States Attorney's Office. We also may consider other relevant factors such as:

(A) Age and health of the debtor;

(B) Present and potential income;

(C) Inheritance prospects;

(D) The possibility that assets have been concealed or improperly transferred by the debtor; and

(E) The availability of assets or income that may be realized by enforced collection proceedings.

(ii) *Inability to collect full debt.* We may compromise a debt if the Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings.

(A) In determining the Government's ability to enforce collection, we will consider the applicable exemptions available to the debtor under State and Federal law, and we may also consider uncertainty as to the price any collateral or other property will bring at a forced sale.

(B) A compromise affected under this section should be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to any exemptions available to the debtor and the time that collection will take.

(iii) *Cost of collection.* We may compromise a debt if the cost of collecting the debt does not justify the enforced collection of the full amount.

(A) The amount accepted in compromise of such debts may reflect an appropriate discount for the administrative and litigation costs of collection, with consideration given to the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts.

(B) In determining whether the costs of collection justify enforced collection of the full amount, we will consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principal, such as the Government's willingness to pursue aggressively defaulting and uncooperative debtors.

(iv) *Doubtful debt can be proven in court.* We may compromise a debt if there is significant doubt concerning the Government's ability to prove its case in court.

(A) If significant doubt exists concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a legitimate dispute as to the facts, then the amount accepted in compromise should fairly reflect the probabilities of successful prosecution to judgment, with due regard to the availability of witnesses and other evidentiary support for the Government's claim.

(B) In determining the litigation risks involved, we will consider the probable amount of court costs and attorney fees a court may impose pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412, if the Government is unsuccessful in litigation.

(2) *Installments.* We may not accept compromises payable in installments. This is not an advantageous form of compromise in terms of time and administrative expense. If, however, payment in installments is necessary in cases of compromise based on paragraphs (b)(1)(i) through (iii) of this section, we will obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. In cases of compromise based on paragraph (b)(1)(iv) of this section, we will consult with the Office of the General Counsel concerning the appropriateness of including such a requirement in the legally enforceable written agreement. Whenever possible, we will obtain security for repayment in the manner set forth in § 422.809.

(c) *Enforcement policy.* Subject to the Commissioner's approval, we may compromise statutory penalties, forfeitures, or claims established as an aid to enforcement and to compel compliance if our enforcement policy, in terms of deterrence and securing compliance, present, and future, will be adequately served by the agency's acceptance of the sum to be agreed upon.

(d) *Joint and several liability.* (1) When two or more debtors are jointly and severally liable, we will pursue collection against all debtors, as appropriate. We will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible.

(2) We will ensure that a compromise agreement with one debtor does not automatically release the agency's claim against the remaining debtor(s). The amount of a compromise with one debtor will not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

(e) *Further review of compromise offers.* If we are uncertain whether to accept a firm, written, substantive compromise offer on a debt that is within the agency's statutory compromise authority, we may use a CCLR with supporting data and particulars concerning the debt to refer the offer to the DOJ's Civil Division or other appropriate litigating division. The DOJ may act upon such an offer or return it to the agency with instructions or advice.

(f) *Consideration of tax consequences to the Government.* In negotiating a compromise, we will consider the tax consequences to the Government. In particular, we will consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor. For information on discharge of indebtedness reporting requirements, see § 422.848(e).

(g) *Mutual release of the debtor and the Government.* In all appropriate instances, a compromise that is accepted will be implemented by means of a mutual release. The terms of such mutual release will provide that the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromise amount, and the Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction that the debtor may have. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt.

§ 422.848 Suspension and termination of collection activities.

(a) *Scope and application*—(1) *Scope.* The standards set forth in this subpart apply to the suspension or termination of collection activity pursuant to 31 U.S.C. 3711 on debts that do not appear to be fraudulent or that do not exceed $100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. Prior to referring a debt to the Department of Justice (DOJ) for litigation, we may suspend or terminate collection under this subpart with respect to such debts that arise out of the activities of, or are referred or transferred for collection services to, the agency.

(2) *Application.* (i) If the debt stems from a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim or after deducting the amount of partial payments or collections, the principal amount of the debt exceeds $100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the DOJ.

(ii) If we believe that suspension or termination of any debt that relates to a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim or that exceeds $100,000 may be appropriate, we will use the Claims Collection Litigation Report to refer the debt to the Civil Division or other appropriate litigating division in the DOJ. The referral will specify the reasons for our recommendation. If, prior to referral to the DOJ, we determine that a debt is plainly erroneous or clearly without merit, we may terminate collection activity regardless of the suspected fraud or amount involved without obtaining the DOJ's concurrence.

(b) *Suspension of collection activity.* (1) We may suspend collection activity on a debt when:

(i) The debtor cannot be located;

(ii) The debtor's financial condition is not expected to improve; or

(iii) The debtor has requested a legally permissible waiver or review of the debt.

(2) *Financial condition.* Based on the current financial condition of a debtor, we may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity, and:

(i) No applicable statute of limitations has expired; or

(ii) Future collection can be effected by Administrative Offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to any statute of limitation for Administrative Offset prescribed by 31 U.S.C. 3716(e)(1); or

(iii) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended and suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(3) *Waiver or review.* (i) We will suspend collection activity during the time required for consideration of the debtor's request for waiver or

administrative review of the debt if the statute under which the request is sought prohibits us from collecting the debt during that time.

(ii) If the statute under which the waiver or administrative review request is sought does not prohibit collection activity pending consideration of the request, we may use discretion, on a case-by-case basis, to suspend collection. We will ordinarily suspend collection action upon a request for waiver or review if we are prohibited by statute or regulation from issuing a refund of amounts collected prior to agency consideration of the debtor's request. However, we will not suspend collection when we determine that the request for waiver or review is frivolous or was made primarily to delay collection.

(4) *Bankruptcy.* Upon learning that a bankruptcy petition has been filed with respect to a debtor, we must suspend collection activity on the debt, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless we can clearly establish that the automatic stay has been lifted or is no longer in effect. In such cases, we will consult our Office of the General Counsel for advice. When appropriate, the Offices of the Regional Chief Counsel will take the necessary legal steps to ensure that no funds or money are paid by the agency to the debtor until relief from the automatic stay is obtained.

(c) *Termination of collection activity.* (1) We may terminate collection activity when:

(i) We are unable to collect any substantial amount through our own efforts or through the efforts of others;

(ii) We are unable to locate the debtor;

(iii) Costs of collection are anticipated to exceed the amount recoverable;

(iv) The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;

(v) The debt cannot be substantiated; or

(vi) The debt against the debtor has been discharged in bankruptcy.

(2)(i) Collection activity will not be terminated before we have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible.

(ii) Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude us from retaining a record of the account for purposes of:

(A) Selling the debt, if the Secretary of the Department of the Treasury (Treasury) determines that such sale is in the best interest of the United States;

(B) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(C) Offsetting against future income or assets not available at the time of termination of collection activity; or

(D) Screening future applicants for prior indebtedness.

(3) We will terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. We may continue collection activity, however, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge. For example, when we are a known creditor of a debtor, the claims of the agency may survive a discharge if we did not receive notice of the bankruptcy proceeding or the debt was affected by fraud. When we believe that the agency has claims or offsets that may have survived the discharge of the debtor, we will contact the Office of the General Counsel for legal advice.

(d) *Exception to termination.* When a significant enforcement policy is involved or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, we may refer debts to the DOJ for litigation even though termination of collection activity may otherwise be appropriate.

(e) *Discharge of indebtedness; reporting requirements.* (1)(i) Before discharging a delinquent debt, also referred to as close out of the debt, we will take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g)(9), and §§ 422.803 and 422.810 of this part, including, as applicable, Administrative Offset; tax refund offset; Federal Salary Offset; credit bureau reporting; Administrative Wage Garnishment; litigation; foreclosure; and referral to the Treasury, Treasury-designated debt collection centers, or private collection contractors.

(ii) Discharge of indebtedness is distinct from termination or suspension of collection activity under this subpart, and is governed by the Internal Revenue Code. When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in this part and 31 CFR parts 900 through 904.

(iii) When we discharge a debt in full or in part, further collection action is prohibited. Therefore, before discharging a debt, we must:

(A) Make the determination that collection action is no longer warranted; and

(B) Terminate debt collection action.

(2) In accordance with 31 U.S.C. 3711(i), we will use competitive procedures to sell a delinquent debt upon termination of collection action if the Secretary of the Treasury determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action, including the sale of a delinquent debt, we may not discharge a debt until the requirements of 31 U.S.C. 3711(i) have been met.

(3) Upon discharge of indebtedness, we must report the discharge to the Internal Revenue Service (IRS) in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P–1. We may request that Treasury or Treasury-designated debt collection centers file such a discharge report to the IRS on our behalf.

(4) When discharging a debt, we must request that litigation counsel release any liens of record securing the debt.

§ 422.850 Referrals to the Department of Justice.

(a) *Prompt referral.* (1)(i) We will promptly refer to the Department of Justice (DOJ) for litigation debts on which aggressive collection activity has been taken in accordance with § 422.803, and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with § 422.848.

(ii) We may refer debts arising out of activities of, or referred or transferred for collection services to, the agency to DOJ for litigation.

(2)(i) Debts for which the principal amount is over $100,000 or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs will be referred to the Civil Division or other division responsible for litigating such debts at the DOJ.

(ii) Debts for which the principal amount is $1,000,000 or less, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs will be referred to the Nationwide Central Intake Facility at the DOJ as required by the Claims Collections Litigation Report (CCLR) instructions.

(3)(i) Consistent with aggressive agency collection activity and the standards contained in this part and 31 CFR parts 900 through 904, debts will be referred to the DOJ as early as possible and, in any event, well within

the period for initiating timely lawsuits against the debtors.

(ii) We will make every effort to refer delinquent debts to the DOJ for litigation within one year of the date such debts last became delinquent. In the case of guaranteed or insured loans, we will make every effort to refer these delinquent debts to the DOJ for litigation within one year from the date the debt was known to the agency.

(4) The DOJ has exclusive jurisdiction over debts referred to it pursuant to this subpart. Upon referral of a debt to the DOJ, we will:

(i) Immediately terminate the use of any administrative collection activities to collect the debt;

(ii) Advise the DOJ of the collection tools utilized and the results of activities to date; and

(iii) Refrain from having any contact with the debtor and direct all debtor inquiries concerning the debt to the DOJ.

(5) After referral of a debt under this subpart, we will immediately notify the DOJ of any payments credited by the agency to the debtor's account. Pursuant to 31 CFR 904.1(b), after referral of the debt under this subpart, the DOJ will notify the agency of any payment received from the debtor.

(b) *Claims Collection Litigation Report.* (1)(i) Unless excepted by the DOJ, we will complete a CCLR and associated signed Certificate of Indebtedness to refer all administratively uncollectible claims to the DOJ for litigation.

(ii) We will complete all sections of the CCLR appropriate to each debt as required by the CCLR instructions and furnish such other information as may be required in specific cases.

(2) We will indicate clearly on the CCLR the actions that we wish the DOJ to take with respect to the referred debt. We may indicate specifically any of a number of litigation activities the DOJ may choose to pursue, including enforced collection, judgment lien only, renew judgment lien only, renew judgment lien and enforced collection, program enforcement, foreclosure only, and foreclosure and deficiency judgment.

(3) We will also use the CCLR to refer a debt to the DOJ for the purpose of obtaining any necessary approval of a proposal to compromise a debt or to suspend or terminate administrative collection activity on a debt.

(c) *Preservation of evidence.* We will maintain and preserve all files and records that may be needed by the DOJ to prove our claim in court. When referring debts to the DOJ for litigation, certified copies of the documents that form the basis for the claim should be provided along with the CCLR. Upon its request, the original documents will be provided to the DOJ.

(d) *Minimum amount of referrals.* (1) Except as provided in paragraph (d)(2) of this section, we will not refer for litigation claims of less than $2,500 exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General may prescribe.

(2) We will not refer claims of less than the minimum amount unless:

(i) Litigation to collect such smaller amount is important to ensure compliance with the agency's policies and programs;

(ii) The agency is referring the claim solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to the agency for enforcement; or

(iii) The debtor has the clear ability to pay the claim and the Government can enforce payment effectively, with due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(3) We will consult with the Financial Litigation Staff of the Executive Office for United States Attorneys at DOJ prior to referring claims valued at less than the minimum amount.

[FR Doc. 2015–25544 Filed 10–13–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0905]

Drawbridge Operation Regulation; Upper Mississippi River, Dubuque, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Illinois Central Railroad Drawbridge across the Mississippi River, mile 579.9, at Dubuque, Iowa. The deviation is necessary to allow the bridge owner time to complete electrical and mechanical upgrades and replace the control house essential to the continued safe operation of the drawbridge.

DATES: This deviation is effective from 7 a.m. on October 21, 2015 to 1 p.m. on October 22, 2015.

ADDRESSES: The docket for this deviation, (USCG–2015–0905) is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Chicago, Central & Pacific Railroad requested a temporary deviation for the Illinois Central Railroad Drawbridge, across the Upper Mississippi River, mile 579.9, at Dubuque, Iowa to remain in the closed-to-navigation position from 7 a.m. to 1 p.m., on October 21 and 22, 2015 to complete electrical and mechanical upgrades and replace the control house essential to the continued safe operation of the drawbridge.

The Illinois Central Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River. The bridge cannot open in case of emergency.

The Illinois Central Railroad Drawbridge provides a vertical clearance of 19.9 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: October 6, 2015.

David M. Frank,

Bridge Administrator, Eight Coast Guard District.

[FR Doc. 2015–26009 Filed 10–13–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0205; FRL–9935–44–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Infrastructure for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) submission from the State of New Mexico for the Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2010 SO_2 NAAQS (infrastructure SIP or i-SIP), including two of the four CAA requirements for interstate transport of SO_2 emissions. This i-SIP ensures that the State's SIP is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA).

DATES: This final rule is effective on November 13, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2014–0205. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665–6454, *fuerst.sherry@epa.gov.*

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

I. Background

The background for this action is discussed in detail in our June 29, 2015 proposal (80 FR 36956). In that notice, we proposed to approve the New Mexico i-SIP submittal for the 2010 SO_2 NAAQS.

We received comments from one commenter on the proposal. Our response to the comments are below.

II. Response to Comments

Comment: One commenter stated that EPA cannot approve the PSD portions of the i-SIP, ergo110(a)(2)(C), (D)(i)(II)(PSD prong) and (J), until the $PM_{2.5}$ increments are fully approved into both the New Mexico and Albuquerque-Bernalillo County SIPs.

Response: EPA disagrees with the comment as our proposed action did not pertain to the Albuquerque-Bernalillo County portion of the SIP. The New Mexico Air Quality Control Act (section 74–2–4) authorizes Albuquerque/Bernalillo County to locally administer and enforce the State Air Quality Control Act by providing for a local air quality control program. Thus, State law views Albuquerque/Bernalillo County and the remainder of the State of New Mexico as distinct air quality control entities. Therefore, each entity is required to submit its own SIP revision in order to completely satisfy the requirements of the Clean Air Act for the entire State of New Mexico. The Albuquerque/Bernalillo County Air Quality Control Board has the authority to implement a comprehensive Prevention of Significant Deterioration (PSD) permit program, separate and independent from the NM Air Quality Board. At the time of the instant proposal and comment, EPA had not yet approved any revision to the Albuquerque/Bernalillo County portion of the New Mexico PSD SIP.

EPA published its approval of revisions to the New Mexico SIP for Albuquerque/Bernalillo County that address the requirements of the EPA's May 2008, July 2010, and October 2012 $PM_{2.5}$ PSD Implementation Rules, and also incorporate revisions consistent with EPA's March 2011 Fugitives Interim Rule, July 2011 Greenhouse Gas (GHG) Biomass Deferral Rule, and July 2012 GHG Tailoring Rule Step 3 and GHG PALs Rule (see docket EPA–R06–OAR–2013–0616 in *www.regulations.gov*). The comment is not relevant to the instant New Mexico SIP action, but EPA's approval of the Albuquerque/Bernalillo County PSD SIP revisions renders the comment moot.

III. Final Action

EPA is approving the February 14, 2014, infrastructure SIP submission from New Mexico, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 SO_2 NAAQS, including two of the four CAA requirements for interstate transport of SO_2 emissions. The two interstate transport requirements being addressed pertain to prohibiting SO_2 emissions that will interfere with measures required to be included in the SIP for any other State to prevent significant deterioration of air quality or to protect visibility (CAA 110(a)(2)(D)(i)(II)). Specifically, EPA is approving the i-SIP as meeting the following CAA infrastructure elements: 110(a)(2)(A), (B), (C), (D)(i)(II), D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is not taking action on section 110(a)(2)(D)(i)(I)—pertaining to prohibiting emissions which will contribute significantly to nonattainment or interfere with maintenance of the NAAQS at this time. EPA is not taking action pertaining to section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions under Part D as EPA believes this need not be addressed in the i-SIP. Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in New Mexico's SIP, EPA believes that New Mexico has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except as otherwise noted) to ensure that the 2010 SO_2 NAAQS are implemented in the state.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart GG—New Mexico

■ 2. In § 52.1620, the second table in paragraph (e) is amended by adding the entry ''Infrastructure for the 2010 SO_2 NAAQS'' at the end of the table to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
*	* *	*	*	* *
Infrastructure for the 2010 SO_2 NAAQS.	Statewide, except for Bernalillo County and Indian country.	2/14/2014	10/14/2015 [insert **Federal Register** citation].	Does not address CAA 110(a)(2)(D)(i)(I).

[FR Doc. 2015–25968 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0479; FRL–9935–58–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Delaware State Implementation Plan (SIP). The SIP revision pertains to adoption by Delaware of a Low Emission Vehicle (LEV) Program. The Clean Air Act (CAA) grants authority to EPA to adopt Federal standards for emissions from new motor vehicles, and generally preempts states from doing so. However, the CAA grants California authority to adopt its own motor vehicle standards, as long as EPA approves California's program via a preemption waiver. The CAA also allows other states to then adopt California's vehicle standards for which EPA has granted such a waiver, provided the state's standards are identical to California's standards and the state adopts the standards at least two years prior to their commencement. Delaware adopted California emission standards for passenger cars and trucks, and medium-duty passenger and other medium-duty vehicles in 2010, effective beginning with new vehicles sold in model year 2014. Delaware amended its LEV program regulation in 2013 to incorporate California's most recent LEV regulatory updates to its program. It is this program that Delaware submitted to EPA in August 2014 for inclusion into Delaware's SIP and which is the subject of this rulemaking action. The purpose of this SIP revision is to reduce vehicle emissions that contribute to formation

of ground level ozone, fine particulate matter, and greenhouse gas (GHG) emissions. EPA is approving Delaware's LEV SIP revision as part of the Delaware SIP in accordance with the requirements of the CAA.

DATES: This rule is effective on December 14, 2015 without further notice, unless EPA receives adverse written comment by November 13, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2015–0479 by one of the following methods:

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

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0479, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2015–0479. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
A. What action is EPA taking?
B. Delaware's Air Quality With Respect to the Federal National Ambient Air Quality Standards (NAAQS) for Ozone
1. Delaware Ozone Nonattainment
2. Delaware $PM_{2.5}$ Nonattainment
C. Federal Motor Vehicle Emission Standards
D. California LEV Program
E. Delaware LEV Program
II. Summary of August 2014 Delaware LEV SIP Revision
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background

A. What action is EPA taking?

EPA is taking direct final rulemaking action to approve a SIP revision submitted by Delaware to EPA on August 28, 2014, requesting the inclusion of the state's adopted and implemented California LEV standards as part of the Delaware SIP. A description of the direct final rulemaking process being used by EPA to approve Delaware's SIP revision is described in section III of this rulemaking action. Delaware's LEV standards are applicable to subject, new motor vehicles sold or titled in Delaware beginning with model year 2014. Subject vehicles include passenger cars, light-duty trucks, medium-duty vehicles and medium-duty trucks. Delaware first adopted California LEV standards as state regulation (7 Admin. Code 1140) in 2010, effective with the sale and titling of new vehicles beginning in model year 2014. However, Delaware did not submit a request to EPA to incorporate that version of the program as a SIP revision. Instead, Delaware revised its Regulation 1140 in 2013 to incorporate California's most recent version of its LEV program, otherwise known as the Advanced Clean Car Program. Delaware formally submitted a SIP submittal to EPA on August 20, 2014 requesting EPA to incorporate this 2013 version of its LEV program rule for inclusion in the SIP. Further detail on Delaware's LEV program is provided below in subsection C. of this Background section.

B. Delaware's Air Quality With Respect to the Federal National Ambient Air Quality Standards (NAAQS) for Ozone

1. Delaware Ozone Nonattainment

The CAA, as amended in 1990, requires EPA to set NAAQS for ambient air pollutants considered harmful to public health and the environment. EPA establishes NAAQS for six principal air pollutants, or ''criteria'' pollutants, which include: Ozone, carbon monoxide (CO), lead, nitrogen dioxide, fine particulate matter ($PM_{2.5}$), and sulfur dioxide (SO_2). The CAA establishes two types of NAAQS. Primary standards provide public health protection, including protecting the health of ''sensitive'' populations such as asthmatics, children, and the elderly. Secondary standards protect public welfare, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. The CAA also requires EPA to periodically review the standards to ensure that they provide adequate health and environmental protection, and to update those standards as necessary.

Ozone is formed in the atmosphere by photochemical reactions between ozone precursor pollutants, including volatile organic compounds (VOCs) and nitrogen oxides (NO_X) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA directs areas designated as nonattainment to apply controls on VOC and NO_X emission sources to reduce the formation of ozone.

EPA has revised the ozone NAAQS and designated and classified areas under those revised NAAQS several times since the CAA was reauthorized in 1990. For each revised ozone NAAQS, Delaware has had areas designated as nonattainment for the pollutant ozone.

On November 6, 1991 (56 FR 56694), EPA designated Kent and New Castle Counties as severe nonattainment under the 1-hour ozone NAAQS, as part of the Philadelphia-Wilmington-Trenton, PA-DE-NJ ozone nonattainment area, with Sussex County designated as a separate, marginal 1-hour ozone nonattainment area. Both areas were found to have attained the 1-hour ozone standard by their respective attainment dates, although neither area was formally redesignated to attainment. EPA later revoked the 1-hour ozone NAAQS effective June 15, 2005.

On April 30, 2004 (84 FR 23857), EPA designated all three Delaware counties as moderate nonattainment under the 1997 8-hour ozone NAAQS, as part of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area. EPA granted the area a 1-year extension of its attainment date (from 2010 to 2011) on January 21, 2011 (76 FR 3840). On March 26, 2012, EPA determined that the area had attained the 8-hour ozone NAAQS by its attainment date and also that it qualified for a clean data determination, which suspended most CAA air quality planning requirements based on air quality monitoring data showing that the area met the NAAQS for the most recent three prior years. Once again, the area was never formally redesignated to attainment prior to EPA's revocation of the 1997 8-hour NAAQS on March 6, 2015 (44 FR 12264), effective April 6, 2015.

Most recently, EPA revised the 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm on March 27, 2008 (73 FR 16436). On May 21, 2012 (77 FR 30088), EPA finalized designations for this 2008 8-hour ozone NAAQS, with New Castle County designated marginal nonattainment as part of the Philadelphia-Wilmington-Atlantic City nonattainment area, and Sussex County once again designated marginal nonattainment as the separate Seaford, DE area.

On August 27, 2015, EPA published a **Federal Register** document (80 FR 51992) proposing to find that the Seaford, DE area had attained the 2008 8-hour ozone NAAQS by the marginal area attainment deadline of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for the period 2012–2014. In that same action, EPA proposed to find that the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD marginal area meets the criteria, as provided in CAA section 181(a)(5) and interpreted by regulation at 40 CFR 51.1107, to qualify for a 1-year attainment date extension for the 2008 8-hour ozone NAAQS.

2. Delaware $PM_{2.5}$ Nonattainment

$PM_{2.5}$ can be emitted directly or formed secondarily in the atmosphere. The main precursors of secondary $PM_{2.5}$ are SO_2, NO_X, ammonia, and VOCs. Sulfates are a type of secondary particle formed from SO_2 emissions of power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from NO_X emissions of power plants, automobiles, and other combustion sources.

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$ (62 FR 38652). EPA promulgated primary and secondary annual standards at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated primary and secondary 24-hour standards of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA once again revised the $PM_{2.5}$ NAAQS, retaining the annual average NAAQS at 15 $\mu g/m^3$ but revising the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations. As established by EPA regulation at 40 CFR part 50, the primary and secondary 1997 Annual $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period.

Under the revised particulate matter NAAQS promulgated by EPA since 1990, Delaware's New Castle County has been designated nonattainment for both the 24-hour and annual $PM_{2.5}$ NAAQS on a number of occasions. On January 5, 2005 (70 FR 944), and supplemented on April 14, 2005 (71 FR 19844), EPA designated New Castle County nonattainment for the annual 1997 $PM_{2.5}$ NAAQS as part of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area. On November 13, 2009 (74 FR 58688), EPA promulgated designations for the 24-hour $PM_{2.5}$ NAAQS established in 2006, designating New Castle County nonattainment as part of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area. EPA did not promulgate designations for the 2006 Annual $PM_{2.5}$ NAAQS because that NAAQS was essentially identical to the 1997 Annual $PM_{2.5}$ NAAQS. The November 13, 2009 action clarified that all counties in Delaware were designated unclassifiable/attainment for the 1997 24-hour $PM_{2.5}$ NAAQS through the designations promulgated on January 5, 2005. EPA has since redesignated Delaware's portion of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area as attainment with both the 1997 and 2006 $PM_{2.5}$ NAAQS. *See* 79 FR 45350, (August 5, 2014).

On January 15, 2013, EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS (78 FR 3086), strengthening the standard from 15 $\mu g/m^3$ to 12 $\mu g/m^3$. Nonattainment area designations for the 2012 primary annual $PM_{2.5}$ standard were published on January 15, 2015 (80 FR 2206), with all counties in Delaware classified as unclassifiable/attainment.

C. Federal Motor Vehicle Emission Standards

To reduce air pollution from motor vehicles, which contributes to higher levels of ambient air pollution such as ozone and $PM_{2.5}$, motor vehicles sold in the United States are required by the CAA to be certified to meet Federal motor vehicle emission standards. States are generally prohibited from adopting vehicle standards, except for California, which, having regulated vehicle emission prior to passage of the CAA in 1970, was granted an exception by the CAA to continue to issue its own vehicle emission standards. Section 209 of the CAA requires that California must demonstrate to EPA that its newly adopted standards will be ''. . . in the aggregate, at least as protective of public health and welfare as applicable Federal standards.''

The CAA also authorizes other states to adopt California emission standards for which EPA has granted California such a waiver of preemption. Under section 177 of the CAA, states are authorized to adopt California's standards in lieu of Federal vehicle standards, provided they do so with at least two model years lead time prior to the effective date of the standards, provided that EPA has issued a waiver of preemption to California for such standards.

EPA has adopted several iterations, or ''tiers,'' of Federal emissions standards since the CAA was reauthorized in 1990. When Delaware first state-adopted California's LEV standards in 2010, the Federal vehicle emission standards in effect were Tier 2 standards, which were adopted by EPA on February 10, 2000

(65 FR 6698) and implemented beginning with 2004 model year vehicles. These Federal Tier 2 standards set tailpipe emissions standards for passenger vehicles and light-duty trucks and also limited gasoline sulfur levels. The Federal Tier 3 program set more stringent vehicle emissions standards and further limited allowable sulfur content of gasoline for new cars, beginning in 2017. EPA attempted to closely harmonize the Tier 3 standards with California's most current LEV Program. EPA finalized the Tier 3 vehicle and fuel standards on April 28, 2014 (79 FR 23414).

On May 7, 2010 (75 FR 25324), EPA and the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) jointly established a national program consisting of new standards for light-duty motor vehicles to reduce GHG emissions and to improve fuel economy. This program affected new passenger cars, light-duty trucks, and medium-duty passenger vehicles sold in model years 2012 through 2016. On October 15, 2012 (77 FR 62624), EPA and NHTSA issued another joint rule to further tighten GHG emission standards for model years 2017 through 2025. The Federal GHG standards were harmonized with similar GHG standards set by California, to ensure that automobile manufacturers would face a single set of national emissions standards to meet both Federal and California emissions requirements.

D. California LEV Program

In 1990, California's Air Resources Board (CARB) adopted LEV standards applicable to light- and medium-duty vehicles and phased-in beginning with model year 1994 vehicles. In 1999, California adopted a second generation of LEV standards, known as LEV II, which were phased-in beginning model year 2004 through model year 2010. EPA waived Federal preemption for California's LEV II program on April 22, 2003 (68 FR 19811).

This LEV II program reduced emissions in a similar manner to the Federal Tier 2 program by use of declining fleet average non-methane organic gas (NMOG) emission standards, applicable to each vehicle manufacturer each year. Separate fleet average standards were not established for NO_X, CO, PM, or formaldehyde as these emissions are controlled as a co-benefit of the NMOG fleet average (fleet average values for these pollutants are set by the certification standards for each set of California prescribed certification standards.) These allowable sets of standards ranged from LEV standards (the least stringent standard set) to Zero Emission Vehicle (ZEV) standards (the most stringent standard set). California's LEV II program established various other standards: The Ultra-Low Emission Vehicles (ULEV), Super-Ultra Low Emission Vehicles (SULEV), Partial Zero Emission Vehicles (PZEV), and Advanced Technology-Partial Zero Emission Vehicles (AT–PZEV). Each manufacturer complied by demonstrating that its own sales-weighted average of these respective categories of standards fell below overall program standards.

In January 2012, California approved a new LEV program for model years 2017 through 2025, called the Advanced Clean Cars Program, or the LEV III program. The program combines control of smog, soot, and GHG emissions with requirements for greater numbers of ZEV vehicles into a single program. LEV III regulations apply to light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles. The program was phased in beginning with vehicles certified in model year 2015, with all vehicles meeting LEV III standards by model year 2020. Amendments to California's ZEV requirements added flexibility to California's existing ZEV program for 2017 and earlier model years, and establish new sales and technology requirements starting with the 2018 model year. The LEV III amendments establish more stringent criteria and GHG emission standards starting with the 2015 and 2017 model years, respectively. The California GHG standards are almost identical in stringency and structure to the Federal GHG standards for model years from 2017 to 2025. Additionally, on December 2012, California adopted a ''deemed to comply'' regulation that enables manufacturers to show compliance with California GHG standards by demonstrating compliance with Federal GHG standards. On June 9, 2013 (78 FR 2112), EPA granted a Federal preemption waiver for California's Advanced Clean Cars Program. California's LEV III program rules are codified in Title 13 of the California Code of Regulations (CCR), under Division 3.

E. Delaware LEV Program

Delaware first adopted California's LEV II program via a Delaware LEV program regulation (7 DE Admin Code 1140) adopted on November 9, 2010, effective with 2014 and newer model year passenger cars and trucks and medium-duty vehicles titled in Delaware. Prior to that, Delaware participated in the National Low Emission Vehicle (NLEV) program—a voluntary, nationwide clean car program promulgated by EPA, in conjunction with auto manufacturers and states, which allowed for more stringent vehicle standards than prescribed by Federal law. However, the program expired with the promulgation by EPA of more stringent Tier II motor vehicle standards, which were sold beginning in model year 2004. Therefore, the Delaware LEV program effectively superseded Federal Tier 2 vehicle standards beginning with model year 2014. However, Delaware did not submit the 2010 version of its LEV program rule (7 DE Admin. Code 1140) to EPA as a SIP revision request to EPA at that time, and the SIP was not amended at that time to replace the defunct NLEV program with the Delaware LEV program.

II. Summary of August 2014 Delaware LEV SIP Revision

On August 20, 2014, Delaware submitted a SIP submittal requesting that EPA amend the Delaware SIP to incorporate the state's LEV program. Delaware adopted revisions to its Delaware LEV program, which was originally adopted in December of 2010, on November 15, 2013 and published the revised regulation in the Delaware Register of Regulations on December 1, 2013 (effective December 11, 2013). This revised version of Regulation 1140 serves to incorporate by reference California's more recent LEV III standards and GHG standards applicable to model year 2015 to 2025 LEV-subject vehicles. At the same time, Delaware rescinded requirements that could prospectively and automatically force incorporation of future California LEV rule changes to Delaware's LEV program, without being subject to rulemaking under Delaware's regulatory process.

EPA is incorporating by reference Delaware's entire Regulation 1140 Delaware Low Emission Vehicle Program (7 DE Admin. Code 1140, effective date December 11, 2013). Section 10.0 of Regulation 1140 lists the applicable sections of Title 13 of the California Code of Regulations that comprise California's LEV III program which Delaware has incorporated by reference as part of state adoption process of Delaware's LEV program. Future changes made by California to its LEV program will require additional regulatory action on the part of Delaware and a SIP revision request to EPA to amend the Delaware SIP, in the event that Delaware wishes to include such changes to its program.

Since Delaware's LEV program Regulation 1140 is codified in the same regulatory section as the prior Delaware NLEV program, the action to approve Delaware's request to revise the SIP to incorporate the LEV program for the first time will have the effect of superseding the prior SIP-approved, defunct NLEV program in the Delaware SIP. *See* 62 FR 72564, (December 28, 1999). Thus, this action also removes Delaware's prior approved NLEV rule from the SIP and replaces it with the most recently amended version of Regulation 1140, state effective December 11, 2013.

III. Final Action

EPA is approving Delaware's August 20, 2014 SIP submittal pertaining to adoption by Delaware of a LEV program as a revision to the Delaware SIP. The CAA authorizes states to adopt California's vehicle standards for which EPA has granted California a waiver of preemption from Federal vehicle standards that would otherwise apply. In this case, Delaware has already adopted California LEV III emission standards and has begun implementing the program. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on *December 14, 2015* without further notice unless EPA receives adverse comment by *November 13, 2015.* If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rulemaking action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference Delaware's LEV Program codified at 7 DE Admin. Code 1140 (effective date of December 11, 2013) to 40 CFR part 52 set forth below.

The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 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 action. This action to approve Delaware's LEV Program SIP revision request 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by:

■ a. Removing the heading ''1140 Delaware's National Low Emission Vehicle (NLEV)'' and adding in its place ''1140 Delaware Low Emission Vehicle Program.''

■ b. Revising the entries under heading number 1140 for Sections 1.0., 2.0 and 3.0; and

■ c. Adding entries under heading number 1140 for Sections 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 10.0, 11.0, and 12.0.

The revisions and additions read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
*	* * *	*	* *	*
Section 1.0	Purpose	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 2.0	Applicability	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 3.0	Definitions	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 4.0	Emission Certification Standards	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 5.0	New Vehicle Emission Requirements	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 6.0	Manufacturer Fleet Requirements	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 7.0	Warranty	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 8.0	Reporting and Record-Keeping Requirements.	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 9.0	Enforcement	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 10.0	Incorporation by Reference	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 11.0	Document Availability	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
Section 12.0	Severability	12/11/13	10/14/15*[Insert* **Federal Register** *citation].*	
*	* * *	*	* *	*

* * * * *

[FR Doc. 2015–25954 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R04–OW–2014–0372; FRL–9934–57–Region 4]

Ocean Dumping: Expansion of an Ocean Dredged Material Disposal Site Offshore of Jacksonville, Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and technical amendment.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing an expansion of the ocean dredged material disposal site (ODMDS) site offshore of Jacksonville, Florida pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The EPA decided to finalize the expansion of the site because the site expansion is needed to serve the long-term need for a location to dispose of material dredged from the St. Johns River navigation channel, and to provide a location for the disposal of dredged material for persons or entities who have received a permit for such disposal. The newly expanded site will be subject to ongoing monitoring and management to ensure continued protection of the marine environment. In addition to the designation, the EPA now issues a technical amendment to correct a clerical error in the proposed rule.

DATES: The effective date of this final action shall be November 13, 2015.

ADDRESSES: *Docket:* All documents in the Docket are listed in the *www.regulations.gov* index. Although listed in the index, some information may not be publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available or in hard copy at the EPA Region 4 Office, 61 Forsyth Street SW., Atlanta, Georgia 30303. The file will be made available for public inspection in the Region 4

library between the hours of 9:00 a.m. and 4:30 p.m. weekdays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make your appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents.

FOR FURTHER INFORMATION CONTACT: Jennifer Derby, U.S. Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303; phone number (404) 562–9401; email: *derby.jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might seek permits or approval to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended (MPRSA), 33 U.S.C. 1401 to 1445. The EPA's action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of Jacksonville, Florida. Currently, the U.S. Army Corps of Engineers (USACE) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal government	U.S. Army Corps of Engineers Civil Works projects, U.S. Navy and other Federal agencies.
Industry and general public	Port authorities, marinas and harbors, shipyards and marine repair facilities, berth owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

a. History of Disposal Sites Offshore of Jacksonville, Florida

The existing Jacksonville ODMDS is located approximately 5 nautical miles (nmi) southeast of the mouth of the St. Johns River on the continental shelf off the east coast of Florida. It is currently 1 nmi by 1 nmi (1 nmi^2) in size. Since 1952, the area now designated as the Jacksonville ODMDS and vicinity has been used for disposal of dredged material (*e.g.,* sand, silt, clay, rock) primarily from the Jacksonville Harbor Navigation Project, Naval Station Mayport entrance channel, and Naval Station Mayport turning basin. The Jacksonville ODMDS received interim site designation status in 1977 and final designation in 1983.

The USACE Jacksonville District and the EPA Region 4 have identified a need to either designate a new ODMDS or expand the existing Jacksonville ODMDS. The need for expanding current ocean disposal capacity is based on observed mounding at the Jacksonville ODMDS, future capacity modeling, historical dredging volumes, estimates of dredging volumes for future proposed projects, and limited capacity of upland confined disposal facilities (CDFs) in the area. This section discusses in detail the current and future capacity issues at the existing Jacksonville ODMDS and CDFs.

The expansion of the ODMDS for dredged material does not mean that the USACE or the EPA has approved the use of the ODMDS for open water disposal of dredged material from any specific project. Before any person can dispose dredged material at the ODMDS, the EPA and the USACE must evaluate the project according to the ocean dumping regulatory criteria (40 CFR, part 227) and authorize the disposal. The EPA independently evaluates proposed dumping and has the right to restrict and/or disapprove of the actual disposal of dredged material if the EPA determines that environmental requirements under the MPRSA have not been met.

b. Location and Configuration of Expanded Ocean Dredged Material Disposal Site

This action proposes the expansion of the ocean dredged material site offshore of Jacksonville, Florida. The location of the expanded ocean dredged material disposal site is bounded by the coordinates, listed below, and shown in Figure 1. The expansion of the ODMDS will allow the EPA to adaptively manage the ODMDS to maximize its capacity, minimize the potential for mounding and associated safety concerns, potentially create hard bottom habitat and minimize the potential for any long-term adverse effects to the marine environment.

The coordinates for the site are, in North American Datum 83 (NAD 83):

Expanded Jacksonville ODMDS

(A) 30°21.514′ N. 81°18.555′ W.

(B) 30°21.514′ N. 81°17.422′ W.

(C) 30°20.515′ N. 81°17.422′ W.

(D) 30°20.515′ N. 81°17.012′ W.

(E) 30°17.829′ N. 81°17.012′ W.

(F) 30°17.829′ N. 81°18.555′ W

The expanded ODMDS is located in approximately 28 to 61 feet of water, and is located to 4.4 nmi offshore the mouth of the St. Johns River. The expanded ODMDS would be 3.7 nmi long on the west side and 2.7 nmi long on the east side. It would be 1 nmi long on the north side and 1.3 nmi wide on the south side. It would be 4.56 nmi^2 in size.

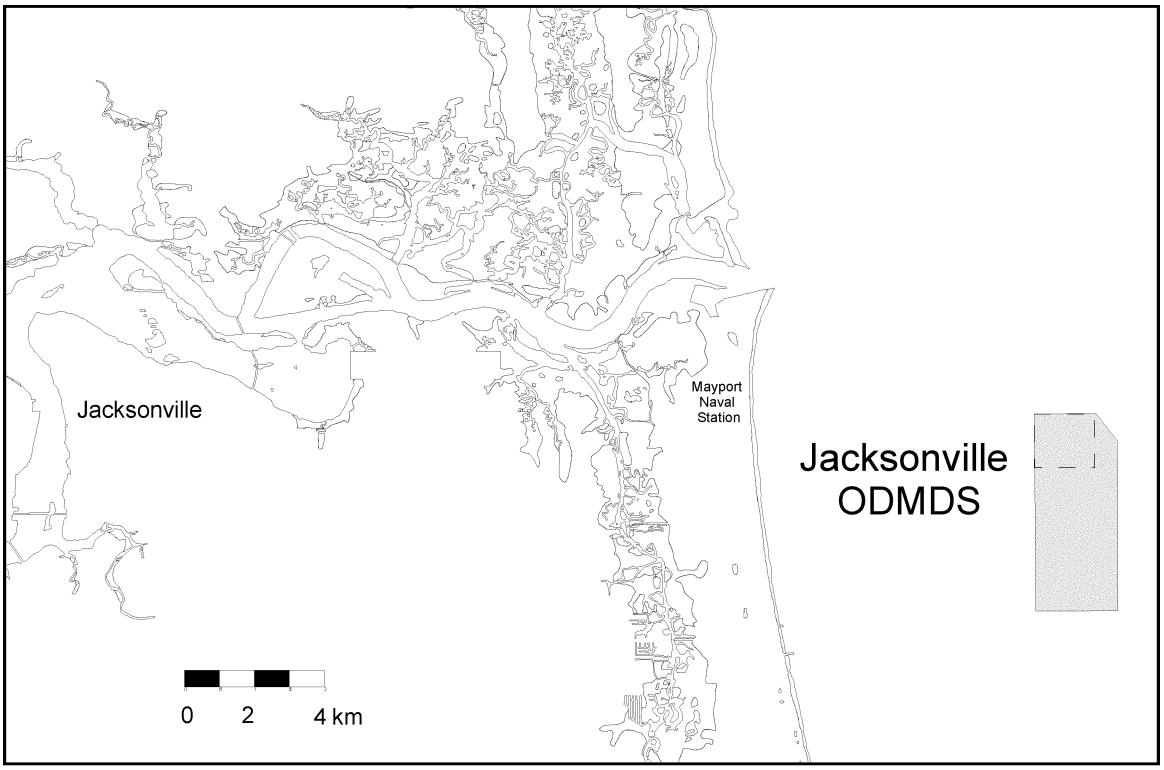

Figure 1. Expanded Jacksonville ODMDS

c. Response to Comments Received

On March 11, 2015, the EPA published a proposed rule to expand the site and opened a public comment period under Docket ID No. EPA–R04–OW–2014–0372. The comment period closed on April 10, 2015. The EPA received six comments on the proposed rule. One comment was from the U.S. Department of the Interior stating they have no comments at this time. One commenter was in support of the expansion as it would protect wildlife by having a specific location for disposal of dredged materials.

Two commenters raised concerns regarding impacts to endangered species and critical habitat including whales. Although located within the North Atlantic right whale critical habitat, disposal vessel speed and operation will be restricted as necessary in order to protect North Atlantic right whales as set forth in: (1) The Site Management and Monitoring Plan (SMMP) for the expanded ODMDS developed by the EPA in coordination with the USACE; and (2) an Endangered Species Act (ESA) Biological Assessment completed by the EPA. In a letter to the EPA from the National Marine Fisheries Service (NMFS) dated August 3, 2015, NMFS concluded that because all potential project effects to listed species and critical habitat were found to be discountable, insignificant, or beneficial, that the ODMDS expansion is not likely to adversely affect listed species under NMFS purview including the North Atlantic right whale. Additional discussion of compliance with the ESA is provided in section III.d of this final rule labeled ''ESA.'' The SMMP, the ESA Biological Assessment and the letter from NMFS dated August 3, 2015, are included in the Docket for this action.

Finally, two commenters raised concerns about the overall impacts of disposal of sediments on the ecosystem, fisheries and reefs and that additional measures should be instituted to reduce the amount of waste that needs to be disposed in the ocean. The location of the expanded ODMDS was selected to minimize impacts to the shrimp fishery in the area and to minimize impacts to hard bottom communities in the vicinity of the ODMDS. In response to these commenters, the EPA reviewed the SMMP for the expanded ODMDS to ensure that controls are in place both to prevent negative effects and to correct impacts from negative effects in the unlikely event such effects occurred. The final SMMP, found in the Docket for this action, includes safeguards to act to prevent negative effects, primarily through ensuring that only material meeting ocean dumping criteria for ocean disposal are allowed to be disposed at the expanded ODMDS. The EPA can respond to negative impacts, including, for example, having ODMDS users adjust disposal amounts, techniques, and timing, and the EPA can shut down the ODMDS on a short term or long term basis if needed, if negative effects are observed or if trends suggest negative impacts could occur. The EPA has authority to condition, terminate, or restrict ODMDS use with cause. Regarding the amount of dredged material needed to be disposed in the ocean, the USACE, rather than the EPA determines the location and amount of dredging necessary to maintain the waterways of the U.S. The EPA determines, with the USACE's input, how best to dispose of material that must be disposed of in the ocean. Part of that analysis includes a balancing community and ocean user needs. The EPA finds this ODMDS expansion to be the best balance of those needs at this time. The EPA will continue to evaluate these local community concerns and will use the SMMP to make adjustments as needed to the extent practicable, to help ensure the needs of the users are balanced against the concerns of the local community.

d. Management and Monitoring of the ODMDS

The expanded ODMDS is expected to receive sediments dredged by the USACE to deepen and maintain the federally authorized navigation project at Jacksonville Harbor, Florida, maintain Naval Station Mayport and dredged material from other persons who have obtained a permit for the disposal of dredged material at the ODMDS. All persons using the ODMDS are required to follow a Site Management and Monitoring Plan (SMMP) for the ODMDS. The SMMP includes management and monitoring requirements to ensure that dredged materials disposed at the ODMDS are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. The SMMP for the expanded ODMDS, in addition to the aforementioned, also addresses management of the ODMDS to ensure adverse mounding does not occur, promotes habitat creation where possible and to ensure that disposal events minimize interference with other uses of ocean waters in the vicinity of the expanded ODMDS. The SMMP, which was available for public comment as a draft document, has been finalized and the final document may be found in the Docket.

e. MPRSA Criteria

In proposing to expand the ODMDS, the EPA assessed the proposed expanded ODMDS according to the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR part 228, to determine whether the proposed site designations satisfy those criteria. The EPA's *Final Environmental Impact Statement for Designation of an Ocean Dredged Material Disposal Site Offshore Jacksonville, Florida, [October 2014] (FEIS),* provides an extensive evaluation of the criteria and other related factors for the expansion of the ODMDS. The FEIS may be found in the Docket.

General Criteria (40 CFR 228.5)

(1) Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).

Historical disposal of dredged material at the existing Jacksonville ODMDS has not interfered with commercial or recreational navigation, commercial fishing, or sportfishing activities. Expansion of this ODMDS is not expected to change these conditions. The expanded ODMDS avoids any identified major fisheries, natural and artificial reefs, and areas of recreational use. The expanded ODMDS is approximately 1 nmi east of the areas identified by commercial shrimpers as important shrimp trawling areas. The expanded ODMDS minimizes interference with shellfisheries by avoiding areas frequently used by commercial shrimpers. The expanded ODMDS is not expected to adversely affect recreational boating and is located outside of designated shipping/navigation channels and anchorage areas. The draft SMMP outlines ODMDS management objectives, including minimizing interference with other uses of the ocean. Should an ODMDS use conflict be identified, ODMDS use could be modified according to the SMMP to minimize that conflict.

(2) Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).

Based on the EPA's review of modeling, monitoring data, sediment quality, and history of use, no detectable contaminant concentrations or water quality effects, *e.g.,* suspended solids, would be expected to reach any beach or shoreline from disposal activities at the expanded ODMDS. The expanded ODMDS is removed far enough from shore (4.4 nmi) and fishery resources to allow water quality perturbations caused by dispersion of disposed material to be reduced to ambient conditions before reaching any environmentally sensitive areas. Dilution rates are expected to range from 140:1 to 2800:1 after four hours. The primary impact of disposal activities on water quality is expected to be temporary turbidity caused by the physical movement of sediment through the water column. All dredged material proposed for disposal will be evaluated according to the ocean dumping regulations at 40 CFR 227.13 and guidance developed by the EPA and the USACE.

(3) The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).

The location, size, and configuration of the expanded ODMDS allows and facilitates long-term capacity, site management, and site monitoring while limiting environmental impacts to the surrounding area to the extent possible. Based on projected future new work and maintenance dredged material disposal needs, is the USACE estimated that the new ODMDS should be approximately 4 nmi^2 in size to meet the long-term (>50 years) disposal needs of the area. An ODMDS of this size should have a capacity of greater than 65 million cubic yards. The expanded ODMDS is 4.56 nmi^2 in size inclusive of the existing Jacksonville ODMDS and therefore meets the long-term disposal needs of the area.

A site management and monitoring program will be implemented to determine if disposal at the ODMDS is significantly affecting adjacent areas and to detect the presence of long-term adverse effects. At a minimum, the monitoring program will consist of bathymetric surveys, sediment grain size analysis, chemical analysis of constituents of concern in the sediments, an assessment of the health of the benthic community, and an assessment of any movement of disposed dredged material offsite. The size of the expanded ODMDS is similar to that of other ocean dredged material disposal sites in the Southeastern United States. Monitoring of sites of this size have proved to be effective and feasible.

(4) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

Disposal areas located off of the continental shelf would be at least 60 to 70 nautical miles offshore. This distance is well beyond the 5 to 10 nautical mile haul distance determined to be feasible by the USACE for maintenance of their Jacksonville Harbor project. Additional disadvantages to off-shelf ocean disposal would be the unknown environmental impacts of disposal on deep-sea, stable, fine-grained benthic communities and the higher cost of monitoring sites in deeper waters and further offshore.

Historic disposal has occurred at the location for the expanded ODMDS. The substrate of the expanded ODMDS is similar grain size to the disposal material.

Specific Criteria (40 CFR 228.6)

(1) Geographical Position, Depth of Water, Bottom Topography and

Distance from Coast (40 CFR 228.6(a)(1)).

The EPA does not anticipate that the geographical position of the expanded ODMDS, including the depth, bottom topography and distance from the coastline, will unreasonably degrade the marine environment. The expanded ODMDS is located on the shallow continental shelf off northeast Florida and is 7.1 nautical miles southeast of the mouth of the St. Johns River. Depths within the expansion area of the ODMDS range from 43 to 66 feet (13 to 20 meters) with an average depth of 57 feet (17 meters). To help avoid adverse mounding at the expanded ODMDS, bathymetry will be routinely monitored following disposal activities and disposal locations modified as necessary. In this way, mounding that could create a navigation hazard will be avoided. Material disposed in the expanded ODMDS is not expected to move from the expanded ODMDS except during large storm events.

(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).

The expanded ODMDS is located within the North Atlantic right whale critical habitat. The coastal waters off Georgia and northern Florida are the only known calving ground for the North Atlantic right whale between November and April. The expansion of the ODMDS is not expected to alter the critical habitat. Disposed dredged material will settle out of the water column to the benthos, which is not considered part of the critical habitat. Disturbances from ships transiting through the area would not be significantly different from normal vessel operations that occur daily in the project area, although during dredging activities there would be an increase in vessel activity in the areas between the river entrance and the expanded ODMDS which may lead to an increase risk of animal collisions. Observance of critical habitat designations and the North Atlantic right whale Early Warning System should mitigate for this potential increase.

The expanded ODMDS is not located in exclusive breeding, spawning, nursery, feeding or passage areas for adult or juvenile phases of living resources. The most active fish breeding and nursery areas are located in inshore estuarine waters, along adjacent beaches, or in nearshore reef areas. At and in the immediate vicinity of the expanded ODMDS, spawning and migrating adult penaeid shrimp may be present. However, as much of the dredged material will consist of silts and clays, it appears likely that the area will remain suitable for penaeid shrimp.

(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).

The ODMDS is approximately 4.4 nmi from coastal beaches and protected inshore waters. Shore-related amenities include Nassau River-St. Johns River Marshes Aquatic Preserve, Little Talbot Island State Park, Kingsley Plantation Historic Monument, and Fort Caroline National Memorial. These amenity areas are outside the area to be affected by disposal in the expanded ODMDS. The ODMDS is approximately 4 to 5 nmi west of the nearest artificial reef or fishing hotspots.

(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).

Dredged material found suitable for ocean disposal pursuant to the regulatory criteria for dredged material, or characterized by chemical and biological testing and found suitable for disposal into ocean waters, will be the only material allowed to be disposed at the expanded ODMDS. No material defined as ''waste'' under the MPRSA will be allowed to be disposed at the ODMDS. The dredged material to be disposed at the expanded ODMDS will be a mixture of rock, sands, silts and clays. Annual average quantities are expected to range 0.5 to 1.1 million cubic yards. 18 million cubic yards is expected to be disposed from the Jacksonville Harbor Deepening Project. Generally, disposal is expected to occur from a hopper dredge or disposal scow, in which case, material will be released just below the surface while the disposal vessel remains underway and slowly transits the disposal location.

(5) Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).

The EPA expects monitoring and surveillance at the expanded ODMDS to be feasible and readily performed from ocean or regional class research vessels. The expanded ODMDS is of similar size, water depth and distance from shore of a majority of the ODMDSs within the Southeastern United States which are routinely monitored. The EPA will ensure monitoring of the ODMDS for physical, biological and chemical attributes as well as for potential impacts beyond the ODMDS boundaries. Bathymetric surveys will be conducted routinely as defined in the SMMP, contaminant levels in the dredged material will be analyzed prior to dumping, and the benthic infauna and epibenthic organisms will be monitored every 10 years, as funding allows.

(6) Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).

Waves are predominately out of the east and a few exceed 2 meters (6.6 feet) in height or 15 seconds (s) in period. Waves are the primary factor influencing re-suspension of disposed dredged material, and currents probably affect the direction and magnitude of transport. Currents flow predominately in a north-northwest and south-southeast direction and rarely exceeds 30 cm/s in magnitude. Modeling and monitoring conducted at the existing ODMDS has shown that the net direction of transport is to the south. Dilution rates due to mixing are expected to range from 140:1 to 2800:1 after four hours.

(7) Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)).

The areas within the vicinity of the Jacksonville ODMDS have been in use since 1952 for disposal of dredged material (*e.g.,* sand, silt, clay, gravel, shell, and some rock) from the Jacksonville Harbor Navigation Project and the Naval Station Mayport entrance channel and turning basin. The Jacksonville ODMDS received interim site designation status in 1977 and final designation in 1983. Prior to 1970 and in the early 1970s, material was disposed in an area 0.5 nmi east of the Jacksonville ODMDS. In the late 1970s material was unintentionally disposed south of the ODMDS. Water column chemistry in past studies at the ODMDS has typically shown little or no impact due to dredged material disposal. Sediment analysis in the late 1970s showed higher concentrations of certain heavy metals (nickel, copper, zinc, lead, and chromium), Kjeldahl nitrogen, and organic carbon in sediments within the ODMDS versus outside the ODMDS. Sediment analysis as part of a 1995 benthic survey showed that, in general, metal concentrations within the ODMDS remained elevated compared to concentrations outside the ODMDS. However, concentrations within the ODMDS have decreased since 1978 and, based on a 1998 study, continue to decrease. The average percentage of silts and clays at stations within the ODMDS exceeds that of stations outside the ODMDS, but has decreased both inside and outside the ODMDS since. A 2009 study documented tri-n-butyltin, di-n-butyltin, and n-butyltin present at sampling stations both inside and

outside the Jacksonville ODMDS. Benthic infaunal community studies at the existing Jacksonville ODMDS have showed that communities remain diverse with no significant changes. The normal equilibrium benthic community in the area consists of surface-dwelling suspension feeders that are pre-adapted to energetic sandy environments.

(8) Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).

The expanded ODMDS is not expected to interfere with shipping, fishing, recreation or other legitimate uses of the ocean. Commercial navigation, commercial fishing, and mineral extraction (sand mining) are the primary activities that may spatially overlap with disposal at the expanded ODMDS. The expanded ODMDS avoids the National Oceanographic and Atmospheric Administration (NOAA) recommended vessel routes offshore Jacksonville, Florida, thereby avoiding conflict with commercial navigation.

Commercial fishing (shrimp trawling) occurs primarily to the west of the expanded ODMDS. The northern portion of the expanded ODMDS encompasses areas with rubble and other debris that commercial shrimp trawlers avoid due to potential damage to their shrimp nets. The southern portion of the expanded ODMDS includes areas used for commercial shrimp trawling. The expanded ODMDS will be managed such that rock will be disposed in the eastern portion of the expanded ODMDS outside of the fishing area and finer grained material (silts/clays) will be disposed in the western portion. Additionally, the southern portion will only be used if the northern portion has reached capacity.

Potential sand borrow areas have been identified to the east of the expanded ODMDS. The expanded ODMDS will be managed to avoid impacts to these areas. Only rock and sand will be disposed in the eastern portions of the expanded ODMDS providing a buffer between the disposal of silts and clays and the potential borrow areas. The nearest potential borrow area is adjacent to the southern half of the expanded ODMDS. This borrow area is expected to be exhausted prior to use of the southern portion of the expanded ODMDS as the southern portion will only be used if the northern portion has reached capacity.

The likelihood of direct interference with these activities is low, provided there is close communication and coordination among users of the ocean resources. The EPA is not aware of any plans for desalination plants, or fish and shellfish culture operations near the expanded ODMDS at this time. The expanded ODMDS is not located in areas of special scientific importance.

(9) The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).

Spring and fall season baseline surveys were conducted in 2010 at the expanded ODMDS. Water quality was determined to be good with no evidence of degradation. No hypoxia conditions were observed and all chemical constituents were below EPA national recommended water quality criteria for salt water. Annelid worms, arthropods, echinoderms, gastropods, and bivalves are common benthic taxonomic groups. The Atlantic croaker, spotted hake, searobins, drums, and sand flounders are common fish species. Important mollusks include transverse and ponderous arks, mussels, and Atlantic calico scallops.

(10) Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10)).

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been observed at, or in the vicinity of, the expanded ODMDS. Material expected to be disposed at the expanded ODMDS will be rock, sand, silt and clay similar to the sediment present at the expanded ODMDS. Finer-grained material could have the potential to attract different species to the expanded ODMDS then currently exist as was documented following disposal of significant amounts of silts and clays from deepening of Naval Station Mayport. However, it is expected that over time, as current and wave energy transports the finer-grained sediments away, the normal equilibrium benthic community will re-establish itself. The SMMP includes benthic infaunal monitoring requirements, which will act to identify any nuisance species and allow the EPA to direct special studies and/or operational changes to address the issue if it arises.

(11) Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)).

No significant cultural features have been identified at, or in the vicinity of, the expanded ODMDS at this time. Archaeological surveys of the expanded ODMDS were conducted in 2011 and 2012. The survey identified three sub-bottom features and one magnetic cluster. Archaeological divers investigated these targets and determined that they did not represent significant cultural features of historical or prehistorical importance. The EPA has coordinated with Florida's State Historic Preservation Officer (SHPO) to identify any cultural features. The SHPO concurred with the EPA's determination that the expansion of the ODMDS will have no effect on cultural resources listed, or eligible for listing on the National Register of Historic Places. No shipwrecks have been observed or documented within the expanded ODMDS or its immediate vicinity.

f. Technical Amendment

The EPA corrected a clerical error that was included in the proposed language in 40 CFR 228.15(h)(9)(vi). As indicated in the preamble to the proposed rule, only dredged material from the Jacksonville, Florida area may be disposed in the ODMDS. This restriction was the only restriction specifically stated in the regulation prior to this rulemaking. The language in the proposed rule added three new restrictions to 40 CFR 228.15(h)(9)(vi) but due to a clerical error did not include the existing restriction. The final rule language reflects all four restrictions for disposal of dredged material into the ODMDS.

III. Environmental Statutory Review—National Environmental Policy Act (NEPA); Magnuson-Stevens Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act (ESA); National Historic Preservation Act (NHPA)

a. NEPA

Section 102 of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 to 4370f, requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major federal actions significantly affecting the quality of the human environment. NEPA does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted the EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. The EPA has, by policy, determined that the preparation of NEPA documents for certain EPA regulatory actions, including actions under the MPRSA, is appropriate. The EPA's ''Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents,'' (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), sets out both the policy and procedures the EPA uses when preparing such

environmental review documents. The EPA's primary voluntary NEPA document for expanding the ODMDS is the *Final Environmental Impact Statement for Designation of an Ocean Dredged Material Disposal Site Offshore Jacksonville, Florida, [October 2014]* (FEIS), prepared by the EPA in cooperation with the USACE. On October 17, 2014, the Notice of Availability (NOA) of the FEIS for public review and comment was published in the **Federal Register** (79 FR 62436 [October 17, 2014]). Anyone desiring a copy of the FEIS may obtain one from the addresses given above. The public comment period on the FEIS closed on November 17, 2014. The FEIS and its Appendices, which are part of the Docket for this action, provide the threshold environmental review for expansion of the ODMDS. The information from the FEIS is used above, in the discussion of the ocean dumping criteria.

b. MSA

The EPA prepared an essential fish habitat (EFH) assessment pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, and submitted that assessment to the National Marine Fisheries Service (NMFS) on May 11, 2012. The NMFS provided EFH Conservation Recommendations and a request for additional information on July 11, 2012. The EPA prepared an interim response with the requested additional information on August 2, 2012 and a revised EFH Assessment for the preferred alternative on October 6, 2014. In a letter dated January 5, 2015, NMFS determined that the EPA and the USACE have provided the substantive justification required by 50 CFR 600.920(k) for not following EFH conservation recommendations.

c. CZMA

Pursuant to an Office of Water policy memorandum dated October 23, 1989, the EPA has evaluated the site designations for consistency with the State of Florida's (the State) approved coastal management program. The EPA has determined that the designation of the ODMDS is consistent to the maximum extent practicable with the State coastal management program, and submitted this determination to the State for review in accordance with the EPA policy. The State concurred with this determination on November 17, 2014. In addition, as part of the NEPA process, the EPA has consulted with the State regarding the effects of the dumping at the ODMDS on the State's coastal zone. The EPA has taken the State's comments into account in preparing the FEIS for the ODMDS, in determining whether the ODMDS should be designated, and in determining whether restrictions or limitations should be placed on the use of the ODMDS, if they are designated. The EPA modified Alternative 1 to address the State's concern regarding potential impacts to hard bottom benthic habitat and has incorporated management and monitoring requirements into the SMMP to ensure that disposed dredged materials do not negatively affect important benthic resources and sand borrow areas located outside of the designated ODMDS boundaries. Furthermore, at the request of the State, the EPA has conducted an evaluation of recently designated critical habitat for the loggerhead sea turtle.

d. ESA

The Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. The EPA prepared a Biological Assessment (BA) to assess the potential effects of expanding the Jacksonville ODMDS on aquatic and wildlife species and submitted that BA to the NMFS and USFWS on October 6, 2014. A supplement to the BA addressing loggerhead critical habitat was submitted on January 15, 2015. The EPA concluded that its action may affect, but is not likely to adversely affect 10 ESA-listed species and is not likely to adversely affect designated critical habitat for the North Atlantic right whale or the loggerhead sea turtle. The USFWS concurred on the EPA's finding that the action is not likely to adversely affect listed endangered or threatened species under the jurisdiction of the USFWS.

The informal consultation process with NMFS was concluded on August 3, 2015. NMFS concluded that dredged disposal activities at the Jacksonville ODMDS are not likely to adversely affect sea turtles, sturgeon, or whales. The Jacksonville ODMDS is located within Unit 2 of the proposed modifications to the designated critical habitat for the North Atlantic right whale. North Atlantic right whales are observed calving off the southeastern U.S. coast, in an area designated as Unit 2 of the proposed critical habitat. The essential features of right whale calving habitat are calm sea surface conditions, sea surface temperature, and depth. The NMFS concluded that neither the dredging, related vessel operations, nor the disposal of dredged material will significantly impact water depth, sea surface conditions, or the temperature of the ocean. While the ODMDS will decrease water depths, the elevated sea bottom will not impede whales in any way. Water depths will still be sufficient for the animals to move freely throughout the habitat. Furthermore, the likelihood of interaction which may impact the distribution of right whale calf/cow pairs is further reduced by the precautions stipulated for vessel avoidance. These precautions are required as part of the SMMP and restrict disposal vessel speed and operation in accordance with the most recent USACE South Atlantic Division Endangered Species Act Section 7 Consultation Regional Biological Opinion for Dredging of Channels and Borrow Areas in the Southeastern United States (SARBO), or other relevant Biological Opinion for specific projects not included in the SARBO to capture requirements for projects not covered by the SARBO. Because all potential project effects to listed species and critical habitat were found to be discountable, insignificant, or beneficial, NMFS concluded that the action is not likely to adversely affect listed species under their purview.

e. NHPA

The USACE and the EPA initiated consultation with the State of Florida's Historic Preservation Officer (SHPO) on November 24, 2010, to address the National Historic Preservation Act, as amended (NHPA), 16 U.S.C. 470 to 470a–2, which requires Federal agencies to take into account the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register of Historic Places (NRHP). A submerged cultural resource survey of the area including the use of magnetometer, side scan sonar, and sub-bottom profiler was conducted in 2011. A follow-up archaeological diver investigation was conducted in 2012. No historic properties were found within the expanded ODMDS boundaries and SHPO concurred with the determination that designated the expanded ODMDS would have no effect on cultural resource listed, or eligible for listing on the NRHP.

IV. Statutory and Executive Order Reviews

This rule proposes the designation of an expanded ODMDS pursuant to Section 102 of the MPRSA. This action complies with applicable executive orders and statutory provisions as follows:

a. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

b. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This site designation does not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

c. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The EPA determined that this action will not have a significant economic impact on small entities because the rule will only have the effect of regulating the location of site to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

d. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

e. Executive Order 13132: Federalism

This action does not have federalism implications. It does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicited comments on this action from State and local officials.

f. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 because the expansion of the Jacksonville ODMDS will not have a direct effect on 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. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this action the EPA consulted with tribal officials in the development of this action, particularly as the action relates to potential impacts to historic or cultural resources. The EPA specifically solicited comment from tribal officials. The EPA did not receive comments from tribal officials.

g. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The action concerns the expansion of the Jacksonville ODMDS and only has the effect of providing a designated location for ocean disposal of dredged material pursuant to Section 102(c) of the MPRSA.

h. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

i. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action includes environmental monitoring and measurement as described in EPA's SMMP. The EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated ODMDS. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the SMMP.

j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The EPA has assessed the overall protectiveness of expanding the Jacksonville ODMDS against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable. We welcome comments on this action related to this Executive Order.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: September 28, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

For the reasons set out in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418

■ 2. Section 228.15 is amended by revising paragraphs (h)(9)(i) through (iii) and (vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(9) * * *

(i) *Location:* 30° 21.514′ N., 81° 18.555′ W.; 30° 21.514′ N, 81° 17.422′ W.; 30° 20.515′ N., 81° 17.422′ W.; 30° 20.515′ N, 81° 17.012′ W.; 30° 17.829′ N., 81° 17.012′ W.; 30° 17.829′ N, 81° 18.555′ W.

(ii) *Size:* Approximately 3.68 nautical miles long and 1.34 nautical miles wide (4.56 square nautical miles); 3,861 acres (1,562 hectares).

(iii) *Depth:* Ranges from approximately 28 to 61 feet (9 to 19 meters).

* * * * *

(vi) *Restrictions:* (A) Disposal shall be limited to dredged material from the Jacksonville, Florida, area;

(B) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13;

(C) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(D) Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 2015–26142 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5917–03]

RIN 0648–BE27

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015–2016 Biennial Specifications and Management Measures; Amendment 24; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects the 2015–2016 harvest specifications and management measures final rule that published on March 10, 2015. That rule established 2015–2016 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), and approved Amendment 24 to the PCGFMP. This action corrects management measures in California recreational fisheries that are intended to keep the total catch of California scorpionfish within the harvest specifications. This action shortens the season for the recreational California scorpionfish fishery in the Southern Management Area, consistent with the season lengths of the other three management areas where California scorpionfish predominantly occur. This correcting amendment implements the intended season dates as described in the preamble of the harvest specifications and management measures final rule, consistent with the Pacific Fishery Management Council's (Council) previous recommendations.

DATES: Effective October 14, 2015.

ADDRESSES: Information relevant to the March 10, 2015, final rule (80 FR 12567) and Amendment 24, which includes a final environmental impact statement (EIS), the Record of Decision (ROD), a regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), and amended PCGFMP, are available from William Stelle, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Electronic copies of that final rule are also available at the NMFS West Coast Region Web site: *http://www.westcoast.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The March 10, 2015, final rule (80 FR 12567) set catch limit specifications for 2015–2016 (overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)), and established management measures designed to keep catch within the ACLs. As part of that final rule, consistent with the Council's recommendations and described in the preamble to that rule, NMFS shortened the recreational fishing season for California scorpionfish. In 2014, the California scorpionfish fishery was open year-round and harvest was higher than anticipated, exceeding the California scorpionfish ACL. The season length was shortened by four months to prevent harvest from exceeding the ACL in 2015 and beyond.

Need for Correction

Correcting California Scorpionfish Season Dates

The March 10, 2015, final rule closed the recreational California scorpionfish fishery early in three of the four applicable management areas, but inadvertently left the California scorpionfish fishery open year-round in one of the four management areas. The change to the California scorpionfish season length in the Southern Management Area was mistakenly omitted. This action changes the season dates for the California scorpionfish fishery in the Southern Management Area at § 660.360(c)(3)(v)(A)(*4*), closing the fishery September 1 through December 31.

Clarifying Seasonal Fishing Closures

The recreational rockfish conservation area (RCA) is a seasonal depth-based closure that prohibits recreational fishing for groundfish species seaward of a boundary line approximating a depth contour. The depth at which the RCA begins the closure varies by management area (*i.e.* the RCA closes seaward of the 30 fm line in the San Francisco Management Area and closes seaward of the 40 fm line in the Central Management Area (§ 660.360)(c)(3)(i)(A)(*3*) and (*4*)). Because the recreational RCA applies to various groundfish species and species groups, seasonal depth restrictions are described separately from the fishing seasons for groundfish species and species groups. For the most part, the seasonal depth restrictions apply during the times that the fishing seasons for groundfish species and species groups are open. If the RCA has not closed an area, fishing is not necessarily allowed for a species or species group if the season for that species or species group is closed. Accordingly, in addition to the change in season dates for California scorpionfish described above, this action also clarifies this point in the recreational RCA regulations, as described below.

The September 1 through December 31 closure of the California scorpionfish fishing season applies in all areas, including the cowcod conservation areas (CCAs) and the areas that are open outside the depth-based recreational RCAs. Clarifying edits to this effect in the recreational RCA regulations were mistakenly omitted in the final rule. Regulations at § 660.360(c)(3)(i)(A)(*5*) published in the March 10, 2015, final rule stated that ''Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour from January 1 through December 31. . .''. It could be interpreted that this means that recreational fishing for California scorpionfish is open in the Southern Management Area year-round, as long as fishing occurs shoreward of the boundary line approximating the 60 fm (109.7 m) depth contour. This is not the case, given the applicable season dates for California scorpionfish at § 660.360(c)(3)(v) that are cited earlier in the paragraph. Clarifying changes to the RCA regulations at § 660.360(c)(3) and (c)(3)(i)(A) are made to clearly state that that only ''when the fishing season is open'' can you retain California scorpionfish in the areas not closed by the recreational RCA. Added regulatory text clarifies that retention of groundfish species or species groups for which the season is closed is prohibited in the recreational fishery seaward of California all year in all areas, ''unless otherwise authorized in this section,'' and makes no change in how current regulations apply.

Classification

The Assistant Administrator (AA) for Fisheries, NOAA, finds that 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 would be contrary to the public interest. This correcting amendment implements regulations as recommended by the Council, brings consistency between Federal and State regulations, and implements the season dates that were described in the preambles to the harvest specification and management measures proposed (80 FR 687, January 6, 2015) and final rules (80 FR 12567, March 10, 2015). NMFS announced to the public January 6, 2015 (80 FR 687, 696) that the Council had recommended an early closure of the recreational fishery for California scorpionfish, that regulations at § 660.360(c)(3) would be modified, and requested public comment on the potential changes that would be incorporated into regulations in the final rule. No comments regarding the shortened recreational California scorpionfish seasons were received. In the final rule, NMFS described changes from the proposed rule with regards to the recreational fishing regulations for California scorpionfish (80 FR 12567, 12569) and made the appropriate changes to regulations for three of the four management areas. The correction this rule makes to regulatory text at § 660.360(c)(3)(v)(A)(*4*) is consistent with changes that NMFS has already taken public comment on, therefore further notice and opportunity for public comment on this change is unnecessary. The minor correction to regulatory text at § 660.360(c)(3)(v)(A)(*4*) is limited in its effect to the public because California State regulations already prohibit fishing for California scorpionfish from September 1 through December 31 in all management areas, including the Southern Management Area that is the subject of this action. The minor edits to § 660.360(c)(3) introductory text, (c)(3)(i)(A) introductory text and (c)(3)(i)(A)(*5*) make no changes to the effect of the regulations, but clarify that fishers cannot retain species for which the season is closed, even if they are fishing in an area that is generally open to recreational fishing for other groundfish species. It would be contrary to the public interest to delay implementation of the minor corrections in this rule because they will reduce confusion caused by inconsistency in State and Federal regulations. For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication. This rule is exempt from the procedures of the Regulatory Flexibility Act (RFA) because the rule is issued without opportunity for prior notice and opportunity for public comment. Therefore, RFA analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: October 7, 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 660 is corrected by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.360, revise paragraphs (c)(3) introductory text, (c)(3)(i)(A) introductory text, (c)(3)(i)(A)(*5*), and (c)(3)(v)(A)(*4*) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(3) *California.* Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20 fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person. [Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: Petrale sole, Pacific sanddab and starry flounder.] For groundfish species not specifically mentioned in this paragraph, fishers are subject to the overall 20-fish bag limit for all species of finfish and the depth restrictions at paragraph (c)(3)(i) of this section. Recreational spearfishing for all federally-managed groundfish, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on board the vessel. California state law may provide regulations similar to Federal regulations for the following state-managed species: Ocean whitefish, California sheephead, and all greenlings of the genus Hexagrammos. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, bronzespotted rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. Retention of species or species groups for which the season is closed is prohibited in the recreational fishery seaward of California all year in all areas, unless otherwise authorized in this section. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

(i) * * *

(A) *Recreational rockfish conservation areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for ''other flatfish'' is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.] If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the recreational RCA and shoreward of the recreational RCA, unless otherwise authorized in this section.

* * * * *

(*5*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (c)(3)(v) of this section and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 28 (*i.e.,* prohibited seaward of the shoreline). When the California scorpionfish fishing season is open, recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour.

* * * * *

(v) * * *

(A) * * *

(*4*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for California scorpionfish is open from January 1 through August 31 (*i.e.,* it's closed from September 1 through December 31).

* * * * *

[FR Doc. 2015–26056 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 150615523–5911–02]

RIN 0648–XD998

Pacific Island Pelagic Fisheries; 2015 U.S. Territorial Longline Bigeye Tuna Catch Limits for the Commonwealth of the Northern Mariana Islands

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies a 2015 limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for the Commonwealth of the Northern Mariana Islands (CNMI). NMFS will allow the territory to allocate up to 1,000 mt each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria. As an accountability measure, NMFS will monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. These catch limits and accountability measures support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: The final specifications are effective October 9, 2015, through December 31, 2015. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b)(3) for review is November 9, 2015.

ADDRESSES: Copies of the fishery ecosystem plans are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org.*

Copies of the environmental assessment (EA) and finding of no significant impact for this action, identified by NOAA–NMFS–2015–0077, are available from *www.regulations.gov,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: NMFS is specifying a catch limit of 2,000 mt of longline-caught bigeye tuna for the CNMI in 2015. NMFS is also authorizing

the territory to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The Western Pacific Fishery Management Council recommended these specifications.

NMFS will monitor catches of longline-caught bigeye tuna by the CNMI longline fisheries, including catches made by U.S. longline vessels operating under specified fishing agreements. A specified fishing agreement must meet specific criteria set forth in 50 CFR 665.819—Territorial catch and fishing effort limits, which also governs the procedures for attributing longline-caught bigeye tuna. When NMFS projects a territorial catch or allocation limit will be reached, NMFS will, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or vessels in a specified fishing agreement (if the allocation limit is projected to be reached). These catch and allocation limits and accountability measures are identical to those that NMFS specified in 2014 (79 FR 64097, October 28, 2014). NMFS notes that there is a pending case in litigation—*Conservation Council for Hawai'i, et al.,* v. *NMFS* (D. Haw.), case no. 14–cv–528—that challenges the framework process allowing the U.S. Pacific Island territories to allocate a portion of their bigeye tuna catch limit to U.S. longline fishing vessels.

You may find additional background information on this action in the preamble to the proposed specifications published on August 24, 2015 (80 FR 51193).

Comments and Responses

On August 24, 2015, NMFS published the proposed specifications and request for public comments (80 FR 51193); the comment period closed on September 8, 2015. NMFS received comments from individuals, businesses, and non-governmental organizations on the proposed specifications and the draft EA.

Comments on the Proposed Specifications

NMFS responds to comments on the proposed specifications, as follows:

Comment 1: Several commenters expressed concerns that the current closure of the western and central Pacific Ocean (WCPO) to longline-caught bigeye tuna is having a negative financial effect on fishing vessels and other related businesses, and has created a very unstable environment for sustaining market confidence and job security of employees in the industry.

Response: On August 5, 2015, NMFS closed the U.S. pelagic longline fishery in the WCPO as a result of the fishery reaching the 2015 U.S. bigeye tuna catch limit of 3,502 mt (80 FR 44883). NMFS implemented the 2015 U.S. bigeye tuna catch limit to meet obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention), including implementation of applicable decisions by the Western and Central Pacific Fisheries Commission (WCPFC). At its Eleventh Regular Session, in December 2014, the WCPFC adopted Conservation and Management Measure (CMM) 2014–01 ''Conservation and Management Measure for Bigeye, Yellowfin, and Skipjack Tuna in the Western and Central Pacific Ocean.'' CMM 2014–01 is the most recent in a series of CMMs for the management of tropical tuna stocks under the purview of the WCPFC. For bigeye tuna, the stated objective of CMM 2014–01 and its predecessor CMM (*i.e.,* CMM 2013–01) is to ensure reductions in the fishing mortality rate for bigeye tuna to a level no greater than the fishing mortality rate at maximum sustainable yield or FMSY, *i.e.,* F/FMSY ≤ 1. CMM 2014–01 and other CMMs are available at: *www.wcpfc.int/conseration-and-management-measures.* Consistent with Amendment 7, NMFS will establish a limit of 2,000 mt of bigeye tuna for each U.S. Pacific territory for calendar year 2015, and allow each territory to allocate through specified fishing agreements up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. fishing vessels permitted under the Pelagic FEP. This action would enable U.S. Pacific territories, which are not subject to catch limits under CMM 2014–01, to transfer a limited portion of quota in exchange for payments to support responsible fisheries development in the Territories, consistent with the conservation needs of the stock. We also anticipate that this action may provide limited stability to bigeye tuna markets in Hawaii and elsewhere, as well as some positive economic benefits for fishery participants, associated businesses, and net benefits to the Nation.

Comment 2: Several commenters expressed concern that, without this action, foreign imports will supply tuna and other pelagic species to the local market. These imports may be caught illegally and/or without proper regulatory oversight, and may end up replacing future landings from U.S. vessels fishing out of Hawaii.

Response: NMFS acknowledges that during the WCPO closure to U.S. pelagic longline fisheries, more foreign-caught bigeye tuna would fill Hawaii market gaps. NMFS also agrees that increasing foreign imports of bigeye tuna into Hawaii has the potential to result in negative impacts on bigeye tuna stocks. Data presented in the EA show that bigeye tuna imports into Hawaii increased markedly in 2012, primarily from a 350 percent increase in imports from the Republic of the Marshall Islands, which has access agreements with foreign longline vessels consisting mostly of Chinese longline vessels. These access agreements allow Chinese longline vessels to catch bigeye tuna in the EEZ of the Republic of the Marshall Islands, which is within Region 4, an area of the WCPO that is experiencing some of the highest fishing impacts on bigeye tuna biomass (See Fig. 1 in the EA). Data in the EA, excerpted from the 2014 WCPO bigeye tuna stock assessment, also suggest that the bigeye tuna biomass would be substantially higher in Region 4 in the absence of fishing.

Comment 3: Several commenters expressed support for the action, noting that it would benefit the Hawaii longline fishing industry, local seafood-related businesses and restaurants, and their employees.

Response: NMFS acknowledges the comment. See also response to Comment 1.

Comment 4: One commenter noted that the proposed rule includes adoption of both an annual bigeye tuna longline catch limit of 2,000 mt per year for each of the U.S. Pacific territories, with an annual transferable limit of 1,000 mt for each territory. The commenter also noted that these limits are substantially more stringent than the conservation measures adopted by the WCPFC, which do not establish any bigeye limits for the U.S. Pacific territories.

Response: NMFS agrees that the 2015 bigeye tuna longline catch limit of 2,000 mt for each U.S. Pacific territory is more stringent than the big eye tuna conservation measures adopted by the WCPFC (*e.g.,* CMM 2014–01, CMM 2013–01, etc.). Paragraph 7 of CMM 2014–01 for example, exempts Small Island Developing States (SIDS) and Participating Territories (PT) to the WCPFC from annual catch limits. As PTs to the WCPFC, the U.S. Pacific territories of American Samoa, Guam and the CNMI, are not subject to individual bigeye tuna limits. However, consistent with the objectives of

Amendment 7, the 2,000 mt bigeye tuna limit applied to the U.S. Pacific territories, in conjunction with the 1,000 mt limit available for allocation, helps to ensure the sustainability of bigeye tuna stocks.

Comment 5: One commenter expressed support for the proposed rule, but questioned whether there is a factual basis to limit each territory to a 1,000 mt allocation. The commenter noted that even if there were a demonstrated need for such limits, it would be within the sovereign rights of each territory to evaluate and reserve appropriate bigeye tuna catch when negotiating the terms of specified fishing agreements.

Response: NMFS disagrees that the U.S. Pacific territories have independent authority under the Magnuson-Stevens Act or WCPF Convention to evaluate and allocate catch of bigeye tuna. Under the Magnuson-Stevens Act, the United States exercises exclusive management authority over fishery resources in the EEZ. This action authorizes U.S. Pacific territories to enter into specified agreements to allocate a limited amount of bigeye tuna to eligible U.S. fishing vessels permitted under the Pelagic FEP, consistent with the conservation needs of the stock. Under Federal regulations implementing the Pelagic FEP, NMFS has established overall catch limits and limits available for allocation; however, within the available allocation limits, the territories exercise a limited interest to negotiate the terms of specified fishing agreements, including the amount of catch up to and including the allocation limit.

As documented in the EA, NMFS is satisfied that this action helps achieve conservation and management objectives to eliminate overfishing on bigeye tuna, consistent with regional international objectives. Limiting overall harvest of bigeye tuna is important to eliminate overfishing and sustainably manage the stock in the WCPO. Further, NMFS does not expect the limited amount available for allocation to eligible permit holders through specified fishing agreements to support fisheries development in the territories to impede those objectives to end overfishing.

Comment 6: One commenter said that in the circumstance where a specified fishing agreement with CNMI or Guam is in effect, the catch of a dual-permitted longline vessel (*i.e.,* a vessel registered under a valid American Samoa Longline Limited Access Permit in addition to a valid Hawaii Longline Limited Access Permit) listed in the agreement that occurs outside the U.S. EEZ is attributed to American Samoa unless and until the American Samoa quota is exhausted, at which time such catch would be attributed to the territory (*e.g.,* CNMI or Guam) identified in the agreement. Conversely, the commenter also said that in this same circumstance, NMFS would attribute the catch of a dual-permitted vessel that occurs inside the U.S. EEZ to the territory (*e.g.,* CNMI or Guam) identified in the agreement.

Response: NMFS disagrees with that interpretation. Federal regulations at 50 CFR 300.224(c) set forth the attribution procedures for bigeye tuna caught by vessels with an American Samoa Longline Limited Access Permit. Pursuant to 50 CFR 300.224(c), attribution of high seas catch by a ''dual permitted'' vessel is always to the American Samoa permit unless there is a specified fishing agreement. In that case, attribution of catch (whether on the high seas or in US EEZ surrounding Hawaii) is to the applicable U.S. Pacific territory ''according to the terms of the agreement to the extent the agreement is consistent with this section [300.224] and applicable law [665.819(c) of this title].'' The terms of the specified fishing agreement cannot alter the attribution priority scheme. Furthermore, Federal regulations at 50 CFR 665.819(c) clarify that NMFS will attribute catch made by vessels identified in a specified fishing agreement to the applicable U.S. territory to which the agreement applies. Therefore, NMFS attributes bigeye tuna caught by any vessel identified in a specified fishing agreement to the U.S. territory to which the agreement applies, even if the vessel has a dual permit.

Comment 7: One commenter said that the proposed specifications would further undermine international efforts to eliminate overfishing of bigeye tuna and is at odds with the United States agreement to reduce its bigeye tuna catch.

Response: NMFS disagrees that this action undermines the WCPFC overfishing objectives of its bigeye tuna CMMs. As stated above, the objective of CMM 2014–01 is to ensure reduction of fishing mortality rate for bigeye tuna to a level no greater than FMSY, *i.e.,* F/FMSY ≤ 1. The analysis in the EA demonstrates that the 1,000 mt allocation limit authorized for each U.S. Pacific territory will achieve the conservation and management objectives to eliminate overfishing on bigeye tuna, consistent with regional international objectives, without prejudicing the rights and obligations of SIDs and PTs as set forth in the CMMs. The action is further consistent with Article 30 of the Convention, which provides that the WCPFC shall give full recognition to the special requirements of developing States to this Convention, in particular SIDS, and of territories and possessions, in relation to conservation and management of highly migratory fish stocks. This action provides a mechanism for U.S. territories to develop their pelagic fisheries, without compromising conservation objectives.

Comment 8: One commenter urged NMFS to follow the WCPFC Scientific Committee's recommendation that, in order to reduce fishing mortality to FMSY levels, a 36 percent reduction in fishing mortality is required from 2008–2011 levels.

Response: NMFS disagrees. The WCPFC Scientific Committee provides recommendations and information to help ensure that the WCPFC considers the best scientific information available. The U.S. has no obligation to directly implement Scientific Committee recommendations. Doing so could place U.S. fishermen at an unfair disadvantage relative to other nations' fisheries. The WCPFC properly takes into account Scientific Committee recommendations in making its conservation and management decisions.

Comment 9: The proposed specifications would authorize Hawaii-based longliners to catch far more bigeye than ever before.

Response: Under the action, Hawaii-based longline vessels could potentially enter into specified fishing agreements with each of the three U.S. Pacific territories and harvest each territory's allocation limit of 1,000 mt of bigeye tuna, for a total of 3,000 mt. This would be in addition to the 2015 U.S. bigeye tuna limit of 3,502 mt. NMFS evaluated the potential impact of this action on WCPO bigeye tuna and is satisfied that this action helps achieve conservation and management objectives to eliminate overfishing on bigeye tuna, consistent with regional international objectives. (See also response to Comment 5.)

Comment 10: One commenter noted that in CMMs 2013–01 and 2014–01, the WCPFC established a goal of ending overfishing of bigeye tuna in the WCPO by 2017.

Response: NMFS agrees that the objective of CMM 2013–01, as carried forward in CMM 2014–01, is to end overfishing of bigeye tuna. However, NMFS disagrees with the interpretation that we must reach the objective by 2017. The language of CMM 2013–01, as carried forward in 2014–01, reads ''The fishing mortality rate for bigeye tuna will be reduced to a level no greater than FMSY, *i.e.,* F/FMSY ≤ 1. This objective shall be achieved through step by step approach through 2017 in accordance with this Measure.''

As explained in the EA, no model indicates that overfishing of bigeye tuna will end by 2017 under CMM 2014–01, with or without the proposed action. Accordingly, the second sentence more appropriately applies to the timeframe for implementing the annual step-by-step reductions in purse seine effort and longline catches, as set forth in CMM 2013–01, and as carried forward in CMM 2014–01. In fact, at the Eleventh Regular Session of the WCPFC in December 2014, the Secretariat of the Pacific Community, the scientific services provider of the WCPFC, presented a report indicating that if fully implemented, the step-by-step measures contained in CMM 2013–01 and carried forward in CMM 2014–01 for 2015, 2016, and 2017, would end overfishing of bigeye tuna by 2032. This report provides the baseline against which NMFS evaluates the impacts of the proposed action.

Comment 11: One commenter noted that on September 25, 2015, the U.S. District Court in Hawaii will hold a hearing on a motion for summary judgment relating to the Pelagic FEP Amendment 7 framework to allocate bigeye tuna catch and effort limits to the U.S. Pacific territories. The commenter argued that the proposed allocation scheme is ''illegal'' under the Western and Central Pacific Fisheries Implementation Act (WCPFC Implementation Act), as argued in the case *Conservation Council for Hawai'i* v. *NMFS,* Civ. No. 14–00523 (D. Haw.), and attached various court documents supporting the plaintiffs' claims. The commenter urged NMFS to await the court's ruling before making a final decision regarding the proposed 2015 bigeye tuna specifications.

Response: Section 304(b) of the Magnuson-Stevens Act requires the Secretary to promulgate final regulations within 30 days of the end of the comment period for a proposed rule. The comment period for this action closed on September 8, 2015. Therefore, NMFS must promulgate final regulations in the **Federal Register** on or before October 8, 2015. There is, moreover, no certainty that the Court would render a decision on the motion before October 8, 2015. Finally, NMFS is implementing the proposed specification consistent with the Magnuson-Stevens Act, Amendment 7, and applicable WCPFC decisions. NMFS has no basis with which to lawfully delay action on the final rule.

NMFS also disagrees with the comment that the catch and allocation framework established by Amendment 7 and promulgated at 50 CFR 665.819 is ''illegal'' under the WCPFC Implementation Act. First, NMFS implemented Amendment 7 and the accompanying regulations under the Magnuson-Stevens Act, not the WCPFC Implementation Act (as asserted in the aforementioned litigation). Second, in approving Amendment 7 and framework regulations in 2014, NMFS reviewed both the amendment and regulations for consistency with the Magnuson-Stevens Act and its National Standards; the WCPFC Implementation Ac; Section 113 of Public Law 112–55; 125 Stat. 552 *et seq.,* the Consolidated and Further Continuing Appropriations Act, 2012 (continued by Public Law 113–6, 125 Stat. 603, section 110, the Department of Commerce Appropriations Act, 2013); and applicable WCPFC CMMs. Finally, the Council and NMFS developed Amendment 7 and implementing regulations in response to a congressional directive.

Comments on the Draft Environmental Assessment

NMFS responds to comments on the draft EA, as follows:

Comment 12: One commenter agreed with the NMFS approach of addressing a two-year period in the draft EA. This will eliminate the need for a duplicative National Environmental Policy Act (NEPA) review for the 2016 specification process.

Response: NMFS acknowledges the comment.

Comment 13: One commenter agreed that WCPFC CMMs are relevant to the NMFS determination that the Federal government is acting consistent with its international obligations. However, it is important to recognize that those international obligations are not binding domestic law unless and until the Federal government expressly incorporates them through the promulgation of Federal regulations pursuant to the WCPFC Implementation Act.

Response: NMFS generally agrees that international obligations reflected in WCPFC decisions are not enforceable until the government gives them effect by regulations implemented under the WCPFC Implementation Act.

Comment 14: One commenter suggested correcting Table 1 to reflect that the fisheries would reach the territory limits and allocations under the assumptions stated for Outcome D. The commenter also noted, however, that it is not necessary or possible to currently predict when the fisheries would reach those limits and allocations in the Outcome D scenario.

Response: Outcome D assumes that all three U.S. Pacific territories would each catch 1,000 mt of bigeye tuna (total catch of 3,000 mt) in 2015 and 2016, and that U.S. pelagic fisheries would harvest each of the territory's allocation limit of 1,000 mt of bigeye tuna under three specified fishing agreements (3,000 mt). However, NMFS does not expect all three U.S. Pacific territories will each catch 1,000 mt of bigeye tuna. This is because Guam and CNMI currently do not have an active longline fishery and vessels operating in the longline fisheries of American Samoa harvest an annual average of 521 mt of bigeye tuna. Therefore, it is unlikely longline fisheries of these territories will each catch 1,000 mt of bigeye tuna in 2015 or 2016. However, because Outcome D represents the full potential impact of the Council's recommendation, and given that the development of U.S. territorial fisheries is an objective of this action, the scenario in Outcome D is a reasonable alternative to consider.

Comment 15: One commenter noted the deep-set fishery does not interact at all, nor does it have the potential to interact, with some of the species listed on the protected species interaction table, such as the blue whale, the Hawaiian monk seal, and all of the coral species. The commenter suggested that it is, therefore, incorrect to state that the fishery has a ''potential to interact'' with these species.

Response: Table 14 of the EA identifies all species listed as threatened or endangered under the Endangered Species Act (ESA) known to occur or are reasonably expected to occur in areas where U.S. longline fishing vessels operate. While NMFS agrees that the Hawaii deep-set longline fishery has not interacted with some of the species listed in the table, all longline vessels have the potential to interact with these species through incidental hooking or entanglement with fishing gear, collisions, exposure to vessel wastes and discharges, or direct and indirect competition for forage. Pursuant to ESA Section 7, NMFS has evaluated the pelagic longline fisheries of Hawaii, American Samoa, Guam, and the CNMI for potential impacts on ESA-listed marine species under NMFS jurisdiction and their habitat. EA section 5.5 summarizes the conclusions of these consultations. Additionally, EA section 4.3 presents the effects of the action described in this final rule on ESA-listed species.

Comment 16: One commenter said that the EA should note that the Hawaii humpback whale population has been proposed for delisting.

Response: On April 21, 2015, NMFS published a proposed rule in the

Federal Register announcing the Agency's intention to divide the globally-listed endangered humpback whale species into 14 distinct population segments (DPS), remove the current species listing, and, in its place, propose for listing four DPSs. The ten DPSs not proposed for listing include the Hawaii DPS and the Oceania DPS, which occur in areas where the Hawaii and American Samoa longline fisheries operate, respectively (80 FR 22304). Please consult the proposed rule for specific information on the humpback whale DPS proposal. NMFS added a summary of the proposed rule in the EA accompanying the big eye tuna specification (see section 3.3.2—Marine Mammals).

Comment 17: One commenter noted that in numerous areas, the Draft EA addresses the transferred effects caused by closing Hawaii longline fisheries (*i.e.,* the resulting increase in imports from less regulated foreign fisheries) and the detrimental impacts this can have on local Hawaii seafood markets and on U.S. fisheries. The commenter supports these statements, and notes that several published scientific studies corroborate them. In this light, the commenter requested that NMFS include the papers enclosed with their comment letter in the administrative record.

Response: NMFS acknowledges and posted for public viewing at *www.regulations.gov* the papers included in the submission of this comment.

Comment 18: One commenter identified an incorrect reference to the ''proposed action'' in the ''CNMI and Guam longline fisheries'' subsection. The commenter noted that this section appears to address the ''no action'' alternative, not the proposed action.

Response: NMFS agrees and has corrected the text in EA section 4.1.1.2 ''Potential Impacts to Other Non-Target Stocks.''

Comment 19: One commenter suggested that, although Outcome D is theoretically possible, as NMFS and the Council recognize, it is very unlikely to occur (and, in fact, will not occur). Outcome D is therefore not a ''reasonable'' potential outcome and there is no reason to evaluate it as a sub-alternative to the proposed action alternative. See 40 CFR 1502.14 (only ''reasonable'' alternatives evaluated in NEPA document).

Response: NMFS disagrees with the assertion that Outcome D is not a reasonable sub-alternative to consider. The final rule implements the Council's recommendation to establish 2,000 mt longline limits for CNMI, of which CNMI may allocate 1,000 mt under a specified fishing agreement. We believe that both the Magnuson-Stevens Act and NEPA require NMFS to analyze the full impact of the action that it authorizes.

NMFS agrees that because Guam and the CNMI do not currently have an active longline fishery, Outcome D is not likely to occur in the next 2 years because Outcome D anticipates that the longline fisheries of all three U.S territories would each harvest 1,000 mt of bigeye tuna in 2015 and 2016. However, NMFS also notes that this action, by providing for payments for fisheries development in the U.S. Pacific territories, has the potential to develop longline fishery capacity in the territories. Therefore, NMFS believes that Outcome D is a reasonable alternative to consider in the environmental impact analysis in the EA. (See also response to Comment 14.)

Comment 20: One commenter suggested that NMFS add a discussion in the EA about why the proposed rule will have no material impacts on yellowfin tuna.

Response: NMFS agrees and has revised EA section 4.1.2.2 ''Potential Impacts to Other Non-Target Stocks'' to include an analysis of the potential impacts of the action on WCPO yellowfin tuna.

Comment 21: One commenter noted that Appendix E states that ''one [specified fishing] agreement would only provide support for projects in one territory.'' However, as noted earlier in the Draft EA, specified fishing agreements may benefit all U.S. participating territories, not just the territory to which the agreement applies.

Response: NMFS has revised Appendix E of the EA by removing the statement that one specified fishing agreement would only provide support for projects in one U.S. Pacific territory.

Changes From the Proposed Specifications

In the proposed specifications published on August 24, 2015 (80 FR 51193), NMFS proposed to specify a catch limit of 2,000 mt of longline-caught bigeye tuna for each of the three U.S. Pacific territories (Guam, the CNMI, and American Samoa). NMFS also proposed to authorize each territory to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the FEP.

NMFS determined that the proposed catch and allocation limits were consistent to the maximum extent practicable with the enforceable policies of the approved coastal zone management programs of each of the three territories. The coastal management program of the CNMI concurred with this determination. The American Samoa coastal management program, however, has requested an extension of time to review the proposed action. Under regulations at 15 CFR 930.41(b), NMFS is approving the requested extension. The Guam coastal management program has also indicated that it is still reviewing the proposed specifications.

So that we may implement the territorial limits in a timely fashion, NMFS is currently implementing the 2015 limits only for the CNMI. We will consider the American Samoa and Guam reviews of the CZMA federal consistency determination before implementing a 2015 limit for American Samoa and Guam.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fishery resources, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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. NMFS published the factual basis for the certification in the proposed rule and does not repeat it here. NMFS received no comments on this certification. As a result, a regulatory flexibility analysis is not required, and none has been prepared.

There is good cause to waive the 30-day delay requirement of the Administrative Procedure Act, 5 U.S.C. 553(d)(1), and make this rule effective immediately upon service. NMFS closed the U.S. pelagic longline fishery for bigeye tuna in the WCPO on August 5, 2015, because the fishery reached the 2015 U.S. WCPO catch limit (80 FR 44883, July 28, 2015). A delayed effective date would be impracticable because the fishing year ends on December 31, 2015, and vessels identified in a valid specified fishing agreement would be prevented from fishing for one month of the remaining three months of this fishing year. Furthermore, during the comment period for the proposed rule, NMFS received comments that the WCPO closure is having a negative financial effect on the fishing community, including vessels, restaurants, and other

seafood-related businesses, and that this action would relieve this financial pressure by allowing U.S. fishing vessels identified in a valid specified fishing agreement to supply the domestic big eye tuna market. Finally, these specifications are identical to those that NMFS specified in 2014 (79 FR 64097, October 28, 2014), do not impose any new requirements on any entity, and would not result in significant impacts to the human environment.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

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

Dated: October 7, 2015.

Samuel D. Rauch III,

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

[FR Doc. 2015–26063 Filed 10–9–15; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 198
Wednesday, October 14, 2015

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

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1001, 1003, 1103, 1212, and 1292

[EOIR Docket No. 176]

RIN 1125–AA72

Recognition of Organizations and Accreditation of Non-Attorney Representatives

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed rule; notice of meeting.

SUMMARY: The Executive Office for Immigration Review (EOIR) has published in the **Federal Register** a proposed rule amending the regulations governing the requirements and procedures for authorizing representatives of non-profit religious, charitable, social service, or similar organizations to represent persons in proceedings before EOIR and the Department of Homeland Security (DHS). The proposed rule also proposes amendments to the regulations concerning EOIR's disciplinary procedures. EOIR seeks public comment on issues affecting this proposed rule and will host three open public meetings to discuss it. The first meeting will be limited to a discussion of the recognition of organizations; the second meeting will address accreditation of representatives; and the third meeting will address oversight of recognized organizations and accredited representatives.

DATES AND TIMES: The first meeting will be held on Thursday, October 15, 2015 at 1:30 p.m. The second meeting will be held on Friday, October 23, 2015 at 1:30 p.m. The third meeting will be held Thursday, October 29, 2015 at 1:30 p.m.

ADDRESSES: The meetings will be held at 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: To RSVP for the meeting: Lauren Alder Reid, Chief & Counsel for Communications and Legislative Affairs, 703–305–0289, *EngageWithEOIR@usdoj.gov.* For each meeting, attendance will be limited to the first forty (40) individuals to RSVP. EOIR will also offer remote participation options for those who cannot physically attend the meeting. To attend the meeting in person or remotely, please RSVP with the name(s) of the attendee(s), the attendee's organization, and an email address where instructions may be sent for accessing the meeting.

SUPPLEMENTARY INFORMATION:

Background

EOIR has published a proposed rule (80 FR 59514, Oct. 1, 2015) to amend the regulations governing the recognition of organizations and accreditation of representatives who appear before EOIR and DHS. EOIR will be hosting three open public meetings to discuss the proposed rule. The purpose of these meetings is to solicit the views of interested stakeholders regarding the proposed rule.

Agenda for October 15, 2015, Meeting

The first meeting, which will be held on October 15, 2015, will focus on issues addressing the recognition of organizations. An agenda for the first meeting is listed below.

1. *Introductions.*
2. *Overview presentation of the relevant sections of the proposed rule.*
3. *Moderated question and answer period.*
4. *Adjourn.*

Agenda for October 23, 2015, Meeting

The second meeting, which will be held on October 23, 2015, will focus on issues addressing the accreditation of representatives. An agenda for the second meeting is listed below.

1. *Introductions.*
2. *Overview presentation of the relevant sections of the proposed rule.*
3. *Moderated question and answer period.*
4. *Adjourn.*

Agenda for October 29, 2015, Meeting

The third meeting, which will be held on October 29, 2015, will focus on issues addressing the oversight of recognized organizations and accredited representatives. An agenda for the third meeting is listed below.

1. *Introductions.*
2. *Overview presentation of the relevant sections of the proposed rule.*
3. *Moderated question and answer period.*
4. *Adjourn.*

Public Participation

The meetings are open to the public, but advance notice of attendance is required to ensure adequate seating and remote availability. Persons planning to attend should notify Lauren Alder Reid, Chief & Counsel for Communications and Public Affairs, 703–305–0289, *PAO.EOIR@usdoj.gov.* For each meeting, participation will be limited to the first forty (40) individuals to RSVP, with an additional remote participation option available.

Dated: October 7, 2015.

Lauren Alder-Reid,

Chief & Counsel, Office of Communications and Legislative Affairs.

[FR Doc. 2015–26083 Filed 10–13–15; 8:45 am]

BILLING CODE 4410–30–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1109 and 1500

[Docket No. CPSC–2011–0081]

Amendment To Clarify When Component Part Testing Can Be Used and Which Textile Products Have Been Determined Not To Exceed the Allowable Lead Content Limits

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Act (''CPSA'') requires third party testing and certification of children's products that are subject to children's product safety rules. The Consumer Product Safety Commission (''Commission'' or ''CPSC'') has previously issued regulations related to this requirement: A regulation that allows parties to test and certify component parts of products under certain circumstances; and a regulation determining that certain materials or products do not require lead content testing. The Commission is proposing to clarify when component part testing can

be used and clarify which textile products have been determined not to exceed the allowable lead content limits. In the ''Rules and Regulations'' section of this **Federal Register**, the Commission is issuing this determination as a direct final rule. If we receive no significant adverse comment in response to the direct final rule, we will not take further action on this proposed rule.

DATES: Submit comments by November 13, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2011–0081, by any of the following methods:

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

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

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

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number CPSC–2011–0081, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; (301) 987–2558; email; *khatlelid@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Along with this proposed rule, CPSC is publishing a direct final rule in the ''Rules and Regulations'' section of this issue of the **Federal Register**. This direct final rule clarifies when the component part testing can be used and clarifies which textile products have been determined not to exceed the allowable lead content limits. CPSC believes that the clarifications contained in the proposed rule are not controversial, and CPSC does not expect significant adverse comment. CPSC has explained the reasons for the clarifications in the direct final rule. Unless CPSC receives significant adverse comment regarding the clarifications during the comment period, the direct final rule in this issue of the **Federal Register** will become effective December 14, 2015, and CPSC will not take further action on this proposal. If a significant adverse comment is received for an amendment to only one of the two rules being revised in the direct final rule, CPSC will withdraw only the amendment to the rule that is the subject of a significant adverse comment. If CPSC receives a significant adverse comment, CPSC will publish a notice in the **Federal Register** withdrawing the direct final rule, and the rule will not take effect. CPSC will then respond to public comments in a later final rule, based on this proposed rule. CPSC does not intend to institute a second comment period on this action. Parties interested in commenting on this determination must do so at this time. For additional information, please see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Dated: October 7, 2015.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–25933 Filed 10–13–15; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0479; FRL–9935–57–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of approving Delaware's adopted Low Emission Vehicle (LEV) Program. This program requires that new passenger cars, light-duty trucks, and medium-duty highway vehicles titled in Delaware meet stringent California emission standards in lieu of Federal emission standards. In the Final Rules section of this **Federal Register**, EPA is approving Delaware's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. Delaware first adopted these standards in 2010 and has required compliance with Delaware LEV standards beginning with model year 2014 vehicles, and has recently updated its rules to reflect California's third generation, or LEV III vehicle standards. Although already in effect in Delaware, this action serves to incorporate Delaware's program into the Federal State Implementation Plan. If no adverse comments are received in response to this action, 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.

DATES: Comments must be received in writing by November 13, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2015–0479 by one of the following methods:

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

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2015–0479, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2015–0479. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any

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

Docket: All documents in the 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule to approve Delaware's Low Emission Vehicle Program 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.

Dated: September 29, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2015–25955 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2015–0298; FRL–9935–59–Region 4]

Air Plan Approval and Air Quality Designation; SC; Redesignation of the Charlotte-Rock Hill 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 17, 2015, the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the South Carolina portion of the bi-state Charlotte-Rock Hill, North Carolina-South Carolina 2008 8-hour ozone nonattainment area (the entire area is hereinafter referred to as the ''bi-State Charlotte Area'' or ''Area'' and the South Carolina portion is hereinafter referred to as the ''York County Area'') to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the York County Area. EPA is proposing to determine that the bi-State Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; to approve the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2014 and 2026 for the York County Area, into the SIP; and to redesignate the York County Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the York County Area.

DATES: Comments must be received on or before November 13, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0298, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2015–0298,'' Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2015–0298. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mrs. Sheckler may be reached by phone at (404) 562–9222, or via electronic mail at *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What are the actions EPA is proposing to take?
II. What is the background for EPA's proposed actions?
III. What are the criteria for redesignation?
IV. Why is EPA proposing these actions?
V. What is EPA's analysis of the request?
VI. What is EPA's analysis of South Carolina's proposed NO_X and VOC MVEBs for the York County Area?
VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs for 2014 and 2026 for the York County Area?
VIII. What is the effect of EPA's proposed actions?
IX. Proposed Actions
X. Statutory and Executive Order Reviews

I. What are the actions EPA is proposing to take?

EPA is proposing to take the following three separate but related actions, one of which involves multiple elements: (1) To determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; [1] (2) to approve South Carolina's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the York County Area, into the South Carolina SIP; and (3) to redesignate the York County Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the York County Area. The bi-state Charlotte Area consists of Mecklenburg County in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties, North Carolina; and a portion of York County, South Carolina. On April 16, 2015, the State of North Carolina provided a redesignation request and maintenance plan for its portion of the bi-state Charlotte Area. EPA approved North Carolina's redesignation request and maintenance plan in a separate action. *See* 80 FR 44873 (July 28, 2015). Today's proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is making the preliminarily determination that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS based on recent air quality data and proposing to approve South Carolina's maintenance plan for its portion of the bi-state Charlotte Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the bi-state Charlotte Area in attainment of the 2008 8-hour ozone NAAQS through 2026. The maintenance plan includes 2014 and 2026 MVEBs for NO_X and VOC for the York County Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the South Carolina SIP.

EPA also proposes to determine that the South Carolina portion of the bi-state Charlotte Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the portion of York County that is included in the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the 2014 and 2026 NO_X and VOC MVEBs for the York County Area. The Adequacy comment period began on May 14, 2015, with EPA's posting of the availability of South Carolina's submission on EPA's Adequacy Web site (*http://www.epa.gov/otaq/stateresources/transconf/currsips.htm#york-cnty*). The Adequacy comment period for these MVEBs closed on June 15, 2015. No comments, adverse or otherwise, were received through the Adequacy process. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, today's notice of proposed rulemaking is in response to South Carolina's April 17, 2015, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS.

II. What is the background for EPA's proposed actions?

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

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of complete, quality assured, and certified ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 2008 8-hour

[1] In an action published on July 28, 2015, EPA determined that the bi-state Charlotte Area was attaining the 2008 8-hour ozone standard when the Agency redesignated the North Carolina portion of this Area. *See* 80 FR 44873.

ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2009–2011 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the bi-state Charlotte Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. In the final implementation rule for the 2008 8-hour ozone NAAQS (SIP Implementation Rule),[2] EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date three years after the July 20, 2012, effective date for areas classified as marginal areas for the 2008 8-hour ozone nonattainment designations. Therefore, the bi-state Charlotte Area's attainment date is July 20, 2015.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA proposing these actions?

On April 17, 2015, the State of South Carolina, through SC DHEC, requested that EPA redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. EPA's evaluation indicates that the entire bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS, and that the South Carolina portion of the Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this notice.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes in this action to: (1) Determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; (2) approve South Carolina's plan for maintaining the 2008 8-hour ozone NAAQS in the Area, including the associated MVEBs, into the South Carolina SIP; and (3) redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Bi-State Charlotte Area Has Attained the 2008 8-Hour Ozone NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.075

[2] This rule, entitled Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements and published at 80 FR 12264 (March 6, 2015), addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked.

ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In its final action redesignating the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS, EPA finalized its determination that the bi-state Charlotte Area was attaining that standard in accordance with 40 CFR part 58 at that time. EPA concluded that the design values for each monitor in the Area for the years 2012–2014 are less than or equal to 0.075 ppm, that the data from these monitors during this time period meet the data quality and completeness requirements and are recorded in AQS, and that preliminary 2015 monitoring data available at the time of the final action indicates that the bi-state Charlotte Area continues to attain the 2008 8-hour ozone NAAQS. *See* 80 FR 44874–44875. EPA has reviewed preliminary monitoring data available since the time of the Agency's redesignation of the North Carolina portion of the Area and proposes to find that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS.[3] For informational purposes, the fourth-highest 8-hour ozone values at each monitor for 2012, 2013, 2014, and the 3-year averages of these values (*i.e.,* design values), are summarized in Table 1, below.

TABLE 1—2012–2014 DESIGN VALUE CONCENTRATIONS FOR THE BI-STATE CHARLOTTE AREA ∧

[Parts per million]

Location	County	Monitor ID	4th Highest 8-hour Ozone Value (ppm)			3-Year Design Values (ppm)
			2012	2013	2014	2012–2014
Lincoln County Replacing Iron Station.	Lincoln	37–109–0004	0.076	0.064	0.064	0.068
Garinger High School	Mecklenburg	37–119–0041	0.080	0.067	0.065	0.070
Westinghouse Blvd	Mecklenburg	37–119–1005	0.073	0.062	0.063	0.066
29 N at Mecklenburg Cab Co.	Mecklenburg	37–119–1009	0.085	0.066	0.068	0.073
Rockwell	Rowan	37–159–0021	0.080	0.062	0.064	0.068
Enochville School *	Rowan	37–159–0022	0.077	0.063		
Monroe Middle School	Union	37–179–0003	0.075	0.062	0.067	0.068

* Monitoring data for 2014 is not available because the monitor was shut down in 2014.
∧ There is a monitor in York County that is located outside of the designated nonattainment area.

The 3-year design value for 2012–2014 for the bi-state Charlotte Area is 0.073 ppm,[4] which meets the NAAQS. EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. The monitors used to determine the attainment status for the bi-state Charlotte Area are all located in North Carolina; no monitors are located in the South Carolina portion of the Area. As discussed in more detail below, the State of North Carolina has committed to continue monitoring in the bi-state Charlotte Area in accordance with 40 CFR part 58.[5]

Criteria (2)—South Carolina Has a Fully Approved SIP Under Section 110(k) for the South Carolina Portion of the Area; and Criteria (5)—South Carolina Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that South Carolina has met all applicable SIP requirements for the South Carolina portion of the Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the South Carolina SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the South Carolina portion of the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The South Carolina Portion of the Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions

[3] This preliminary data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.* The list of monitors in the bi-state Charlotte Area is available under the Designated Area field in Table 5 of the Ozone detailed information file at *http://www.epa.gov/airtrends/values.html.*

[4] The monitor with the highest 3-year design value is considered the design value for the Area.

[5] *See also* EPA's proposed rulemaking notice associated with the redesignation of the North Carolina portion of the Area. 80 FR 29250, 29259 (May 21, 2015).

for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland–Akron–Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area, such as the South Carolina portion of the Area, must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the ozone nonattainment area. South Carolina provided an emissions inventory for the South Carolina portion of the Area to EPA in an August 8, 2014, SIP submission. On June 12, 2015, EPA published a direct final rule to approve this emissions inventory into the SIP.[6] *See* 80 FR 33413 (direct final rule) and 80 FR 33460 (associated proposed rule).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The South Carolina portion of the Area is not subject to the section 182(a)(2) RACT ''fix up'' because it was designated as nonattainment after the enactment of the 1990 CAA amendments.

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The South Carolina portion of the Area is not subject to the section 182(a)(2)(B) because it was designated as nonattainment after the enactment of the 1990 CAA amendments and did not have an I/M program in place prior to those amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), South Carolina currently has a fully-approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' South Carolina's PSD program will become applicable in the South Carolina portion of the Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled Criteria (4)(e), *Verification of Continued Attainment,* the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. South Carolina provided a SIP revision to EPA on August 22, 2014, addressing the section 182(a)(3)(B) emissions statements requirement, and on June 12, 2015, EPA published a direct final rule to approve this SIP revision.[7] *See* 80 FR 33413 (direct final rule) and 80 FR 33460 (associated proposed rule).

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally

[6] This direct final rule was effective on July 13, 2015, because EPA did not receive any adverse comment during the public comment period.

[7] This direct final rule was effective on July 13, 2015, because EPA did not receive any adverse comment during the public comment period.

supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements [8] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, South Carolina has an approved conformity SIP for the South Carolina portion of the Area. *See* 74 FR 37168 (July 28, 2009). Thus, the South Carolina portion of the bi-state Charlotte Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The South Carolina Portion of the Bi-State Charlotte Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable South Carolina SIP for the South Carolina portion of the Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). South Carolina has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the ozone NAAQS. *See* 80 FR 11136 (March 2, 2015); 76 FR 41111 (July 13, 2011).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has approved all part D requirements applicable for purposes of this redesignation. As noted above, EPA has approved South Carolina's August 8, 2014, emissions inventory SIP revision, and its August 22, 2014, emissions statements SIP revision. *See* 80 FR 33413.

Criteria (3)—The Air Quality Improvement in the Bi-State Charlotte Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that South Carolina has demonstrated that the observed air quality improvement in the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from Federal measures and from state measures adopted into the SIP. EPA does not believe that the decrease in ozone concentrations in the bi-state Charlotte Area is due to unusually favorable meteorological conditions.[9]

State and Federal measures enacted in recent years have resulted in permanent emission reductions. Most of these emission reductions are enforceable through regulations. The state measures that have been implemented to date and identified by South Carolina as permanent and enforceable measures include Regulation 61–62.2—*Prohibition of Open Burning* and Regulation 61–62.5—*Control of Oxides of Nitrogen.* These measures are approved in the federally-approved SIP and thus are permanent and enforceable. The Federal measures that have been implemented include the following:

Tier 2 vehicle and fuel standards. Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO_x emissions. The standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO_x per mile. Additionally, in January 2006 the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NO_x emissions. Most gasoline sold in South Carolina prior to January 2006 had a sulfur content of about 300 ppm.[10] EPA expects that these standards will reduce NO_x emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.[11]

Large non-road diesel engines rule. This rule was promulgated in 2004, and is being phased in between 2008 through 2014. This rule will also reduce the sulfur content in the nonroad diesel fuel. When fully implemented, this rule will reduce NO_X, VOC, particulate matter, and carbon monoxide. These emission reductions are federally enforceable. EPA issued this rule in June 2004, which applies to diesel engines used in industries, such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide. The non-road diesel rule was fully implemented by 2010.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO_X and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses and will reduce NO_X emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.[12]

Medium and heavy duty vehicle fuel consumption and GHG standards. These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO_2 emissions and fuel consumption by 2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NO_X emissions.

[8] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

[9] *See* 80 FR 44875–44877.

[10] South Carolina also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

[11] EPA, Regulatory Announcement, EPA420–F–99–051 (December 1999), available at: *http://www.epa.gov/tier2/documents/f99051.pdf.*

[12] 66 FR 5002, 5012 (January 18, 2001).

Nonroad spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_X, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (*e.g.,* forklifts and airport ground service equipment), recreational vehicles (*e.g.,* off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National Program for greenhouse gas (GHG) emissions and Fuel Economy Standards. The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012–2016 (phase 1) and 2017–2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide (CO_2) which is equivalent to 54.5 miles per gallon (mpg) if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO_X emissions released.

Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP).[13] The RICE NESHAP is expected to result in a small decrease in VOC emissions. RICE owners and operators had to comply with the NESHAP by May 3, 2013.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued the NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X, a precursor to ozone pollution, and providing a mechanism (the NO_X Budget Trading Program) that states could use to achieve those reductions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. By the end of 2008, ozone season emissions from sources subject to the NO_X SIP Call dropped by 62 percent from 2000 emissions levels. All NO_X SIP Call states have SIPs that currently satisfy their obligations under the NO_X SIP Call; the NO_X SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NO_X SIP Call. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are therefore permanent and enforceable for the purposes of today's action.

CAIR/CSAPR. In its redesignation request and maintenance plan, the State identified the Clean Air Interstate Rule (CAIR) and the Cross-State Air Pollution Rule (CSAPR) as two measures that contributed to permanent and enforceable emissions reductions. CAIR created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 27 eastern states, including South Carolina, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved South Carolina's CAIR regulations into the South Carolina SIP on October 16, 2009. *See* 74 FR 53167. In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the DC Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

The DC Circuit's initial vacatur of CSAPR[14] was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the DC Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 sulfur dioxide (SO_2) and NO_X ozone season emissions budgets for South Carolina. This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017. CSAPR will continue to operate under the existing emissions budgets until EPA addresses the D.C. Circuit's remand.

Although the State identified CAIR and CSAPR as measures that contributed to permanent and enforceable emissions reductions, EPA is proposing to approve the redesignation of the South Carolina portion of the bi-State Charlotte Area without relying on those measures as having led to attainment of the 2008 ozone NAAQS or contributing to maintenance of that standard. In so doing, we are proposing to determine that the DC Circuit's invalidation of the South Carolina CSAPR Phase 2 ozone season NO_X and SO_2 emissions budgets does not bar today's proposed redesignation.[15]

The improvement in ozone air quality in the Area from 2011 (a year when the design value for the Area was above the NAAQS) to 2014 (a year when the design value was below the NAAQS) is not due to CSAPR emissions reductions because, as noted above, CSAPR did not go into effect until January 1, 2015, after the Area was already attaining the standard. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR. However, EPA has preliminarily determined that the vast majority of reductions in emissions in the South Carolina portion of the Area from 2011–2014 were due to permanent and enforceable reductions in mobile source VOC and NO_X emissions. In addition, EPA's analysis of EGU emissions data from CAIR-subject sources in South Carolina, none of which are located in the South Carolina portion of the Charlotte Area, further support our proposed determination that attainment of the 2008 ozone NAAQS in the Area was not due to CAIR reductions from South Carolina EGUs.

As summarized at the end of this section, EPA found that from 2011 to

[13] This NESHAP is expected to result in a small decrease in VOC emissions. Boilers must comply with the NESHAP by January 31, 2016, for all states except North Carolina which has a compliance date in May 2019.

[14] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

[15] The Court's holding regarding South Carolina's SO_2 CSAPR emissions budget is irrelevant to today's action because SO_2 is not an ozone precursor.

2014, mobile source emission reductions accounted for 82 percent of the total NO_X reductions and 85 percent of the total VOC reductions in the South Carolina portion of the Area. As laid out in the State's maintenance demonstration, NO_X and VOC emissions in the South Carolina portion of the Area are projected to continue their downward trend through the end of the first maintenance plan period, driven entirely by mobile source measures.[16] From 2014 to 2026, the State projected that all of the emissions decreases in the South Carolina portion of the Area would be due to mobile source measures based on EPA-approved mobile source modeling.

Furthermore, emissions data from EPA's Clean Air Markets Division (CAMD) summarized in Table 3 shows that NO_X emissions from CAIR-subject EGUs in South Carolina were already below the NO_X ozone season CAIR budget by 2011, when the design value for the Area was above the 2008 ozone NAAQS. EPA believes that the additional decreases in NO_X emissions from South Carolina EGUs in 2012–2014 were largely due to the retirement of several coal- and oil-fired EGUs during that time period. *See* Table 4. These retirements are permanent and enforceable, regardless of the rationale behind the shutdowns. Because these retired units were subject to CAIR, even if CAIR was partially responsible for attainment of the 2008 ozone NAAQS in the South Carolina portion of the Area, CAIR's part in that attainment has been made permanent and enforceable through retirements that will endure.[17] Given the particular facts and circumstances associated with this Area, EPA does not believe that the DC Circuit's recent invalidation of South Carolina's CSAPR Phase 2 NO_X ozone season and SO_2 budgets, which replaced CAIR's NO_X ozone season and SO_2 budgets, is a bar to EPA's redesignation of the South Carolina portion of the Area for the 2008 ozone NAAQS.

TABLE 3—COMPARISON OF SOUTH CAROLINA EGU ANNUAL NO_X OZONE SEASON BUDGET AND NO_X OZONE SEASON EMISSIONS FROM SOUTH CAROLINA EGUS

South Carolina EGU CAIR NO_X ozone season annual budget (2009–2014)	South Carolina EGU NO_X ozone season emissions			
	2011	2012	2013	2014
15,249	13,036	8,817	6,491	7,237

TABLE 4—SOUTH CAROLINA EGUS THAT RETIRED DURING 2011–2014

Facility name	Unit	2011 Ozone season NO_X emissions (tons)	Retirement date
H B Robinson	1	378	2012
W S Lee	1	166	2014
W S Lee	2	181	2014
Canadys Steam	CAN1	492	2012
Canadys Steam	CAN2	515	2013
Canadys Steam	CAN3	769	2013
Dolphus M Grainger	1	186	2012
Dolphus M Grainger	2	192	2012
Jefferies	3	423	2012
Jefferies	4	418	2012

As mentioned above, the State measures that have been implemented include the following: [18]

Prohibition of Open Burning: Effective in 2004, Regulation 61–62.2 prohibits the certain open burning activities during the ozone season for additional control of NO_X emissions.

Control of Oxides of Nitrogen: Effective in 2004, Regulation 61–62.5, Standard 5.2—Control of Oxides of Nitrogen, applies to new and existing stationary sources that emit or have the potential to emit NO_X generated from fuel combustion. This regulation sets standards for new construction based on Best Available Control Technology (BACT) standards from the national RACT/BACT/LAER clearinghouse. For new sources, the regulation is primarily directed at smaller sources that fall below the prevention of significance deterioration (PSD) thresholds and therefore otherwise be exempt for NO_X controls.[19]

EPA evaluated the ozone precursor emissions data in the South Carolina portion of the Area and found that there were significant reductions in these emissions in multiple source categories from 2011 to 2014 during ozone season. The emissions data show that from 2011 to 2014, NO_X and VOC emissions

[16] Although the State listed CAIR and CSAPR as permanent and enforceable measures, the State's maintenance demonstration does not include emissions reductions from these programs because there are no EGUs in the South Carolina portion of the Area.

[17] EPA expects that NO_X emissions from South Carolina EGUs will continue to decrease with the scheduled retirement of two coal- and/or oil-fired EGUs by the end of 2018 and the switch from coal and/or oil to natural gas at two additional EGUs. None of these units are located in the Charlotte Area.

[18] EPA incorporated these two measures into the SIP in 2005. *See* 70 FR 50195 (August 26, 2005).

[19] South Carolina stated that neighboring states have adopted measures to improve regional air quality, noting that North Carolina has implemented the state-wide Clean Smokestacks Act which sets a cap on NO_X and sulfur dioxide emissions. North Carolina's Clean Smokestacks Act requires coal-fired power plants to reduce annual NO_X emissions by 77 percent by 2009, and to reduce annual SO_2 emissions by 49 percent by 2009 and 73 percent by 2013. This law set a NO_X emissions cap of 56,000 tons/year for 2009 and SO_2 emissions caps of 250,000 tons/year and 130,000 tons/year for 2009 and 2013, respectively. The public utilities cannot meet these emission caps by purchasing emission credits. EPA approved the statewide emissions caps as part of the North Carolina SIP on September 26, 2011. In 2013, the power plants subject to this law had combined NO_X emissions of 38,857 tons per year, well below the 56,000 tons per year cap. The emissions cap has been met in all subsequent years as well and is enforceable at both the federal and state level.

decreased in the point source, area source, and mobile source categories and that the decrease in mobile source NO_X emissions accounted for approximately 82 percent of the total NO_X emissions reductions and approximately 85 percent of the total VOC emissions reductions. It is not necessary for every change in emissions between the nonattainment year and the attainment year to be permanent and enforceable. Rather, the CAA requires that improvement in air quality necessary for the area to attain the relevant NAAQS must be reasonably attributable to permanent and enforceable emission reductions in emissions.

TABLE 5—NO_X EMISSIONS FOR THE SOUTH CAROLINA PORTION OF THE CHARLOTTE 2008 OZONE NAAQS NONATTAINMENT AREA

[Tons per summer day]

Year	Point source	Area source	On-road	Non-road	Total
2011	4.71	0.93	11.43	2.63	19.70
2014	4.54	0.91	10.04	2.50	17.85

TABLE 6—VOC EMISSIONS FOR THE SOUTH CAROLINA PORTION OF THE CHARLOTTE 2008 OZONE NAAQS NONATTAINMENT AREA

[Tons per summer day]

Year	Point source	Area source	On-road	Non-road	Total
2011	4.02	6.93	5.30	1.78	18.03
2014	3.80	6.89	3.93	1.70	16.32

The emissions reductions identified in Tables 5 and 6 are attributable to numerous measures implemented during this period, including the permanent and enforceable mobile source measures discussed above such as the Tier 2 vehicle and fuel standards, the large non-road diesel engines rule,[20] heavy-duty gasoline and diesel highway vehicle standards,[21] medium and heavy duty vehicle fuel consumption and GHG standards,[22] non-road spark-ignitions and recreational standards,[23] and the national program for GHG emissions and fuel economy standards. These mobile source measures have resulted in, and continue to result in, large reductions in NO_X emissions over time due to fleet turnover (*i.e.,* the replacement of older vehicles that predate the standards with newer vehicles that meet the standards). For example, implementation of the Tier 2 standards began in 2004, and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO_X emissions. EPA expects that these standards will reduce NO_X emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.[24] Implementation of the heavy-duty gasoline and diesel highway vehicle standards rule also began in 2004. EPA projects a 2.6 million ton reduction in NO_X emissions by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.[25]

The State calculated the on-road and non-road mobile source emissions contained in Tables 5 and 6 using EPA-approved models and procedures that account for the Federal mobile source measures identified above, fleet turnover, and increased population.[26] [27] Because the model does not include any additional mobile source measures, the reductions in mobile source emissions quantified in the Area between 2011 and 2014 are the result of the permanent and enforceable mobile source measures listed above.

Improvements in air quality in the bi-state Charlotte area are due to real, permanent and enforceable reductions in NO_X emissions resulting from state and federal measures. EPA is proposing to approve the redesignation request and related SIP revisions for the York County portion of the bi-state Charlotte Area.

Criteria (4)—The South Carolina Portion of the Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS, SC DHEC submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must

[20] EPA estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

[21] Implementation of this rule is expected to achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses.

[22] When fully implemented in 2018, this rule is expected to reduce NO_X emissions from the covered vehicles by 20 percent.

[23] When fully implemented, the standards will result in an 80 percent reduction in NO_X by 2020.

[24] EPA, Regulatory Announcement, EPA420–F–99–051 (December 1999), available at: *http://www.epa.gov/tier2/documents/f99051.pdf.*

[25] 66 FR 5002, 5012 (January 18, 2001).

[26] South Carolina used EPA's MOVES2014 model to calculate on-road emissions factors and EPA's NONROAD 2008a model to quantify off-road emissions.

[27] South Carolina used the interagency consultation process required by 40 CFR part 93 (known as the Transportation Conformity Rule) which requires EPA, the United States Department of Transportation, metropolitan planning organizations, state departments of transportation, and State and local air quality agencies to work together to develop applicable implementation plans. The on-road emissions were generated by an aggregate of the vehicle activity (generated from the travel demand model) on individual roadways multiplied by the appropriate emissions factor from MOVES2014. The assumptions which are included in the travel demand model, such as population, were reviewed through the interagency consultation process.

demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that South Carolina's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the South Carolina SIP.

b. Attainment Emissions Inventory

As discussed above, EPA determined that the bi-state Charlotte Area had attained the 2008 8-hour ozone NAAQS at the time that it redesignated the North Carolina portion of the Area to attainment. *See* 80 FR 44874–44875. EPA has reviewed preliminary monitoring data available since the time of the Agency's redesignation of the North Carolina portion of the Area and proposes to find that the bi-state Charlotte Area continues to attain the 2008 8-hour ozone NAAQS. South Carolina selected 2014 as the base year (*i.e.,* attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. South Carolina began development of the attainment inventory by first generating a baseline emissions inventory for the State's portion of the bi-state Charlotte Area. The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2026) to the base year (2014), South Carolina compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, area, on-road mobile, and non-road mobile. South Carolina also included event sources (*i.e.,* fires) in the inventory. The complete descriptions of how the inventories were developed are discussed in Appendices A–E of the April 17, 2015, submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing emission factors from EPA's AP–42 or stack test results. For each projected year's inventory, point sources are adjusted by growth factors based on economic forecasting for the energy sector. Airport and helipad emissions reported were obtained from the EPA's 2011 National Emission Inventory and grown based on York County population growth.

For area sources, emissions are estimated by multiplying an emission factor by some known indicator of collective activity such as production, number of employees, or population. South Carolina started with the 2011 NEI for area sources reported at the York County level, then allocated the emissions to the portion of the county within the bi-state Charlotte Area by the proportion of the York County population within the Area. For each projected year's inventory, area source emissions are grown by information such as population growth, energy consumption by sector, or county business patterns from the Census.

The non-road mobile sources emissions are calculated using EPA's nonroad portion of the Motor Vehicle Emission Simulator (MOVES2014) model, with the exception of the emissions associated with railroad locomotives, which were obtained from EPA's 2011 NEI v1. For each projected year's inventory, the emissions are estimated using growth factors based on York County population growth.

For highway mobile sources, South Carolina ran EPA's MOVES2014 mobile model to calculate emissions. The MOVES2014 model includes the road class vehicle miles traveled (VMT) as an input file and can directly output the estimated emissions. For each projected year's inventory, the highway mobile sources emissions are calculated by running the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected Federal tailpipe standards, fleet turnover, and new fuels.

The events inventory, consisting of wildfires and prescribed fires, was first based on EPA's 2011 NEI v1, which utilized a model for predicting emission from fires based on factors such as the area burned, fuel load available, burn efficiency, and emission factors. Emissions from fires were not grown for the maintenance and interim years due to the unpredictability of projecting wildfires.

The 2014 NO_X and VOC emissions for the South Carolina portion of the Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 7 through 9 of the following subsection discussing the maintenance demonstration. *See* Appendices A–E of the April 17, 2015, submission for more detailed information on the emissions inventory.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2018, 2022, and 2026.

(iii) Identifies an ''out year'' at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEBs were established for the last year (2026) of the maintenance plan (see section VII below). Additionally, SC DHEC opted to establish MVEBs for an interim year (2014).

(iv) Provides actual (2014) and projected emissions inventories, in tons per summer day (tpsd), for the South Carolina portion of the Area, as shown in Tables 7 through 9, below.

TABLE 7—ACTUAL AND PROJECTED TYPICAL SUMMER DAY NO_X EMISSIONS (tpsd) FOR THE SOUTH CAROLINA PORTION OF THE AREA

Sector	2014	2018	2022	2026
Point	4.54	4.57	4.59	4.62
Area	0.91	0.92	0.92	0.92
Non-road	2.50	1.91	1.58	1.43
On-road	10.04	6.65	4.61	3.39
Event sources	0.04	0.04	0.04	0.04
Total *	18.03	14.09	11.74	10.40

TABLE 8—ACTUAL AND PROJECTED TYPICAL SUMMER DAY VOC EMISSIONS (tpsd) FOR THE SOUTH CAROLINA PORTION OF THE AREA

Sector	2014	2018	2022	2026
Point	3.80	3.83	3.84	3.86
Area	6.89	7.30	7.54	7.80
Non-road	1.70	1.46	1.39	1.40
On-road	3.93	2.79	2.15	1.74
Event sources	0.42	0.42	0.42	0.42
Total *	16.74	15.80	15.34	15.22

TABLE 9—EMISSION ESTIMATES FOR THE SOUTH CAROLINA PORTION OF THE AREA

Year	VOC (tpsd)	NO_X (tpsd)
2014	16.74	18.03
2018	15.80	14.09
2022	15.34	11.74
2026	15.22	10.40
Difference from 2014 to 2026	−1.52	−7.63

Tables 7 through 9 summarize the 2014 and future projected emissions of NO_X and VOC from the South Carolina portion of the Area. In situations where local emissions are the primary contributor to nonattainment, the NAAQS should not be violated in the future as long as emissions from within the nonattainment area remain at or below the baseline with which attainment was achieved. South Carolina has projected emissions as described previously and determined that emissions in the South Carolina portion of the Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VII of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. South Carolina selected 2014 as the attainment emissions inventory year for the South Carolina portion of the Area. South Carolina calculated safety margins in its submittal for year 2018, 2022, and 2026. Because the initial MVEB year of 2014 is also the base year for the maintenance plan inventory, there is no safety margin, therefore, no adjustments were made to the MVEB for 2014. The State has allocated a portion of the 2026 safety margin to the 2026 MVEBs for the York County Area.

TABLE 10—NEW SAFETY MARGINS FOR THE SOUTH CAROLINA PORTION OF THE AREA

Year	VOC (tpsd)	NO_X (tpsd)
2014	N/A	N/A
2018	−0.94	−3.94
2022	−1.40	−6.29
2026	−1.52	−7.63

The State decided to allocate 100 percent of the 2026 safety margin to the 2026 MVEBs to allow for unanticipated growth in VMT, changes and uncertainty in vehicle mix assumptions, etc., that will influence the emission estimations. SC DHEC has allocated 7.63 tpd (6,922 kg/day) to the 2026 NO_X MVEB and 1.52 tpd (1,379 kg/day) to the 2026 VOC MVEB. After allocation of 100 percent of the available safety margin, there is no remaining safety margin for NO_X and VOC. This allocation and the resulting safety margin for the South Carolina portion of the Area are discussed further in section VI of this proposed rulemaking along

with the MVEBs to be used for transportation conformity proposes.

d. Monitoring Network

There are currently seven monitors measuring ozone in the bi-state Charlotte Area. All of these monitors are operated by the State of North Carolina or Mecklenburg County. There are no South Carolina monitors in the bi-state Charlotte Area. Specifically, North Carolina operates four of the monitors in the bi-state Charlotte Area, whereas the Mecklenburg County Air Quality Office operates three of the monitors in Mecklenburg County. The State of North Carolina, through the North Carolina Department of Air Quality has committed to continue operation of all monitors in the North Carolina portion of the bi-state Charlotte Area (which happens to be all of the monitors in the bi-state Charlotte Area) in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved North Carolina's commitment to continuing monitoring as part of the Agency's action to redesignate the North Carolina portion of the bi-state Charlotte Area to attainment of the 2008 8-hour ozone NAAQS. *See* 80 FR 44873 (July 28, 2015). EPA approved North Carolina's monitoring plan on November 25, 2013.

e. Verification of Continued Attainment

The State of South Carolina, through SC DHEC, has the legal authority to enforce and implement the requirements of the South Carolina portion of the Area 2008 8-hour ozone maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the Consolidated Emissions Reporting Rule (CERR) and Air Emissions Reporting Requirements (AERR), SC DHEC is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. Therefore, SC DHEC commits to compare the CERR and AERR inventories as they are developed with the maintenance plan to determine if additional steps are necessary for continued maintenance of the 2008 8-hour ozone NAAQS in this Area.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the April 17, 2015 submittal, South Carolina affirms that all programs instituted by the State will remain enforceable and that sources are prohibited from reducing emissions controls following the redesignation of the Area. The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger of the contingency plan will be a quality assured/quality controlled (QA/QC) design value that exceeds the 2008 8-hour ozone NAAQS (*i.e.,* when the three-year average of the 4th highest values is equal to or greater than 0.076 ppm at any monitor in the Area). If the QA/QC data indicates a violating design value, the triggering event will be the date of the design value violation, not the final QA/QC date.

Additionally, SC DHEC will be evaluating periodic emissions inventories and comparing them to the projected inventories. If the emissions reported in these inventories exceed the projected emissions in the maintenance plan by more than 10 percent, SC DHEC will investigate the cause for these differences and develop a strategy for addressing them.

Finally, SC DHEC commits to implement, within 24 months of a trigger, at least one of the control measures listed below or other contingency measures that may be determined to be more appropriate based on the analyses performed.[28] At least one of the following contingency measures will be adopted and implemented upon a primary triggering event:

- NO_X Reasonably Available Control Technology on stationary sources not subject to existing requirements;
- Implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations;
- Alternative fuel programs for fleet vehicle operations;
- Gas can and lawnmower replacement programs;
- Voluntary engine idle reductions programs;
- SC DHEC's *Take a Break from Exhaust* program; and,
- Other measures deemed appropriate at the time as a result of advances in control technologies.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, the maintenance plan SIP revision submitted by South Carolina for the State's portion of the Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's analysis of South Carolina's proposed NO_X and VOC MVEBs for the York County Area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity

[28] If SC DHEC determines that a longer schedule is required to implement specific contingency measures, then, upon selection of the appropriate measures, SC DHEC will notify EPA of the proposed schedule and provide sufficient information to demonstrate that the proposed measures are a prompt correction of the triggering event. Any extension would be subject to EPA's approval of the SIP revision containing the required contingency measure.

is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

As part of the interagency consultation process on setting MVEBs, SC DHEC held conference calls with the Rock Hill Fort Mill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO) to determine what years to set MVEBs for the Area. According to the transportation conformity rule, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2026). *See* 40 CFR 93.118. The consensus formed during the interagency consultation process was that another MVEB should be set for the York County, SC maintenance plan base year of 2014.

Accordingly, SC DHEC established MVEBs based on the latest MPO jurisdictional boundaries such that MVEBs are established for that portion of York County which is within the RFATS MPO as part of the bi-state Charlotte Area. Table 11, below, provides the NO_X and VOC MVEBs in kilograms per day (kg/day),[29] for 2014 and 2026.

TABLE 11—YORK COUNTY AREA MVEBS

[kg/day]

	2014		2026	
	NO_X	VOC	NO_X	VOC
Base Emissions	9,112	3,566	3,076	1,576
Safety Margin Allocated to MVEB	.....	.....	6,922	1,379
Conformity MVEB	9,112	3,566	9,998	2,955

As mentioned above, South Carolina has chosen to allocate a portion of the available safety margin to the NO_X and VOC MVEBs for 2026 for the York County Area.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and VOC for 2014 and 2026 for the York County Area because EPA believes that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the York County Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminary determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 2008 8-hour ozone NAAQS through 2026.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs for 2014 and 2026 for the York County Area?

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, South Carolina's April 17, 2015, maintenance plan includes NO_X and VOC MVEBs for the York County Area for 2014, an interim year of the maintenance plan, and 2026, the last year of the maintenance plan. EPA is reviewing the NO_X and VOC s MVEBs through the adequacy process. The York County Area NO_X and VOC MVEBs, opened for public comment on EPA's adequacy Web site on May 14, 2015, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.* The EPA public comment period on adequacy for the MVEBs for 2014 and 2026 for the York County Area closed on June 15, 2015. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEBs associated with South Carolina's maintenance plan.

[29] The conversion to kilograms used the actual emissions reported in the MOVES model. The conversion was done utilizing the ''CONVERT'' function in an EXCEL spreadsheet. The conversion factor is 907.1847.

EPA intends to make its determination on the adequacy of the 2014 and 2026 MVEBs for the York County Area for transportation conformity purposes in the near future by completing the adequacy process that was started on May 14, 2015. After EPA finds the 2014 and 2026 MVEBs adequate or approves them, the new MVEBs for NO_X and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2026, the applicable 2014 MVEBs will be used and for 2026 and beyond, the applicable budgets will be the new 2026 MVEBs established in the maintenance plan, as defined in section VI of this proposed rulemaking.

VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of South Carolina's redesignation request would change the legal designation of the portion of York County within the South Carolina portion of the bi-state Charlotte Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of South Carolina's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2026 into the SIP. This maintenance plan includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO_X and VOC MVEBs for 2014 and 2026 for the York County Area. The MVEBs are listed in Table 11 in Section VI. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-established NO_X and VOC MVEBs for 2014 and 2026 for the York County Area.

IX. Proposed Actions

EPA is taking three separate but related actions regarding the redesignation and maintenance of the 2008 8-hour ozone NAAQS for the South Carolina portion of the Area. EPA is proposing to determine that the entire bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS. EPA is also proposing to approve the maintenance plan for the South Carolina portion of the Area, including the NO_X and VOC MVEBs for 2014 and 2026, into the South Carolina SIP (under CAA section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS and that the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of this action, EPA is describing the status of its adequacy determination for the NO_X and VOC MVEBs for 2014 and 2026 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the publication date of EPA's final rule for this action, the transportation partners will need to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

Additionally, EPA is proposing to determine that the South Carolina portion of the bi-state Charlotte Area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is proposing to approve South Carolina's redesignation request for the South Carolina portion of the Area. If finalized, approval of the redesignation request would change the official designation of that portion of York County that is included in the bi-state Charlotte Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are 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);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' However, because no tribal lands are located within the South Carolina portion of the Area, this action is not approving any specific state requirement into the SIP that would apply to Tribal lands. Therefore, EPA has determined that this proposed rule does not have substantial direct effects on an Indian Tribe. EPA notes today's action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: October 1, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–26022 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 80, No. 198
Wednesday, October 14, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Daniel Boone Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Daniel Boone Resource Advisory Committee (RAC) will meet in London, Kentucky. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site:*http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvEAAS.*

DATES: The meeting will be held Tuesday, October 27, 2015; at 6:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Cumberland Valley Area Development District Office Building, Basement Conference Room, 342 Old Whitley Road, London, Kentucky.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Daniel Boone National Forest Supervisor's Office, 1700 Bypass Road, Winchester, Kentucky. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Tim Reed, Designated Federal Officer, by phone at 606–376–5323 or via email at *timreed@fs.fed.us;* or Kimberly Bonaccorso, RAC Coordinator, by phone at 859–745–3107 or via email at *kjbonaccorso@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review and discuss project proposals submitted for Title II funding;

2. Hear committee recommendations for project approval; and

3. Hear public input concerning project proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by October 13, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Tim Reed, Designated Federal Officer, Stearns Ranger District, 3320 Highway 27 North, Whitley City, Kentucky, 42653; by email to *timreed@fs.fed.us,* or via facsimile to 606–376–3734.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: October 2, 2015.

Bill Lorenz,

Forest Supervisor.

[FR Doc. 2015–26084 Filed 10–13–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board (Board) will meet in Golden Pond, Kentucky. The Board is authorized under section 450 of the Land Between The Lakes Protection Act of 1998 (Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the Board is to advise the Secretary of Agriculture on the means of promoting public participation for the land and resource management plan for the recreation area; and environmental education. Information about the Board can be found at the following Web site: *http://www.landbetweenthelakes.us/about/working-together/*.

DATES: The meeting will be held at 9:00 a.m. on Thursday, November 12, 2015.

All Board meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Land Between The Lakes Administration Building, 100 Van Morgan Drive, Golden Pond, Kentucky.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Land Between The Lakes Adminstrative Building. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rosemary Bray, Acting Board Coordinator, by phone at 270–924–2017 or via email at *rosemaryhbray@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Discuss Environmental Education; and

2. Effectively communicate future land management plan activities.

The meeting is open to the public. Board discussion is limited to Forest Service staff and Board members. Written comments are invited and should be sent to Tina Tilley, Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211; and must be received by October 22, 2015, in order for copies to be provided to the members for this meeting. Board members will review written comments received, and at their request, oral clarification may be requested for a future meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: October 7, 2015.

Tina R. Tilley,

Area Supervisor, Land Between The Lakes.

[FR Doc. 2015–26085 Filed 10–13–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of the Advisory Committee on Agriculture Statistics Meeting

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Agricultural Statistics Service (NASS) announces a meeting of the Advisory Committee on Agriculture Statistics.

DATES: The Committee meeting will be held from 8:30 a.m. to 4:00 p.m. on Wednesday, November 4, 2015, and from 8:00 a.m. to 12:30 p.m. on Thursday, November 5, 2015. There will be an opportunity for public questions and comments at 9:45 a.m. on Thursday 5, 2015. All times mentioned herein refer to Eastern Standard Time.

ADDRESSES: The Committee meeting will take place at the Louisville Marriott Downtown, 280 West Jefferson Street, Louisville, Kentucky, 40202. Written comments may be filed before or up to two weeks after the meeting with the contact person identified herein at: U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 5029, South Building, Washington, DC, 20250–2000.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Executive Director, Advisory Committee on Agriculture Statistics, telephone: 202–720–3896, eFax: 855–593–5473, or email: *HQSDOD@nass.usda.gov.* General information about the committee can also be found at *http://www.nass.usda.gov/About_NASS/Advisory_Committee_on_Agriculture_Statistics/index.php.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on Agriculture Statistics, which consists of 20 members appointed from 7 categories covering a broad range of agricultural disciplines and interests, has scheduled a meeting on November 4–5, 2014. During this time the Advisory Committee will discuss topics including the status of NASS programs, Census of Agriculture Updates, Census of Agriculture Program Plans, and Data Quality. The committee will also be provided an overview of the Agricultural Resource Management Surveys and the Chemical Use Programs.

The Committee meeting is open to the public. The public is asked to pre-register for the meeting at least 10 business days prior to the meeting. Your pre-registration must state the names of each person in your group, organization, or interest represented; the number of people planning to give oral comments, if any; and whether anyone in your group requires special accommodations. Submit registrations to Executive Secretary, Advisory Committee on Agriculture Statistics, via eFax: 855–593–5473, or email: *HQSDOD@nass.usda.gov.* Members of the public who request to give oral comments to the Committee must arrive at the meeting site by 8:45 a.m. on Thursday, November 5, 2015. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the meeting. The public may file written comments by mail to the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 5431 South Building, Washington, D.C, 20250–2000. Written comments can also be sent via eFax: 855–593–5473, or email: *HQSDOD@nass.usda.gov.* All statements will become a part of the official records of the USDA Advisory Committee on Agriculture Statistics and will be kept on file for public review in the office of the Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, Washington, DC, 20250.

Signed at Washington, DC, October 2, 2015.

Joseph T. Reilly,

Administrator.

[FR Doc. 2015–26089 Filed 10–13–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[9/17/2015 through 10/6/2015]

Firm name	Firm address	Date accepted for investigation	Product(s)
G&F Industries, Inc	709 Main Street, Sturbridge, MA 01566.	10/6/2015	The firm manufactures injection molding products.
Black Bay Ventures VI, LLC dba Palmer Foundry.	22 Mt Dumplin Road, Palmer, MA 01069.	10/6/2015	The firm manufactures vacuum-tight and dimensionally stable aluminum castings.
Rouge Engineering, Inc	3860 South Jason Street, Englewood, CO 80110.	10/6/2015	The firm designs and manufactures battery charge controllers.
Smart Controls, LLC	10000 St. Clair Avenue, Fairview Heights, IL 62208.	10/6/2015	The firm manufactures commercial building automation controls/thermostats.
Netcom, Inc., Inc	599 Wheeling Road, Wheeling, IL 60090.	10/6/2015	The form manufactures RF/Microwave filters, frequency control devices, and custom assemblies.
Noranda Aluminum, Inc	391 St. Jude Industrial Park, New Madrid, MO 63869.	10/6/2015	The firm manufactures aluminum metal rods, extrusion billet, foundry ingot and primary sow.
Kiswire Pine Bluff, Inc	5100 Industrial Drive South, Pine Bluff, AR 71602.	10/6/2015	The firm manufactures steel cording to reinforce tires and hose wire for the hydraulic hose industry.
Meg J, LLC d/b/a Pride of Bristol Bay.	111 Oxbow Lane, Ketchum, ID 83340.	10/6/2015	The firm harvests wild salmon and distributes and sells reprocessed frozen salmon.
Surface Finish Technology Plating, Inc.	505 North Smith Avenue #101, Corona, CA 92880.	10/6/2015	''The firm provides services of chemical etching/engraving, electroplating, electroless nickel plating, anodizing, passivation, polishing, of molds (steel, alum, etc.), related components, and parts.''
New Core, Inc	22673 Hand Road, Harlingen, TX 73108.	10/6/2015	The manufactures and repairs electric motors.
B&W Machine Works, Inc	550 California Road #9, Quakertown, PA 18951.	10/6/2015	The firm produces high-precision CNC machined parts of various materials based on customers' specifications.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: October 6, 2015.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2015–25946 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–53–2015]

Application for Additional Production Authority; The Coleman Company, Inc.; Subzone 119I; (Textile-Based Personal Flotation Devices) Extension of Comment Period

The comment period for the application for additional production authority submitted by The Coleman Company, Inc., for activity within Subzone 119I in Sauk Rapids, Minnesota (80 FR 49986, 8–18–2015), is being extended to November 19, 2015, to allow interested parties additional time in which to comment. Rebuttal comments may be submitted during the subsequent 15-day period, until December 4, 2015. Submissions shall be addressed to the FTZ Board's Executive Secretary at: Foreign-Trade Zones Board, U.S. Department of Commerce, Room 21013, 1401 Constitution Avenue NW., Washington, DC 20230–0002.

The applicant has submitted a request to the FTZ Board for a public hearing to be held on its application. The scheduling of the hearing is currently under consideration, and the related details will be announced with a 30-day advance notice at a future date.

A copy of the application is available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: October 7, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–26139 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–842]

Large Residential Washers From Mexico: Partial Rescission of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is partially rescinding its administrative review of the antidumping duty order on large residential washers (LRW) from Mexico for the period of review February 1, 2014, through January 31, 2015 (POR).

DATES: Effective date: October 14, 2015.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brandon Custard, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1832, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2015, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on LRW from Mexico for the POR.[1]

On February 20, 2015, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Electrolux Home Products Corp., N.V. and Electrolux Home Products de Mexico, S.A. de C.V. (collectively, Electrolux) requested a review of Electrolux's sales during the POR.[2]

On February 26, 2015, Whirlpool Corporation, the petitioner, requested that the Department conduct an administrative review of the sales of Samsung Electronics Mexico S.A. de C.V (Samsung) and Electrolux during the POR.[3] The Department did not receive a request from Samsung.

On April 3, 2015, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on LRW from Mexico with respect to the above-named companies.[4]

On May 29, 2015, the petitioner timely withdrew its request for a review of Samsung.[5]

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioner's withdrawal request was filed before the 90-day deadline and Samsung did not request a review of its sales during the POR. Therefore, in response to the petitioner's withdrawal of request for review of Samsung, and pursuant to 19 CFR 351.213(d)(1), we are rescinding this review with respect to Samsung. The instant review will continue with respect to Electrolux.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For Samsung, the company for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 41 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: October 7, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–26137 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 80 FR 5509 (February 2, 2015).

[2] *See* February 20, 2015, letter from Electrolux regarding request for administrative review.

[3] *See* February 26, 2015, letter from the petitioner regarding request for administrative review.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 18202 (April 3, 2015).

[5] *See* May 29, 2015, letter from the petitioner regarding withdrawal of request for review.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–832, A–533–863, A–570–026, A–580–878, A–583–856]

Certain Corrosion-Resistant Steel Products From India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

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

FOR FURTHER INFORMATION CONTACT: Alexis Polovina at (202) 482–3927 (India); Julia Hancock at (202) 482–1394 (Italy); Nancy Decker at (202) 482–0196 (People's Republic of China (PRC)); Elfi Blum-Page at (202) 482–0197 (the Republic of Korea (Korea)); and Andrew Medley at (202) 482–4987 (Taiwan), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 2015, the Department of Commerce (the Department) initiated antidumping duty (AD) investigations of imports of certain corrosion-resistant steel products (corrosion-resistant steel) from India, Italy, the PRC, Korea, and Taiwan.[1] The notice of initiation stated that, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1), we would issue our preliminary determinations no later than 140 days after the date of initiation, unless postponed. Currently, the preliminary determinations in these investigations are due no later than November 10, 2015.

Postponement of Preliminary Determinations

Sections 733(c)(1)(B)(i) and (ii) of the Act permit the Department to postpone the time limit for the preliminary determination if it concludes that the parties concerned are cooperating and determines that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated or adjustments to be considered, the

[1] *See Certain Corrosion-Resistant Steel Products From Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 37228 (June 30, 2015).

novelty of the issues presented, or the number of firms whose activities must be investigated, and additional time is necessary to make the preliminary determination. Under this section of the Act, the Department may postpone the preliminary determination until no later than 190 days after the date on which the Department initiated the investigation.

The Department determines that the parties involved in these corrosion-resistant steel AD investigations are cooperating, and that the investigations are extraordinarily complicated. Additional time is required to analyze the questionnaire responses and issue appropriate requests for clarification and additional information.

Therefore, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), the Department is postponing the time period for the preliminary determinations of these investigations by 41 days, to December 21, 2015. Pursuant to section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 7, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–26138 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE235

Endangered Species; Take of Abalone

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

ACTION: Notice of receipt for request for one scientific research permit and one scientific research and enhancement permit.

SUMMARY: Notice is hereby given that NMFS has received permit application requests for one new scientific research permit and one new scientific research and enhancement permit. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management, conservation, and recovery efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on November 13, 2015.

ADDRESSES: Written comments on the applications should be submitted to the Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404. Comments may also be submitted via fax to 707–578–3435 or by email to *nmfs.swr.apps@noaa.gov* (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Jeff Abrams, Santa Rosa, CA (ph.: 707–575–6080), Fax: 707–578–3435, email: *Jeff.Abrams@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Endangered black abalone (*Haliotis cracherodii*).

Authority

Scientific research and enhancement permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–227). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 18761

Dr. Peter Raimondi, professor and chair of the University of California, Santa Cruz, Department of Ecology and Evolutionary Biology, has requested a five year research permit to monitor and research the status and trends of endangered black abalone at sites throughout California for a period of five years. Monitoring would consist primarily of non-lethal, non-capture take to measure, mark, and count abalone. At a few experimental sites, habitat restoration efforts would be completed to restore crevice communities to their pre-abalone decline state, and recruitment modules would be used to better estimate recruitment levels. Comparisons would be made between abalone counts in ''restored'' crevices versus control crevices with and without recruitment modules to assess whether habitat restoration and recruitment module presence enhance recovery efforts. Some juvenile black abalone would be transported in recruitment modules from locations that are relatively free of withering syndrome in the north (Monterey County), to a withering syndrome-impacted mainland site further south (Santa Barbara County). Because the field biologists in this project would be likely to encounter dead or moribund black abalone, researchers would be permitted to collect dead or obviously dying individuals to be used for pathology and histology samples. These samples would be important in early identification of disease or toxin outbreaks. The information resulting from the research outlined above would be used to follow recovery in wild abalone, track disease spread and population decline, and better understand habitat preferences that may aid in facilitating recovery.

Permit 19571

The NMFS Southwest Fisheries Science Center (SWFSC), La Jolla, California has requested a five year research and enhancement permit for the captive maintenance, breeding, lab experiments, epipodial tissue sampling, observation, and transport of endangered black abalone. The main purpose of this research would be to develop successful techniques for consistent production of high quality juvenile black abalone to support future outplanting efforts. Research would examine: 1) Spawning conditioning related to various diet and temperature regimes, 2) cues for spawning including thermal shock and hydrogen peroxide treatments, 3) veliger settlement, 4) and growth and survival. Eight of the black abalone proposed to be used for this research were previously transferred from the Space and Naval Warfare Systems Center Pacific Abalone Farm to the SWFSC Aquarium Culture Facility in La Jolla, California. These pre-listed abalone have been in captivity since before black abalone were listed as

Endangered under the ESA. Additional pre-listed black abalone for this research may be transferred from the University of California, Santa Barbara, or other facilities that currently maintain pre-listed black abalone. In addition, wild origin black abalone may be obtained for this research through confiscations due to law enforcement cases, or from projects covered under ESA Section 7 consultations.

The research proposed would support the development of management strategies necessary for the successful recovery of this species and possibly assist natural resource managers in the future selection of the location and size of marine protected areas designed to protect black abalone. Prior efforts to spawn and produce black abalone spat have been unsuccessful, so this proposed work would seek to better condition black abalone for successful spawning and to improve fertilization success, settlement, and recruitment.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: October 7, 2015.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–25985 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE238

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 41 Assessment Webinar 1.

SUMMARY: The SEDAR 41 assessments of the South Atlantic stocks of *red snapper* and *gray triggerfish* will consist of a series of workshop and webinars: Data Workshops; an Assessment Workshop and webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION.**

DATES: SEDAR 41 Assessment Webinar 1 will be held on Monday, November 2, 2015, from 9 a.m. until 1 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org*.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571-4366; email: *julia.byrd@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing a workshop and/or webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment webinar are as follows:

Participants will discuss and provide modeling advice to prepare for the Assessment Workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 8, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–26118 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE239

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The SEDAR Steering Committee will meet via webinar to discuss the SEDAR assessment schedule. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR Steering Committee will meet from 12 p.m. to 2 p.m., Friday, October 30, 2015.

ADDRESSES:

Meeting address: The Steering Committee meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact John Carmichael at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) at least 24 hours in advance to request webinar access information.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571–4366 or toll free (866) SAFMC–10; fax (843) 769–4520; email: *john.carmichael@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows:

SEDAR Steering Committee Agenda, Friday, October 30, 2015, 12 p.m.–2 p.m.

Determine 2017 and 2018 assessment projects.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accomodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 8, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–26099 Filed 10–13–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0096]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

ACTION: Notice of proposed change to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed changes to Rule 37(a) of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces.

DATES: Comments on the proposed change must be received by November 13, 2015.

ADDRESSES: You may submit comments, identified by docket number and title by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy or comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: William A. DeCicco, Clerk of the Court, telephone (202) 761–1448.

Dated: October 7, 2015.

Aaron Siegel,

Alternate OSD Federal Liaison Officer, Department of Defense.

Rule 37(a):

Rule 37(a) currently reads:

(a) Printing. Except for records of trial and as otherwise provided by Rules 24(f) and 27(a)(4) or any order of the Court regarding the electronic filing of pleadings, all pleadings or other papers relative to a case shall be typewritten and double-spaced, printed on one side only on white unglazed paper, 8.5 by 11 inches in size, securely fastened in the top left corner. All printed matter must appear in monospaced typeface, *e.g.,* Courier or Courier New, using 12-point type with no more than ten and ½ characters per inch. Margins must be at least 1 inch on all four sides. Page numbers may be placed in the margin but no text may appear in the margin.

The proposed changes to Rule 37(a) would read:

(a) Printing. Except for records of trial and as otherwise provided by Rule 24(f) or any order of the Court regarding the electronic filing of pleadings, all pleadings or other papers relative to a case shall be typewritten and double-spaced, printed on one side only on white unglazed paper, 8.5 by 11 inches in size, securely fastened in the top left corner. All printed matter must appear in proportional type, *e.g.,* Times New Roman. The use of 14-point type is required. Margins must be at least 1 inch on all four sides. Page numbers may be placed in the margin but no text may appear in the margin.

Comment: The reference to Rule 27(a)(4) is omitted because that Rule was rescinded in 2012. Times New Roman is the font that is commonly used in appellate courts and it would be the default under the new Rule. The proposal to change from monospaced typeface to proportional typeface with 14-point type tracks Federal Rule of Appellate Procedure 32(a)(5) which requires the use of 14-point type or larger when proportional type is used.

[FR Doc. 2015–26010 Filed 10–13–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0097]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information for emergency clearance under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 13, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Collection of Required Data Elements to Verify Eligibility; OMB Control Number 0704–XXXX.

Type of Request: New.

Number of Respondents: 19,000,000.

Responses per Respondent: 1.

Annual Responses: 19,000,000.

Average Burden per Response: 8 minutes and 23 seconds.

Annual Burden Hours: 2,650,000.

Needs and Uses: The information collected will be used only to verify whether or not an individual was impacted by the OPM cybersecurity incident involving background investigation records and to send a letter confirming status as ''impacted'' or ''not

impacted'' by this incident. Once the minimally required information has been input into the OPM secure portal, it will be compared to an electronic master file and verification will be accomplished electronically. After the Government has validated the individual's status, the DoD Defense Manpower Data Center (DMDC) will generate and mail a response letter. This letter will either confirm eligibility and contain a PIN for impacted individuals, or confirm that the individual was not impacted by this cybersecurity incident.

The DoD DMDC will retain the information collected in a ''holding file'' until the contract end of performance on December 31, 2018. This will allow individuals who lose or never receive their PINs to use the portal and helpdesk to determine eligibility throughout the entire contract period.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

Omb Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: October 8, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–26111 Filed 10–13–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–557–000]

Total Peaking Services, LLC; Notice of Application

Take notice that on September 23, 2015, Total Peaking Services, LLC 775 Oronoque Road, Milford, Connecticut 06460, filed in Docket No. CP15–557–000, an application pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to upgrade its existing liquefied natural gas facility (Milford Facility) in Milford, Connecticut. Specifically, Total Peaking seeks to increase the Plant's vaporization send out capacity from 90 million cubic feet per day (MMcf/d) to 105 MMcf/d, and will construct and install an additional boil-off gas compressor unit. Also, Total Peaking intends to perform certain additional electrical upgrades, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Joseph Fagan, 1100 New York Ave. NW., Suite 300, Washington, DC or phone: (202) 218–3901.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties.

However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26069 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission

DATE AND TIME: October 15, 2015 10 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502-8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502-8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1020TH—MEETING

[Regular meeting; October 15, 2015—10 a.m.]

Item No.	Docket No.	Company
	Administrative	
A–1	AD16–1–000	Agency Administrative Matters—Federal Employee Viewpoint Survey Results.
A–2	AD16–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	2015–2016 Winter Energy Market Assessment.
	Electric	
E–1	RM14–14–000	Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities.
E–2	EL13–76–001, EL13–76–002, EL13–76–003.	AmerenEnergy Resources Generating Company v. Midcontinent Independent System Operator, Inc.
	ER15–368–001, ER15–346–001, ER14–2605–000, ER14–2605–001, ER13–1962–002, ER13–1962–003, ER13–1962–004, ER13–1963–003, ER13–1963–004, ER13–1963–005, ER14–1210–001, ER14–1210–002, ER14–1210–003, ER14–1210–004, ER14–1212–002, ER14–1212–003, ER14–1212–004, EL14–53–001, EL14–53–002, EL14–53–003.	Midcontinent Independent System Operator, Inc.,
	ER14–2619–001, ER14–2619–002, ER14–2718–001.	Illinois Power Marketing Company.
E–3	ER10–2302–005	Public Service Company of New Mexico.
E–4	ER14–2850–001, ER14–2851–001	Southwest Power Pool, Inc.
E–5	ER13–535–002, ER13–535–003	PJM Interconnection, L.L.C.
E–6	OMITTED	
E–7	OMITTED	
E–8	ER12–678–005	Midwest Independent Transmission System Operator, Inc.
E–9	RM14–11–001	Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities.
E–10	OMITTED	
E–11	RR15–4–001	North American Electric Reliability Corporation.
E-12	EL15–81–000	Bloom Energy Corporation.
E–13	EL15–66–000, EL15–77–000	Southern Company Services, Inc. KCP&L Greater Missouri Operations Company.,The Empire District Electric Company, and Associated Electric Cooperative, Inc. v. Midcontinent Independent System Operator, Inc. Morgan Stanley Capital Group, Inc. v. Midcontinent Independent System Operator, Inc.
E–14	EL15–52–001, QF13–403–003	Winding Creek Solar LLC.
E–15	EL15–43–001	Delta-Montrose Electric Association.
E–16	ER14–2022–001	Midcontinent Independent System Operator, Inc.

1020TH—MEETING—Continued

[Regular meeting; October 15, 2015—10 a.m.]

Item No.	Docket No.	Company
E–17	ER15–943–002, ER15–948–001, ER15–943–001, (consolidated), ER15–946–001 (not consolidated),.	Midcontinent Independent System Operator, Inc., Illinois Power Marketing Company Midcontinent Independent System Operator, Inc.
E–18	ER15–1047–003	R.E. Ginna Nuclear Power Plant, LLC.
E–19	ER15–1826–000	Entergy Services, Inc.
E–20	EL01–88–013	Louisiana Public Service Commission v. Entergy Services, Inc.
E–21	EL01–88–012	Louisiana Public Service Commission v. Entergy Services, Inc.
E–22	EL01–88–011	Louisiana Public Service Commission v. Entergy Services, Inc.
E–23	ER14–2940–001, ER14–2940–002	PJM Interconnection, L.L.C.
E–24	EC10–85–002	Fore River Development, LLC, Mystic I, LLC, Mystic Development, LLC, Boston Generating, LLC, Constellation Mystic Power, LLC.
E-25	EL12–53–001	Seminole Electric Cooperative, Inc. v. Florida Power & Light Company.
E–26	EL15–44–000	Sage Grouse Energy Project, LLC v. PacifiCorp.
E–27	EL15–46–000	Champion Energy Marketing LLC v. PJM Interconnection, L.L.C. and PJM Settlement, Inc.
	Miscellaneous	
M–1	RM14–2–002	Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities.
	Gas	
G–1	RM96–1–038, RM14–2–003	Standards for Business Practices of Interstate Natural Gas Pipelines, Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities.
G–2	RP13–751–001, RP13–751–000	Algonquin Gas Transmission, LLC.
G–3	RP15–23–000, RP15–23–003, RP15–23–007.	Transwestern Pipeline Company, LLC.
G–4	RP15–1089–000	Rice Energy Marketing LLC.
G–5	RP12–479–000	ANR Storage Company.
G–6	RP15–138–000, RP15–138–001	Great Lakes Gas Transmission Limited Partnership.
	RP15–139–000, RP15–139–001	ANR Pipeline Company.
	RP13–743–000, RP13–743–001, RP13–743–002, RP13–743–003 (consolidated).	ANR Pipeline Company.
	RP14–650–000, RP14–650–001, RP15–785–000 (not consolidated).	ANR Pipeline Company.
	Hydro	
H–1	RM15–18–000	Commencement of Assessment of Annual Charges.
H–2	P–4093–037	PK Ventures I Limited Partnership.
H–3	P–13123–003	Eagle Crest Energy Company.
H–4	P–2206–048	Duke Energy Progress, Inc.
	Certificates	
C–1	CP15–161–000	Roadrunner Gas Transmission, LLC.
C–2	CP15–160–000	Columbia Gas Transmission, LLC, KO Transmission Company.
C–3	CP15–272–000	Regency Field Services LLC.
C–4	CP14–503–001	Enable Gas Transmission, LLC.

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar.

The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2015–26184 Filed 10–9–15; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC15–9–000]

Commission Information Collection Activities (FERC–546); Comment Request

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–546 (Certificated Rate Filings) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (80 FR 44094, 7/24/2015) requesting public comments. The Commission received no comments on the FERC–546 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by November 13, 2015.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0155, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Commission, in Docket No. IC15–9–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–546 (Certificated Rate Filings).

OMB Control No.: 1902–0155.

Type of Request: Three-year extension of the FERC–546 information collection requirements with no changes to the reporting requirements.

Abstract: The Commission reviews the FERC–546 materials to decide whether to determine an initial rate associated with an application for a certificate under NGA section 7(c). FERC reviews FERC–546 materials in 4(f) storage applications to evaluate market power and decide whether to grant, deny, or condition market based rate authority for the applicant. The Commission uses the FERC–546 information to monitor jurisdictional transportation, natural gas storage, and unbundled sales activities of interstate natural gas pipelines and Hinshaw [1] pipelines. In addition to fulfilling the Commission's obligations under the NGA, the FERC–546 enables the Commission to monitor the activities and evaluate transactions of the natural gas industry, and to ensure competitiveness, and improved efficiency of the industry's operations. In summary, the Commission uses the FERC–546 information to:

- Ensure adequate customer protections under section 4(f) of the NGA;
- review rate and tariff changes by natural gas companies for the transportation of gas, natural gas storage services;
- provide general industry oversight; and
- supplement documentation during its audits process.

Failure to collect this information would prevent the Commission from being able to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

Type of Respondents: Pipeline companies and storage operators.

Estimate of Annual Burden: [2] The Commission estimates the annual public reporting burden for the information collection as:

FERC–546 (CERTIFICATED RATE FILINGS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [3]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Pipeline Companies	50	1	50	40; $2,880	2,000; $144,000	$2,880
Storage Operators	1	1	1	350; $25,200	350; $25,200	$25,200
Total		51		2,350; $169,200		

[1] Hinshaw pipelines are those that receive all out-of-state gas from entities within or at the boundary of a state if all the natural gas so received is ultimately consumed within the state in which it is received, 15 U.S.C. 717(c). Congress concluded that Hinshaw pipelines are ''matters primarily of local concern,'' and so are more appropriately regulated by pertinent state agencies rather than by FERC. The Natural Gas Act section 1(c) exempts Hinshaw pipelines from FERC jurisdiction. A Hinshaw pipeline, however, may apply for a FERC certificate to transport gas outside of state lines.

[2] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the 2015 FERC average salary and benefits (for one Full Time Equivalent) of $149,489/year. FERC staff believes that industry's hourly cost (salary and benefits) for this collection are similar to FERC staff costs.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26078 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–2–000]

8point3 Energy Partners LP; Notice of Petition for Declaratory Order

Take notice that on October 5, 2015, pursuant to Rules 207 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 and 385.212, 8point3 Energy Partners LP (Petitioner) filed a petition for declaratory order (petition) disclaiming jurisdiction under section 203 of the Federal Power Act with respect to sales and purchases of the Class A limited partnership interests in 8point3 Partners, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on November 4, 2015.

Dated: October 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26072 Filed 10–13–15; 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 has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–1302–000.

Applicants: Pine Needle LNG Company, LLC.

Description: Section 4(d) Rate Filing: PN_GT&C Section 25—1Line Service to be effective 10/30/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5089.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1303–000.

Applicants: Empire Pipeline, Inc.

Description: Section 4(d) Rate Filing: Tuscarora Lateral Project (Empire CF) to be effective 11/1/2015

Filed Date: 9/29/15.

Accession Number: 20150929–5135.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1304–000.

Applicants: Cheniere Creole Trail Pipeline, L.P.

Description: Section 4(d) Rate Filing: CCTPL Transportation Retainage Adjustment to be effective 11/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5136.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1305–000.

Applicants: Kern River Gas Transmission Company.

Description: Section 4(d) Rate Filing: 2015 Daggett Surcharges Adjusted to be effective 11/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5140.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1306–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Section 4(d) Rate Filing: Housekeeping Filing on 9–29–15 to be effective 11/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5156.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1307–000.

Applicants: Trunkline Gas Company, LLC.

Description: Section 4(d) Rate Filing: Housekeeping on 9–29–15 to be effective 10/30/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5158.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1308–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Section 4(d) Rate Filing: 2015 LNG Fuel Tracker to be effective 11/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5198.

Comments Due: 5 p.m. ET 10/13/15

Docket Numbers: RP15–1309–000.

Applicants: Guardian Pipeline, L.L.C.

Description: Section 4(d) Rate Filing: Terminating Negotiated Rate PAL Agreements—Koch Energy Services, et al. to be effective 10/31/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5199.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1311–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Section 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Oct 2015 to be effective 10/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5242.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1312–000.

Applicants: Alliance Pipeline L.P.

Description: Section 4(d) Rate Filing: October 1—31 2015 Auction to be effective 10/1/2015.

Filed Date: 9/29/15.

Accession Number: 20150929–5244.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP15–1313–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Section 4(d) Rate Filing: Negotiated & Non-Conforming ESE—SWN 145882 to be effective 10/1/2015.

Filed Date: 9/30/15.
Accession Number: 20150930–5000.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1314–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Negotiated Rate Agreement—EQT Energy effective 10–01–2015 to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5014.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1315–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) Rate Filing: DTI—Index-Based Penalties to be effective 11/1/2015
Filed Date: 9/30/15
Accession Number: 20150930–5043
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1316–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) Rate Filing: DTI—2015 Annual EPCA to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5046.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1317–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Section 4(d) Rate Filing: ETNG Cashout and Pooling Revisions to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5052.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1318–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Compliance filing AGT 2015 OFO Penalty Disbursement Report.
Filed Date: 9/30/15.
Accession Number: 20150930–5054.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1319–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) Rate Filing: 20150930 Miscellaneous Filing to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5057.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1320–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: Negotiated Rate Agreement Update (APS Oct 2015) to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5061.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1322–000.
Applicants: Sabine Pipe Line LLC.
Description: Section 4(d) Rate Filing: Sabine Pipe Line Section 4 Rate Case (2015) to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5060.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1323–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) Rate Filing: DTI–2015 Annual TCRA to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5062.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1324–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Section 4(d) Rate Filing: Revisions to Agreement Forms to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5078.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1325–000.
Applicants: Dominion Carolina Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: PEG Non-Conforming Agreement Tariff Filing to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5087.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1326–000.
Applicants: Kern River Gas Transmission Company.
Description: Section 4(d) Rate Filing: 2015 Anadarko to CRC to be effective 9/30/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5112.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1327–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Compliance filing MNUS FRQ 2015 Filing to be effective N/A.
Filed Date: 9/30/15.
Accession Number: 20150930–5125.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1328–000.
Applicants: Texas Eastern Transmission, LP.
Description: Section 4(d) Rate Filing: Negotiated Rate—Emera 911294 to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5127.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1329–000.
Applicants: Kern River Gas Transmission Company.
Description: Section 4(d) Rate Filing: 2015 Chevron to SWG to be effective 9/30/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5139.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1331–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing OPEN Project 11–1–2015 In-Service NonConf Compliance—CP14–68 to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5201.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1332–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) Rate Filing: Non-Conforming Agreement Filing (Mex Gas, SWG) to be effective 11/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5236.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1333–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Penalty Revenue Crediting Report of Natural Gas Pipeline Company of America LLC under RP15–1333.
Filed Date: 9/30/15.
Accession Number: 20150930–5265.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1334–000.
Applicants: Young Gas Storage Company, Ltd.
Description: Operational Purchases and Sales Report of Young Gas Storage Company, Ltd. under RP15–1334.
Filed Date: 9/30/15.
Accession Number: 20150930–5266.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP15–1335–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Operational Purchases and Sales Report of Wyoming Interstate Company, L.L.C. under RP15–1335.
Filed Date: 9/30/15.
Accession Number: 20150930–5267.
Comments Due: 5 p.m. ET 10/13/15.

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 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–26113 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14694–000; Project No. 14711–000]

Lock+™ Hydro Friends Fund XI, LLC; Energy Resources USA Inc.; Notice of Competing Preliminary Permit Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 20, 2015, and September 2, 2015 Lock+™ Hydro Friends Fund XI, LLC (Hydro Friends Fund) and Energy Resources USA Inc. (Energy Resources) respectively, filed preliminary permit applications pursuant to section 4(f) of the Federal Power Act proposing to study the feasibility of a hydropower project, to be located at the existing Mississippi River Lock and Dam No. 25 on the Mississippi River, near the city of Winfield in Lincoln County, Missouri and Calhoun County, Illinois. Mississippi River Lock and Dam No. 25 is owned by the United States government and operated by the United States Army Corps of Engineers. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owner's express permission.

Hydro Friends Fund's proposed project would consist of: (1) Three new 450-foot-wide by 25-foot-deep modular hydropower systems, each containing ten new 1-megawatt (MW) turbine-generator units, having a total combined generating capacity of 30 megawatts; (2) a new 200-foot-long by 450-foot-wide tailrace; (3) a new 7-mile-long, 69-kilovolt transmission line; (4) a new 25-foot by 50-foot switchyard; and (5) appurtenant facilities. The project would have an estimated annual generation of 170,000 megawatt-hours.

Applicant Contact: Mr. Wayne Krouse, P.O. Box 43796, Birmingham, AL 35243; (877) 556–6566, extension 709.

Energy Resources' proposed project would consist of: (1) A new 770-foot-long by 300-foot-wide intake area; (2) a new 90-foot by 220-foot reinforced concrete powerhouse; (3) four 3–MW turbine-generators, having a total combined generating capacity of 12–MW; (4) a new 1,000-foot-long by 220-foot-wide tailrace area; (5) a new 40-foot by 35-foot substation; (6) a new 50-foot-wide by 60-foot-long substation; (7) a new 7.69-mile-long, 115-kilovolt transmission line; and (8) appurtenant facilities. The project would have an estimated annual generation of 101.9 gigawatt-hours.

Applicant Contact: Mr. Ander Gonzalez, 2655 Le June Road, Suite 804, Coral Gables, FL 33134; +34 93 252 3840.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14694–000 or P–14711–000.

More information about this project, including a copy of either application can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14694 or P–14711) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26070 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–1–000]

Heartland Consumers Power District; Notice of Petition for Waiver

Take notice that on October 5, 2015, Heartland Consumers Power District, on behalf of itself and its customers (Petitioner) filed a petition for waiver of certain of the

Federal Energy Regulatory Commission's (Commission) regulations implementing section 210 of the Public Utility Regulatory Policies Act of 1978 (U.S.C. 824a–3). Specifically, Petitioner seek waiver of their obligation under 18 CFR 292.303(a) to purchase power directly from Qualifying Facilities, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on October 26, 2015.

Dated: October 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26081 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–10–000]

NRG Chalk Point CT 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 NRG Chalk Point CT 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 27, 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: October 7, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–26115 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–27–000]

Venture Global Plaquemines LNG, LLC; Notice of Intent To Prepare anEnvironmental Impact Statement for the Planned Plaquemines LNG Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Plaquemines LNG Project involving construction and operation of facilities by Venture Global Plaquemines LNG, LLC (Plaquemines LNG) in Plaquemines Parish and Jefferson Parish, Louisiana. The Commission will use this EIS in its decision-making process to determine whether the project is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us [1] with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 4, 2015.

If you sent comments on this project to the Commission before the opening of this docket on July 2, 2015, you will need to file those comments in Docket No. PF15–27–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF15–27–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend the public scoping meeting its staff will conduct in the project area, scheduled as follows: FERC Public Scoping Meeting, Plaquemines LNG Project, October 21, 2015 at 6:00 p.m., Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, LA 70037.

We will begin our sign-up of speakers at 5:30 p.m. The scoping meeting will begin at 6:00 p.m. with a description of our environmental review process by Commission staff, after which speakers will be called. The meeting will end once all speakers have provided their comments or at 9:00 p.m., whichever comes first. Please note that there may be a time limit of three minutes to present comments, and speakers should structure their comments accordingly. If time limits are implemented, they will be strictly enforced to ensure that as many individuals as possible are given an opportunity to comment. The meetings will be recorded by a stenographer to ensure comments are accurately recorded. Transcripts will be entered into the formal record of the Commission proceeding.

Plaquemines LNG representatives will be present one hour prior to the start of the scoping meeting to provide additional information about the project and to answer questions.

Please note this is not your only public input opportunity; please refer to the review process flow chart in appendix 1.[2]

Summary of the Planned Project

Plaquemines LNG plans to construct and operate natural gas liquefaction and export facilities at a planned liquefied natural gas (LNG) terminal on the west bank of the Mississippi River in Plaquemines Parish, Louisiana (Terminal) and construct and operated associated lateral pipelines in Plaquemines and Jefferson parishes that would connect the Terminal to the existing interstate U.S. natural gas grid. The Plaquemines LNG Project would provide total liquefaction nameplate capacity of about 978 billion cubic feet per year (Bcf/yr) of natural gas. According to Plaquemines LNG, the project would provide a cost-effective outlet for new domestic natural gas available for the market.

The Plaquemines LNG Project would be constructed in two phases and would consist of the following facilities:

A liquefaction plant consisting of ten liquefaction blocks in Phase 1 and ten liquefaction blocks in Phase 2, with each block having a nameplate capacity of 1.0 million tonnes per annum (with higher capacity during peak conditions);

Four 200,000-cubic-meter (m^3) LNG aboveground storage tanks;

Three marine loading berths capable of receiving ocean-going LNG carriers of between 120,000 m^3 and 210,000 m^3 capacity;

One temporary floating LNG storage vessel;

One utility dock on the Mississippi River;

A combined cycle gas turbine power plant with a generating capacity for Phase 1 of approximately 720 megawatts (MW), which would be expanded in Phase 2 to include an additional 720 MW of generating capacity;

The Southeast Lateral Pipeline, consisting of about 12.1 miles of 42-inch-diameter pipeline in Plaquemines Parish, with a gas supply capability of 0.85 billion cubic feet per day (Bcf/d) for Phase 1;

The Southwest Lateral Pipeline, consisting of about 11.1 miles of 42-inch-diameter pipeline in Plaquemines Parish, with a gas supply capability of 0.85 Bcf/d for Phase 1;

The Northwest Lateral Pipeline, consisting of about 21.2 miles of 42-inch-diameter pipeline in Jefferson Parish, with a gas supply capability of 1.7 Bcf/d for Phase 2;

Four meter stations, each with a pig[3] launcher and pressure regulating valve;

A gas gate station located at the Terminal, with pig receivers, filter/separators, custody transfer meters, pressure regulators, emergency shutdown valves, and gas analyzers; and

Mainline valves (MLV).

The general location of the project facilities is shown in appendix 2.[4]

Land Requirements for Construction

Construction of the planned facilities would disturb about 1,233.2 acres of land for the aboveground facilities and the pipeline. Following construction, Plaquemines LNG would maintain about 910.3 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The Terminal would include a construction workspace area of 632.6 acres, all of which would be maintained and used during operations. The three lateral pipelines and associated facilities, including access roads, and contractor yards/staging areas are still in the design stages; however, the temporary construction workspace would include about 600.6 acres, and about 277.7 acres would be maintained during operation.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS, we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

Geology and soils;

Land use;

Water resources, fisheries, and wetlands;

Cultural resources;

Vegetation and wildlife including migratory birds;

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or by calling (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[4] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or by calling (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Air quality and noise;
Endangered and threatened species;
Public safety;
Socioeconomics; and
Cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Louisiana State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE, at a minimum, encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Plaquemines LNG. This preliminary list of issues may change based on your comments and our analysis.

Threatened and endangered species;
Fish, wildlife, and vegetation;
Land use and aesthetics;
Socioeconomics;
Marine traffic;
Public safety and reliability: the LNG pipelines would cross State Highway 23, or State Highway 23 would need to be relocated;
Air quality and noise;
Water use and quality; and
Cumulative impacts.

Environmental Mailing List

The environmental mailing list includes: federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in, and/or potentially affected by, the planned project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 3).

Becoming an Intervenor

Once Plaquemines LNG files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF15–27–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription, which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities can be found at Title 40, Code of Federal Regulations, Part 1501.6.

[6] The Advisory Council on Historic Preservation regulations can be found at Title 36, Code of Federal Regulations, Part 800. These regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Dated: October 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26075 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 6474–002, 7982–003]

Peer Electric, LLC; KC Pittsfield LLC; Notice of Transfer of Exemptions

By letter filed September 21, 2015, Peer Electric, LLC (Peer) informed the Commission that the exemption from licensing for the Eastman Brook Project, FERC No. 6474, originally issued September 7, 1982,[1] has been transferred to KC Pittsfield LLC. Also, the Celley Mill Project, FERC No. 7982, originally issued September 24, 1984,[2] has been transferred to KC Pittsfield LLC. The projects are located on Eastman Brook in Grafton County, New Hampshire. The transfer of exemptions do not require Commission approval.

2. KC Pittsfield LLC is now the exemptee of the Eastman Brook Project, FERC No. 6474 and the Celley Mill Project, FERC No. 7982. All correspondence should be forwarded to: Kelly W. Sackheim, KC Pittsfield LLC, c/o Landry Associates Certified Public Accountants, PA, 6 Chenell Drive 280, Concord, New Hampshire 03301.

Dated: October 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26073 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–29–000]

Greenidge Generation 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 Greenidge Generation 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 27, 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: October 7, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–26116 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,426, Notice of Exemption From Licensing (1982).

[2] 28 FERC ¶ 62,429, Order Granting Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less (1984).

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: EC16–5–000.

Applicants: Little Elk Wind Project, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of Little Elk Wind Project, LLC.

Filed Date: 10/7/15.

Accession Number: 20151007–5067.

Comments Due: 5 p.m. ET 10/28/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2179–030; ER10–2181–030; ER10–2182–030.

Applicants: Calvert Cliffs Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC, R.E. Ginna Nuclear Power Plant, LLC.

Description: Notice of Non-material Change in Status of the CENG Nuclear Entities.

Filed Date: 10/7/15.

Accession Number: 20151007–5162.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER10–2331–037; ER14–630–014; ER10–2319–029; ER10–2317–029; ER13–1351–011; ER10–2330–036.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA 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: 10/7/15.

Accession Number: 20151007–5138.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER10–2331–038; ER14–630–015; ER10–2319–030; ER10–2317–030; ER13–1351–012; ER10–2330–037.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA 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: 10/7/15.

Accession Number: 20151007–5141.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER10–2331–039; ER14–630–016; ER10–2319–031; ER10–

2317–031; ER13–1351–013; ER10–2330–038.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA 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: 10/7/15.

Accession Number: 20151007–5148.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER10–2331–041; ER14–630–018; ER10–2319–033; ER10–2317–033; ER13–1351–015; ER10–2330–040.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA 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: 10/7/15.

Accession Number: 20151007–5170.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER15–2211–003.

Applicants: MidAmerican Energy Services, LLC.

Description: Compliance filing: ER15–2211–000 Compliance Filing to be effective 9/14/2015.

Filed Date: 10/7/15.

Accession Number: 20151007–5110.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER15–2380–000.

Applicants: Willey Battery Utility, LLC.

Description: Request of Willey Battery Utility, LLC to Change Effective Date of Market-Based Wholesale Power Sales Tariff.

Filed Date: 10/7/15.

Accession Number: 20151007–5140.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER15–2483–001.

Applicants: LRI Renewable Energy LLC.

Description: Tariff Amendment: Emerald City Amendment to LRI—Refile to be effective 10/7/2015.

Filed Date: 10/7/15.

Accession Number: 20151007–5101.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER16–30–000.

Applicants: PJM Interconnection, L.L.C.

Description: Section 205(d) Rate Filing: First Revised Interconnection Service Agreement No. 2005, Queue No. Y2–064 to be effective 9/11/2015.

Filed Date: 10/6/15.

Accession Number: 20151006–5298.

Comments Due: 5 p.m. ET 10/27/15.

Docket Numbers: ER16–31–000.

Applicants: Otter Tail Power Company.

Description: Initial rate filing: Operating Services Agreement with Central Power Electric Cooperative, Inc. to be effective 10/15/2015.

Filed Date: 10/6/15.

Accession Number: 20151006–5319.

Comments Due: 5 p.m. ET 10/27/15.

Docket Numbers: ER16–32–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2015–10–07—Module A, Section 3 Ancillary Services Revisions to be effective 12/6/2015.

Filed Date: 10/7/15.

Accession Number: 20151007–5099.

Comments Due: 5 p.m. ET 10/28/15.

Docket Numbers: ER16–33–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2015–10–07—SA 2849 Consumers Energy Lake Winds Energy Park GIA to be effective 1/1/2016.

Filed Date: 10/7/15.

Accession Number: 20151007–5106.

Comments Due: 5 p.m. ET 10/28/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–67–000.

Applicants: Louisville Gas & Electric Company.

Description: Revised Exhibits C, D, and E to September 4, 2015 Application under Section 204 of the Federal Power Act of Louisville Gas and Electric Company.

Filed Date: 10/6/15.

Accession Number: 20151006–5237.

Comments Due: 5 p.m. ET 10/27/15.

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 7, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–26112 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14695–000; Project No. 14705–000]

Lock+™ Hydro Friends Fund X, LLC; Energy Resources USA Inc.; Notice of Competing Preliminary Permit Applications Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

On July 20, 2015, and August 26, 2015, Lock+™ Hydro Friends Fund X, LLC and Energy Resources USA Inc. respectively, filed preliminary permit applications pursuant to section 4(f) of the Federal Power Act proposing to study the feasibility of a hydropower project, to be located at the existing Mississippi River Lock and Dam No. 24 on the Mississippi River, near the city of Clarksville in Pike County, Missouri and Calhoun County, Illinois. Mississippi River Lock and Dam No. 24 is owned by the United States government and operated by the United States Army Corps of Engineers. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owner's express permission.

Lock+™ Hydro Friends Fund X, LLC's proposed project would consist of: (1) three new 450-foot-wide by 25-foot-deep modular hydropower systems, each containing ten new 1-megawatt (MW) turbine-generator units, having a total combined generating capacity of 30 megawatts; (2) a new 200-foot-long by 450-foot-wide tailrace; (3) a new 3-mile-long, 69-kilovolt transmission line; (4) a new 25-foot by 50-foot switchyard; and (5) appurtenant facilities. The project would have an estimated annual generation of 170,000 megawatt-hours.

Applicant Contact: Mr. Wayne Krouse, P.O. Box 43796, Birmingham, AL 35243; (877) 556–6566, extension 709.

Energy Resources USA Inc.'s proposed project would consist of: (1) a new 770-foot-long by 300-foot-wide intake area; (2) a new 90-foot by 220-foot reinforced concrete powerhouse; (3)

four 3–MW turbine-generators, having a total combined generating capacity of 12 MW; (4) a new 1,000-foot-long by 220-foot-wide tailrace area; (5) a new 60-foot-long by 50-foot-wide substation; (6) a new 50-foot-wide by 60-foot-long substation; (7) a new 5.49-mile-long, 115-kilovolt transmission line; and (8) appurtenant facilities. The project would have an estimated annual generation of 102.5 gigawatt-hours.

Applicant Contact: Mr. Ander Gonzalez, 2655 Le June Road, Suite 804, Coral Gables, FL 33134; +34 93 252 3840.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14695–000 or P–14705–000.

More information about this project, including a copy of either application can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14695 or P–14705) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26071 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7518–000]

Erie Boulevard Hydropower, L.P.; Saint Regis Mohawk Tribe; Notice of Authorization for Continued Project Operation

On September 30, 2013, Erie Boulevard Hydropower, L.P., and Saint Regis Mohawk Tribe, co-licensees for the Hogansburg Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Hogansburg Hydroelectric Project is located on the St. Regis River in Franklin County, New York.

The license for Project No.7518 was issued for a period ending September 30, 2015. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 7518 is issued to the licensee for a period effective October 1, 2015 through September 30, 2016 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before September 30, 2016, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the co-licensees, Erie Boulevard Hydropower, L.P., and Saint Regis Mohawk Tribe are authorized to continue operation of the Hogansburg Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: October 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26079 Filed 10–13–15; 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 has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR15–37–001 and PR15–37–002.

Applicants: Bay Gas Storage Company, Ltd.

Description: Submits tariff filing per 284.123(b), (e), (g): Amendment to Petition under NGPA Section 311 to be effective 6/8/2015; Filing Type: 1270.

Filed Dates: 10/2/15; 10/5/15.

Accession Numbers: 20151002–5097; 20151005–5226.

Comments Due: 5 p.m. ET 10/26/15.

284.123(g) Protests Due: 5 p.m. ET 10/26/15.

Docket Numbers: RP16–1–000.

Applicants: Texas Gas Transmission, LLC.

Description: Section 4(d) Rate Filing: 2015 Fuel Tracker Filing to be effective 11/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5077.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP16–2–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Section 4(d) Rate Filing: Fuel Filing on 10–1–15 to be effective 11/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5086.

Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP16–3–000.

Applicants: Trunkline Gas Company, LLC.

Description: Section 4(d) Rate Filing: Fuel Filing on 10–1–15 to be effective 11/1/2015.

Filed Date: 10/1/15.
Accession Number: 20151001–5087.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–4–000.
Applicants: Southwest Gas Storage Company.
Description: Section 4(d) Rate Filing: Fuel Filing on 10–1–15 to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5088.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–5–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) Rate Filing: 20151001 Remove Non-Conforming Service Agreements to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5095.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–6–000.
Applicants: WBI Energy Transmission, Inc.
Description: Annual Report of Penalty Revenue Credits of WBI Energy Transmission, Inc.
Filed Date: 10/1/15.
Accession Number: 20151001–5101.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–7–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: Amendments to Neg Rate Agmts (FPL 40097–15, 41618–14, 41619–9) to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5112.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–8–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: Neg Rate Agmt Filing (Noble 45015) to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5118.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–9–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: NC Agmts Filing (Foley 45321 and Brewton 45315) to be effective 9/30/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5122.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–10–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: Amendment to Neg Rate Agmt (Chevron 41610–9) to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5128.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–11–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) Rate Filing: Amendment to Neg Rate Agmt (Sequent 34693–37) to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5129.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–12–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Section 4(d) Rate Filing: EPCR Semi-Annual Adjustment—Fall 2015 to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5133.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–13–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Section 4(d) Rate Filing: Transporter's Use Gas Annual Filing—Fall 2015 to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5143.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–14–000.
Applicants: Midwestern Gas Transmission Company.
Description: Section 4(d) Rate Filing: Update Non-Conforming and Negotiated Rate Agreements to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5152.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–15–000.
Applicants: Viking Gas Transmission Company.
Description: Compliance filing Semi-Annual FLRP—Fall 2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5176.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–16–000.
Applicants: Enable Gas Transmission, LLC.
Description: Annual Report of Total Penalty Revenue Credits of Enable Gas Transmission, LLC.
Filed Date: 10/1/15.
Accession Number: 20151001–5245.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–17–000.
Applicants: Enable Gas Transmission, LLC.
Description: Annual Report of Linked Firm Service Penalty Revenue Credits of Enable Gas Transmission, LLC.
Filed Date: 10/1/15.
Accession Number: 20151001–5249.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–18–000.
Applicants: Texas Eastern Transmission, LP.
Description: Section 4(d) Rate Filing: Multiple Shipper Option Agreement for FT–1 Customers to be effective 11/15/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5259.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–19–000.
Applicants: Dominion Carolina Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: FRQ–TDA Filing—2015 to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5294.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–20–000.
Applicants: Golden Pass Pipeline LLC.
Description: Section 4(d) Rate Filing: 2015 Gas Tariff Clean up to be effective 11/2/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5333.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–21–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) Rate Filing: 20151001 Negotiated Rates to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5336.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–22–000.
Applicants: Transcontinental Gas Pipe Line Company,
Description: Section 4(d) Rate Filing: Revisions to Operational Impact Areas to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5339.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–23–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Negotiated Capacity Release Agreements- 10/01/2015 to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5340.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–24–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Scheduling of Services- Post Cycle Adjustments to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5352.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–25–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Section 4(d) Rate Filing: Negotiated Rate Service Agmt—Texla 156198 to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5386.
Comments Due: 5 p.m. ET 10/13/15.

Docket Numbers: RP16–26–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) Rate Filing: Negotiated & Non-Conforming Service Agmt—Broad Run Connector to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5391.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–27–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) Rate Filing: Remaining Storage Inventory Balances to be effective 11/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5409.
Comments Due: 5 p.m. ET 10/13/15.
Docket Numbers: RP16–28–000.
Applicants: Equitrans, L.P.
Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities.
Filed Date: 10/5/15.
Accession Number: 20151005–5134.
Comments Due: 5 p.m. ET 10/19/15.
Docket Numbers: RP16–29–000.
Applicants: DBM Pipeline, LLC.
Description: Section 4(d) Rate Filing: Summary of Negotiated Rate Agreements to be effective 10/1/2015.
Filed Date: 10/5/15.
Accession Number: 20151005–5136.
Comments Due: 5 p.m. ET 10/19/15.
Docket Numbers: RP16–30–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Section 4(d) Rate Filing: BP Energy Neg Rate eff 5–1–2018 to be effective 5/1/2018.
Filed Date: 10/5/15.
Accession Number: 20151005–5144.
Comments Due: 5 p.m. ET 10/19/15.
Docket Numbers: RP16–31–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Section 4(d) Rate Filing: Constellation Energy Negotiated Rate to be effective 11/1/2015.
Filed Date: 10/5/15.
Accession Number: 20151005–5252.
Comments Due: 5 p.m. ET 10/19/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–1204–001.
Applicants: DBM Pipeline, LLC.
Description: Compliance filing Compliance Filing to be effective 10/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5089.
Comments Due: 5 p.m. ET 10/13/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–26114 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–562–000]

Gulf South Pipeline Company, LP; Notice of Application

Take notice that on September 29, 2015, Gulf South Pipeline Company, LP (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP15–562–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) requesting an order authorizing the abandonment by sale to Enerfin Field Services LLC of approximately 26.65 miles of 14-inch-diameter pipeline, ancillary auxiliary facilities, and appurtenances, and four certificated field gathering laterals located in Jasper and Newton counties, Texas and Beauregard Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Nell Gutierrez, Regulatory Affairs, Gulf South Pipeline, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046 at (713) 479–8252.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project

provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 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 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26077 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC16–1–000]

Commission Information Collection Activities (FERC–725K); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725K (Mandatory Reliability Standards for the SERC Region).

DATES: Comments on the collection of information are due [insert date that is 60 days after publication in the **Federal Register**].

ADDRESSES: You may submit comments (identified by Docket No. IC16–1–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Mandatory Reliability Standards for the SERC Region.

OMB Control No.: 1902–0260.

Type of Request: Three-year extension of the FERC–725K information collection requirements with no changes to the current reporting requirements.

Abstract: Section 215 of the Federal Power Act (FPA) requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.

Reliability Standards that NERC proposes to the Commission may include Reliability Standards that are proposed by a Regional Entity to be effective in that region. In Order No. 672, the Commission noted that:

> As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) a regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.

When NERC reviews a regional Reliability Standard that would be applicable on an interconnection-wide basis and that has been proposed by a Regional Entity organized on an interconnection-wide basis, NERC must rebuttably presume that the regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In turn, the Commission must give ''due weight'' to the technical expertise of NERC and of a Regional Entity organized on an interconnection-wide basis.

On April 19, 2007, the Commission accepted delegation agreements between NERC and each of the eight Regional Entities. In the order, the Commission accepted SERC as a Regional Entity organized on less than an interconnection-wide basis. As a Regional Entity, SERC oversees Bulk-Power System reliability within the SERC Region, which covers a geographic area of approximately 560,000 square miles in a sixteen-state area in the southeastern and central United States (all of Missouri, Alabama, Tennessee, North Carolina, South Carolina, Georgia, Mississippi, and portions of Iowa, Illinois, Kentucky, Virginia, Oklahoma, Arkansas, Louisiana, Texas and Florida). The SERC Region is currently geographically divided into five subregions that are identified as Southeastern, Central, VACAR, Delta, and Gateway.

Type of Respondents: Entities registered with the North American

Electric Reliability Corporation (within the SERC region).

Estimate of Annual Burden [1]*:* The Commission estimates the annual public reporting burden for the information collection as:

FERC–725K: MANDATORY RELIABILITY STANDARD FOR THE SERC REGION

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden and cost per response [2] (4)	Total annual burden hours and total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
PCs: Design and Document Automatic UFLS Program	[3] 21	1	21	8 $532	168 [4] $11,172	$532
PCs: Provide Documentation and Data to SERC	[3] 21	1	21	16 $1,064	336 $22,344	$1,064
GOs: Provide Documentation and Data to SERC	[5] 104	1	104	16 $1,064	1,664 [6] $110,656	$1,064
GOs: Record Retention	[5] 104	1	104	4 $150	416 [7] $15,600	$150
Total				125	2,584 $159,772	$2,810

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26082 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14710–000]

Energy Resources USA Inc.; Notice of Preliminary Permit Application Accepted For Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 2, 2015, the Energy Resources USA Inc. filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Lock and Dam No.22 Hydroelectric Project No. 14710–000, to be located at the existing Mississippi River Lock and Dam No. 22 on the Mississippi River, near the City of Hannibal, in Ralls County, Missouri and Pike County, Illinois. The Mississippi River Lock and Dam No. 22 is owned by the United States government and operated by the U.S. Army Corps of Engineers.

The proposed project would consist of: (1) A new 770-foot-long by 300-foot-wide earthen intake area; (2) a new 220-foot by 90-foot reinforced concrete powerhouse containing four 2-megawatt Kaplan hydropower turbine-generators having a total combined generating capacity of 8.0 megawatts; (3) one new 1000-foot-long by 220-foot-wide tailrace; (4) a new 85-foot-long by 43-foot-high by 3-foot-thick intake retaining wall and a new 40-foot-long by 43-foot-high by 3-foot-thick tailrace retaining wall; (5) a new 60-foot-long by 50-foot-wide substation; (6) a new 6.54-mile-long, 115-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated annual generation of 66.4 gigawatt-hours.

Applicant Contact: Mr. Ander Gonzalez, 2655 Le Jeune Road, Suite 804, Coral Gables, Florida 33134; telephone +34 932523840.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices

[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] The $66.45 hourly cost figure (including benefits) comes from the cost of an engineer as posted on the Bureau of Labor Statistics (BLS) Web site: *http://www.bls.gov/oes/current/naics2_22.htm#11-0000* (wage category 17–2071).

[3] Both figures for PC respondents are not to be totaled. They represent the same set of respondents.

[4] The $66.45 hourly cost figure (including benefits) comes from the cost of an engineer as posted on the Bureau of Labor Statistics (BLS) Web site: *http://www.bls.gov/oes/current/naics2_22.htm#11-0000* (wage category 17–2071).

[5] Both figures for GO respondents are not to be totaled. They represent the same set of respondents.

[6] The hourly cost for GOs uses the hourly reporting cost of $66.45 per hour is based on the cost (including benefits) of an engineer to implement the requirements of the rule.

[7] The record retention cost of $37.50 per hour (including benefits) comes from Commission staff research on record retention requirements (wage category 43–4199 for information and record clerks).

of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The first page of any filing should include docket number P–14710–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14710) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26074 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

Grant Wind, LLC	EG15–102–000
McCoy Solar, LLC	EG15–103–000
Javelina Wind Energy, LLC	EG15–104–000
Prairie Breeze Wind Energy III LLC	EG15–105–000
GenOn Mid-Atlantic, LLC	EG15–106–000
Cedar Bluff Wind, LLC	EG15–107–000

Take notice that during the month of September 2015, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: October 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26080 Filed 10–13–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2006–0361; FRL—9935–37–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Trade Secrets Claims for Community Right-to-Know and Emergency Planning (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Trade Secrets Claims for Community Right-to-Know and Emergency Planning (EPCRA Section 322) (Renewal)'' (EPA ICR No. 1428.10, OMB Control No. 2050–0078) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 35355) on June 19, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 13, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2006–0361, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This information collection request pertains to trade secrecy claims submitted under Section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). EPCRA contains provisions requiring facilities to report to State and local authorities, and EPA, the presence of extremely hazardous substances (Section 302), inventory of hazardous chemicals (Sections 311 and 312) and manufacture, process and use of toxic chemicals (Section 313). Section 322 of EPCRA allows a facility to withhold the specific chemical identity from these EPCRA reports if the facility asserts a claim of trade secrecy for that chemical identity. The provisions in Section 322 establish the requirements and procedures that facilities must follow to request trade secrecy treatment of chemical identities, as well as the procedures for submitting public petitions to the Agency for review of the ''sufficiency'' of trade secrecy claims.

Trade secrecy protection is provided for specific chemical identities contained in reports submitted under each of the following: (1) Section 303(d)(2)—Facility notification of changes that have or are about to occur, (2) Section 303(d)(3)—Local Emergency Planning Committee (LEPC) requests for facility information to develop or implement emergency plans, (3) Section 311—Material Safety Data Sheets (MSDSs) submitted by facilities, or lists of those chemicals submitted in place of the MSDSs, (4) Section 312—Emergency and hazardous chemical inventory forms (Tier I and Tier II), and (5) Section 313 Toxic chemical release inventory form.

Form Numbers: EPA Form 9510–1.

Respondents/affected entities: Manufacturers or non-manufacturers

subject to reporting under Sections 303, 311/312 or 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 317.

Frequency of response: Annual with reports submitted under Sections 312 and 313.

Total estimated burden: 3,011 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $229,920 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 143 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to reduction in the number of trade secret claims submitted.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–26017 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID: EPA–HQ–OA–2015–0002; FRL 9935–72–OA]

Farm, Ranch, and Rural Communities Committee (FRRCC); Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency (EPA) hereby provides notice of a meeting of the Farm, Ranch, and Rural Communities Committee (FRRCC). This meeting is open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the FRRCC. For additional information about registering for public comment, please refer to the **SUPPLEMENTARY INFORMATION** section. Due to limited space, seating at the FRRCC meeting will be limited to a first-come, first-served basis.

DATES: The Farm, Ranch, and Rural Communities Committee will convene on Thursday, October 22, 2015, from 9:00 a.m. until 5:00 p.m. (Mountain Time).

One public comment period relevant to specific issues being considered by the FRRCC is schedule for Thursday, October 22, 2015, from 1:30 p.m. to 2:00 p.m. (Mountain Time). Members of the public who wish to participate during the public comment period are encouraged to pre-register by noon, (Eastern Standard Time), on Thursday, October 15, 2015.

ADDRESSES: The meeting will be held at the Colorado Department of Agriculture. The street address is 305 Interlocken Parkway, Broomfield, Colorado 80021. The meeting is open to the public with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning this meeting should be directed to Cheryl Woodward, US EPA, Office of the Administrator (MC1101A), 1200 Pennsylvania Avenue NW., Washington, DC 20460; via email at *woodward.cheryl@epa.gov,* or via telephone at 202–564–1274.

SUPPLEMENTARY INFORMATION: The FRRCC is a policy-oriented committee that provides policy advice, information, and recommendations to the EPA Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

The purpose of this meeting is to advance discussion of specific topics of unique relevance to agriculture such as exploring best practices to maintain soil health, the impact of soil health as it relates to air and water quality and the relationship between soil health and extreme weather events across the country, in such a way as to provide thoughtful advice and useful insights to the Agency as it crafts environmental policies and programs that affect and engage agriculture and rural communities. A copy of the meeting agenda will be posted at *http://www2.epa.gov/faca/frrcc.*

Public Comment: Individuals or groups making oral presentations during the public comment period will be limited to a total presentation time of five minutes. To accommodate large groups addressing the FRRCC, only one representative of an organization or group will be allowed to speak during the designated public comment period. Written comments received by noon, (Eastern Standard Time), October 15, 2015, will be included in the materials distributed to members of the FRRCC. Written comments received after that date and time will be provided to the FRRCC as time allows. Requests to make brief oral comments or provide written statements to the FRRCC should be sent to Cheryl Woodward at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Cheryl Woodward at 202–564–1274 or *woodward.cheryl@epa.gov.* To request special accommodations, please contact Cheryl Woodward, preferably at least four working days prior to the meeting, to allow sufficient time to process your request.

Dated: October 7, 2015.

Ron Carleton,

Counselor to the Administrator for Agricultural Policy.

[FR Doc. 2015–26140 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2005–0008; FRL–9935–39–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Emergency Planning and Release Notification Requirements (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Emergency Planning and Release Notification Requirements (EPCRA Sections 302, 303, and 304) (Renewal)'' (EPA ICR No. 1395.09, OMB Control No. 2050–0092) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 35347) on June 19, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 13, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2005–0008, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T,

1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The authority for the emergency planning and emergency release notification requirements is Sections 302, 303, and 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA) 1986 (42 U.S.C. 11002, 11003, and 11004). EPCRA established broad emergency planning and facility reporting requirements. Section 302 requires facilities to notify their state emergency response commission (SERC) and the local emergency planning committee (LEPC) that the facility is subject to emergency planning. This activity completed soon after the law was passed. Only new facilities that may become subject to these requirements must notify the SERC and the LEPC. Currently covered facilities are required to notify the LEPC of any changes that occur at the facility which would be relevant to emergency planning. Section 303 requires the LEPC to prepare local emergency response plans for their planning district using the information provided by facilities under Section 302. LEPC may request any information from facilities necessary to develop emergency response plans. Emergency response plans were developed within few months after the law was passed. LEPCs are required to review and update the plan at least annually or more frequently as changes occur in the community. Section 304 requires facilities to report to SERCs and LEPCs releases in excess of the reportable quantities listed for each extremely hazardous substance (EHS). This ICR also covers the notification and the written follow-up required under Section 304. The implementing regulations are codified in 40 CFR part 355. EPA does not expect any new facilities to come into compliance under Section 302 during this ICR period. This ICR only covers periodic reporting or updates of information submitted previously by existing facilities under Section 302.

Form Numbers: None.

Respondents/Affected Entities: Chemical manufacturers, non-chemical manufacturers, retailers, petroleum refineries, utilities.

Estimated Number of Respondents: 108,556.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 255,456 hours.

Estimated Total Annual Cost: $9,113,389, includes $68,820 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 11,750 hours from the previous ICR due to the decrease in the number of release notifications to the National Response Center.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–26018 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9935–77–OAR]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet on December 3, 2015. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www2.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac.* MSTRS listserv subscribers will receive notification when the agenda is available on the Subcommittee Web site. To subscribe to the MSTRS listserv, send an email to *Etchells.elizabeth@epa.gov.*

DATES: Tuesday, December 3, 2015 from 9:00 a.m. to 3:15 p.m. Registration begins at 8:30 a.m.

ADDRESSES: The meeting is currently scheduled to be held at the Port of Long Beach Maintenance Yard, 725 Harbor Plaza, Long Beach, CA 90802. However, this date and location are subject to change and interested parties should monitor the Subcommittee Web site (above) for the latest logistical information.

FOR FURTHER INFORMATION CONTACT: Elizabeth Etchells, Designated Federal Officer, Transportation and Climate Division, Mailcode 6406A, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Ph: 202–343–9231; email: *Etchells.elizabeth@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www2.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac.* Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Etchells at the address above by November 20, 2015. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Supplementary: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Ms. Etchells (see above). To request accommodation of a disability, please contact Ms. Etchells, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: October 6, 2015.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2015–26141 Filed 10–13–15; 8:45 am]

BILLING CODE 6560–50–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 28, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Steven L. Anderson and L.F. Anderson, both of Hastings, Nebraska; Linda K. Anderson, Rochester, Minnesota; Kenneth S. Turner and Steven R. Turner, both of Trumbull, Nebraska, and Dennis E. Turner, Hastings, Nebraska;* to acquire voting shares of Doniphan Bancshares, Inc., and thereby indirectly acquire voting shares of the Bank of Doniphan, both in Doniphan, Nebraska.

Board of Governors of the Federal Reserve System, October 8, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–26061 Filed 10–13–15; 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 6, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *FFW Corporation,* Wabash, Indiana; to become a bank holding company following the conversion of its subsidiary bank, Crossroads Bank, Wabash, Indiana, from a federal savings bank to an Indiana state chartered commercial bank.

Board of Governors of the Federal Reserve System, October 8, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–26060 Filed 10–13–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0152; Docket 2015–0055; Sequence 17]

Submission for OMB Review; Service Contracting

AGENCY: 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 currently approved information collection requirement concerning service contracting. A notice was published in the **Federal Register** at 80 FR 43778 on July 23, 2015. No comments were received.

DATES: Submit comments on or before November 13, 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 searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0152, Service Contracting''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0152, Service Contracting'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0152, Service Contracting.

Instructions: Please submit comments only and cite Information Collection 9000–0152, Service Contracting, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–208–4949 or via email at *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The policies implemented at FAR 37.115, Uncompensated Overtime, are based on Section 834 of Public Law 101–510 (10 U.S.C. 2331). The policies

require insertion of FAR provision 52.237–10, Identification of Uncompensated Overtime, in all solicitations valued above the simplified acquisition threshold, for professional or technical services to be acquired on the basis of the number of hours to be provided.

The provision requires that offerors identify uncompensated overtime hours, in excess of 40 hours per week, and the uncompensated overtime rate for direct charge Fair Labor Standards Act—exempt personnel. This permits Government contracting officers to ascertain cost realism of proposed labor rates for professional employees and discourages the use of uncompensated overtime.

B. Annual Reporting Burden

The burden placed on offerors is the time required to identify and support any hours in excess of 40 hours per week included in their proposal or subcontractor's proposal. It is estimated that there will be 17,500 service contracts awarded annually at $100,000 or more, of which 65 percent or 11,375 contracts will be competitively awarded. About 7 proposals will be received for each contract award. Of the total 79,625 (11,375 × 7) proposals received, only 25 percent or 19,906 proposals are expected to include uncompensated overtime hours. It is estimated that offerors will take about 30 minutes to identify and support any hours in excess of 40 hours per week included in their proposal or subcontractor's proposal.

Number of Respondents: 19,906.
Responses per Respondent: 1.
Total Annual Responses: 19,906.
Average Burden Hours per Response: .5.
Total Burden Hours: 9,953.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0152, Service Contracting, 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. 2015–26011 Filed 10–13–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0055; Docket 2015–0055; Sequence 12]

Submission for OMB Review; Novation/Change of Name 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 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 Novation/Change of Name Requirements. A notice was published in the **Federal Register** at 80 FR 26257 on May 7, 2015. No comments were received.

DATES: Submit comments on or before November 13, 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 searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0076, Novation/Change of Name Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0076, Novation/Change of Name Requirements'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0076, Novation/Change of Name Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0076, Novation/Change of Name 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, 202–208–4949 or via email *curtis.glover@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation 42.1203 and 42.1204 provide requirements for contractors to request novation/change of name agreements and supporting documents when a firm performing under Government contracts wishes the Government to recognize (1) a successor in interest to these contracts, or (2) a name change, it must submit certain documentation to the Government.

B. Annual Reporting Burden

Respondents: 1,178.
Responses per Respondent: 1.
Annual Responses: 1,178.
Hours per Response: 2.0.
Total Burden Hours: 2,356.

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. 9000–0076, Novation/Change of Name 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. 2015–26012 Filed 10–13–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2015–0059]

Proposed Revised Vaccine Information Materials for Meningococcal ACWY and Serogroup B Meningococcal Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (NCVIA) (42 U.S.C. 300aa–26), the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) develops vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. HHS/CDC seeks written comment on the proposed updated vaccine information statements for meningococcal ACWY and serogroup B meningococcal vaccines.

DATES: Written comments must be received on or before December 14, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0059, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Written comments should be addressed to Suzanne Johnson-DeLeon, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and docket number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Skip Wolfe (*crw4@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road, NE., Atlanta, Georgia 30329.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

HHS/CDC is proposing updated versions of the meningococcal ACWY and serogroup B meningococcal vaccine information statements.

The vaccine information materials referenced in this notice are being developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and health care provider groups.

We invite written comment on the proposed vaccine information materials entitled ''Meningococcal ACWY Vaccines (MenACWY and MPSV4): What You Need to Know'' and ''Serogroup B Meningococcal Vaccine (MenB): What You Need to Know.'' Copies of the proposed vaccine information materials are available at *http://www.regulations.gov* (see Docket Number CDC–2015–0059).Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their mandatory use.

Dated: October 7, 2015.

Sandra Cashman,

Acting Director, Division of the Executive Secretariat, Office of the Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2015–26076 Filed 10–13–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Annual Survey of Refugees (Form ORR–9)

OMB No.: 0970–0033

Description: The Annual Survey of Refugees collects information on the social and economic characteristics of a random sample of refugees, Amerasians, and entrants who arrived in the United States in the five years prior to the date of the survey. The survey focuses on employment and other training, labor force participation, and welfare utilization rates. From the responses, the Office of Refugee Resettlement reports on the economic adjustment of refugees to the American economy. These data are used by Congress in its annual deliberations on refugee admissions and funding and by program managers in formulating policies for the future direction of the Refugee Resettlement Program.

Respondents: Refugees, Amerasians, and entrants

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–9 Annual Survey of Refugees	2,000	1	0.62	1,240
Request for Participation Letter	2,000	1	0.05	100
Estimated Total Annual Burden Hours				1,340

In compliance with the requirements of section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–25998 Filed 10–13–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3419]

General Considerations for Animal Studies for Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''General Considerations for Animal Studies for Medical Devices.'' FDA has developed this guidance document to assist industry in designing evaluation strategies for, and reporting the results of, animal studies for medical devices. The intent of this draft guidance is to provide a reference of best practices for the approach to, and conduct of, animal studies, and the presentation of animal study data intended to demonstrate that the device under study is sufficiently safe for early human experience (*e.g.,* to support an investigational device exemption (IDE) application) or to demonstrate device safety in support of a marketing application, while incorporating modern animal care and use strategies. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by January 12, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential,

if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3419 for ''General Considerations for Animal Studies for Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''General Considerations for Animal Studies for Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this guidance document to assist industry in designing evaluation strategies for, and reporting the results of, animal studies for medical devices. The animal studies utilized for the assessment of these devices typically provide initial evidence of device safety, their potential performance when used in a living system, and the biologic response that a living system may mount towards the device. The intent of this guidance is to provide a reference of best practices for the approach to, and conduct of, animal studies, and the presentation of animal study data intended to demonstrate that the device under study is sufficiently safe for early human experience (*e.g.,* to support an investigational device exemption application) or to demonstrate device safety in support of a marketing application, while incorporating modern animal care and use strategies. We encourage sponsors to consult with us if it they wish to use a non-animal testing method they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method.

This draft guidance, when finalized, will supersede the July 2010 guidance entitled ''Guidance for Industry and FDA Staff: General Considerations for Animal Studies for Cardiovascular Devices.''

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on General Considerations for Animal Studies for Medical Devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''General Considerations for Animal Studies for Medical Devices,'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1802 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 58 have been approved under OMB control number 0910–0119; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control numbers 0910–0231; and the collections of information in 21 CFR part 814, subpart H have been approved under OMB control number 0910–0332.

This draft guidance also refers to proposed collections of information described in FDA's August 14, 2014, draft guidance entitled, ''De Novo Classification Process (Evaluation of Automatic Class III Designations)'' (de novo draft guidance) (79 FR 47651). The proposed collections of information described in the de novo draft guidance are subject to review by OMB under the PRA. As required by the PRA, FDA has published an analysis of the proposed information collection described in the de novo draft guidance (79 FR 47651 at 47653) and has submitted them for OMB approval.

Dated: October 7, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–26055 Filed 10–13–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0128]

Prescription Drug User Fee Act; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until April 29, 2016, the comment period for the notice of public meeting that appeared in the **Federal Register** of May 13, 2015 (80 FR 27323). In the notice of public meeting, FDA invited public comment as the Agency begins the process to reauthorize the Prescription Drug User Fee Act (PDUFA) in fiscal years (FYs) 2018 to 2022. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is reopening the comment period on the notice of public meeting published May 13, 2015 (80 FR 27323). Submit either electronic or written comments by April 29, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0128 for ''Prescription Drug User Fee Act; Reopening of Comment Period.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Graham Thompson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1146, Silver Spring, MD 20993–0002, 301–796–5003.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 13, 2015, FDA published a notice of public meeting with a 30-day comment period following the public meeting and invited comments as the Agency began the process to reauthorize PDUFA in FYs 2018 to 2022.

FDA is reopening the comment period until April 29, 2016. The Agency believes that reopening the comment period for the notice of public meeting will allow adequate time for interested persons to submit comments.

Dated: October 7, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–26052 Filed 10–13–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3399]

Recommendations for Microbial Vectors Used for Gene Therapy; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled ''Recommendations for Microbial Vectors Used for Gene Therapy; Draft Guidance for Industry.'' The draft guidance provides investigational new drug application (IND) sponsors, with recommendations concerning IND submissions for microbial vectors used for gene therapy (MVGTs) in early-phase clinical trials. MVGTs meet the regulatory definition of

''biological product'', when such products are applicable to the prevention, treatment, or cure of a disease or condition of human beings. The draft guidance focuses on the chemistry, manufacturing, and control (CMC) information that sponsors should submit in an IND for MVGTs and provides an overview of preclinical and clinical considerations for these products. The draft guidance, when finalized, will supplement the guidance entitled, ''Guidance for FDA Reviewers and Sponsors: Content and Review of Chemistry, Manufacturing, and Control (CMC) Information for Human Gene Therapy Investigational New Drug Applications (INDs),'' dated April 2008 (April 2008 Guidance).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 14, 2015.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3399 for ''Recommendations for Microbial Vectors Used for Gene Therapy; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Paul E. Levine, Jr., Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled, ''Recommendations for Microbial Vectors Used for Gene Therapy; Draft Guidance for Industry.'' The draft guidance provides IND sponsors, with recommendations concerning IND submissions for MVGTs in early-phase clinical trials. MVGTs meet the definition of ''biological product'' in section 351(i) of the Public Health Service Act (42 U.S.C. 262), when such products are applicable to the prevention, treatment, or cure of a disease or condition of human beings. MVGTs include bacterial vectors such as *Salmonella, Listeria,* or *E. coli* genetically modified to express human tumor antigens, cytokines, growth factors, enzymes, therapeutic proteins, or nucleotides. MVGTs may also be generated by the modification (deletion, truncation, or point mutation) of chromosomal or episomal genes and by the insertion of foreign genetic material into the chromosome, or into naturally occurring episomes; or by the introduction of one or more plasmids. The MVGTs may consist of microbes that are either live, replication restricted (division under specific growth conditions), capable of limited or no cell divisions, or killed, or a combination of these forms. The guidance focuses on the CMC information that sponsors should submit in an IND for MVGTs and provides an overview of preclinical and clinical considerations for these products.

In the **Federal Register** of April 10, 2008 (73 FR 19511), FDA announced the availability of the April 2008 Guidance. In that guidance, FDA provided sponsors of a human gene therapy IND, including those with combination products that contain a human gene therapy biological product with a drug or device as part of the final product, with recommendations on CMC information that is to be included in an original IND. That guidance also provided instruction to FDA CMC reviewers about the information to record and assess as part of an IND review. The draft guidance, when finalized, will supplement the April 2008 Guidance.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on recommendations for MVGTs. It does not establish any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

The draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 211, 610, and 312 have been approved under OMB control numbers 0910–0139 and 0910–0114, respectively.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 7, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–26108 Filed 10–13–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: October 29, 2015 (10:30 a.m.–4:30 p.m.).

Place: Conference Call/Webinar Format.

Status: The meeting will be open to the public.

Purpose: The COGME provides advice and recommendations to the Secretary of the Department of Health and Human Services (the Secretary) on a range of issues including the supply and distribution of physicians in the United States, current and future physician shortages or excesses, issues relating to foreign medical school graduates, the nature and financing of medical education training, and the development of performance measures and longitudinal evaluation of medical education programs. COGME's reports are submitted to the Secretary and ranking members of the Senate Committee on Health, Education, Labor, and Pensions and the House of Representatives Committee on Energy and Commerce.

HRSA will conduct an orientation for new members prior to the start of the meeting. COGME will start its official meeting at 10:30 a.m. After the orientation, discussion will focus on one of the recommendations from the March 2015 meeting, namely, to identify actions COGME can take within its current authorities to achieve the development of a National Strategic Plan for Graduate Medical Education.

Agenda: The COGME agenda will be available 2 days prior to the meeting on the HRSA Web site at *http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html.*

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide written comments to the COGME should be sent to Dr. Joan Weiss, Designated Federal Official, using the address and phone number below. Individuals who plan to participate on the conference call and webinar should notify Dr. Weiss at least 3 days prior to the meeting, using the address and phone number below. Members of the public will have the opportunity to provide comments. Interested parties should refer to the meeting subject as the HRSA Council on Graduate Medical Education.

- The conference call-in number is 1–800–619–2521. The passcode is: 9271697.
- The webinar link is *https://hrsa.connectsolutions.com/cogme-2015/.*

Contact: Anyone requesting information regarding the COGME should contact Dr. Joan Weiss, Designated Federal Official within the Bureau of Health Workforce, Health Resources and Services Administration, in one of three ways: (1) Send a request to the following address: Dr. Joan Weiss, Designated Federal Official, Bureau of Health Workforce, Health Resources and Services Administration, Parklawn Building, Room 12C–05, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call (301) 443–0430; or (3) send an email to *jweiss@hrsa.gov.*

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015–26053 Filed 10–13–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–New–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before November 13, 2015.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–0990–New–30D for reference.

Information Collection Request Title: State and Territorial Health Disparities Survey Abstract: The Office of Minority Health (OMH), Office of the Secretary (OS) is requesting approval from the Office of Management and Budget (OMB) for a new data collection activity for the State and Territorial Health Disparities Survey (STHD Survey).

OMH has a long history of collaborating with states to improve minority health outcomes and reduce health and health care disparities. A strong partnership with state and territorial offices is a key to continue progress toward eliminating health disparities. To best facilitate continued partnerships, OMH needs information about the current activities, challenges, and resources within state and territorial offices of minority health. The State and Territorial Health Disparities Survey is intended to support OMH informational needs by collecting, organizing, and presenting a variety of information about states and U.S. territories, including the current status of minority health and health disparities, the organization and operation of state and territorial offices of minority health, and state/territorial implementation of federal standards and evidence-based practices designed to address disparities and improve minority health. The STHD Survey, which will focus on the activities, staffing, and funding of State Minority Health Entities, is part of a larger project to catalog the extent of health disparities and the activities underway to reduce them in each state and U.S. territory. The STHD Survey supports OMH's goals of working with states and territories to improve the health of racial and ethnic minority populations and eliminate health disparities. While existing, state/territorial-specific information sources (*e.g.,* quantitative data points available from the Agency for Healthcare Research and Quality's *National Healthcare Disparities Report State Snapshots*) offer important facts about the status of health disparities, they do not provide context around the efforts underway to reduce them. Likely Respondents—Data will be collected using semi-structured telephone interviews with state/territorial minority health entity directors (or their designees) in approximately 54 states and territories (50 states plus the District of Columbia and the U.S. territories of Guam, Puerto Rico, and the U.S. Virgin Islands). The purpose of this interview is to collect qualitative information about state/territory program goals and activities, partnerships, and organizational structure, as well as quantitative data elements on staffing and funding.

Form Name	Number of respondents	Number of responses per respondents	Average hours per response	Total burden hours
State and Territorial Survey	54	1	1.5	81
Total	54			81

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–26058 Filed 10–13–15; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0937–0166]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0937–0166, scheduled to expire on October 31, 2015. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before November 13, 2015.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 0937–0166 for reference.

Information Collection Request Title: HHS 42 CFR part 50, subpart B; Sterilization of Persons in Federally Assisted Family Planning Projects—OMB No. 0937–0166–Extension–OASH, Office of Population Affairs—Office of Family Planning.

Abstract: This is a request for extension of a currently approved collection for the disclosure and record-keeping requirements codified at 42 CFR part 50, subpart B (''Sterilization of Persons in Federally Assisted Family Planning Projects''). The consent form solicits information to assure voluntary and informed consent to persons undergoing sterilization in programs of health services which are supported by federal financial assistance administered by the Public Health Service (PHS). Consent forms are signed by individuals undergoing a federally funded sterilization procedure and certified by necessary medical authorities. Forms are incorporated into the patient's medical records and the agency's records. Through periodic site audits and visits, PHS staff review completed consent forms to determine compliance with the regulation. Thus, the purpose of the consent form is twofold. First, it serves as a mechanism to ensure that a person receives information about sterilization and voluntarily consents to the procedure. Second, it facilitates compliance monitoring. The Sterilization Consent

Form has added the expiration date on the Required Consent Form.

Likely Respondents: American citizens seeking federally- funded sterilizations.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Information collection	Number of respondents	Number of responses per respondent	Average burden per response	Total hours
Citizens Seeking Sterilization	Information Disclosure for *Sterilization Consent Form.*	100,000	1	1	100,000
Citizens Seeking Sterilization	Record-keeping for *Sterilization Consent Form.*	100,000	1	15/60	25,000
Total					125,000

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–26057 Filed 10–13–15; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Listing of Members of the Indian Health Service's Senior Executive Service Performance Review Board

The Indian Health Service (IHS) announces the individuals who will serve on the Indian Health Service's Senior Executive Service (SES) Performance Review Board (PRB). This action is being taken in accordance with Title 5, U.S.C., Section 4314 (c) (4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following individuals will serve on the IHS PRB, which oversees the evaluation of performance appraisals of the IHS SES members:

Elizabeth Fowler, Chair
Richie Grinnell
Susan Karol
Christopher Mandregan
Dean Seyler

For further information about the IHS PRB, contact the Office of Human Resources, Indian Health Service, 801 Thompson Avenue, TMP Suite 230, Rockville, Maryland 20852, telephone 301–443–6520 (not a toll-free number).

Dated: October 5, 2015.

Robert G. McSwain,

Deputy Director, Indian Health Service.

[FR Doc. 2015–26181 Filed 10–13–15; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary Studies.

Date: October 27, 2015.

Time: 12:00 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: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–12–265: Ancillary Clinical Studies in Biomarkers of Diabetes Complications (R01).

Date: November 20, 2015.

Time: 1:30 p.m. to 3:30 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: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Program Project on IBD.

Date: December 3, 2015.

Time: 1:15 p.m. to 4:45 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: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@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 7, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25993 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Area: Cardiovascular and Respiratory Sciences.

Date: November 2-3, 2015.

Time: 7:00 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: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 3010–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR14–274: Pediatric Pharmacogenetics.

Date: November 2, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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; CVRS Member Conflicts and Continuous Submissions.

Date: November 4, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Olga A Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological, Aging and Musculoskeletal Epidemiology.

Date: November 5, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: November 6, 2015.

Time: 10:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, *luow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; R15 AREA Review Panel.

Date: November 9, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–189: Lasker Clinical Research Scholars Program (S12).

Date: November 12, 2015.

Time: 12:00 p.m. to 2:00 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: Syed M Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@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 8, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26106 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological, Aging and Musculoskeletal Epidemiology.

Date: October 21, 2015.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Heidi B Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Significant Biological Problems.

Date: October 23, 2015.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 4192, MSC 7806, Bethesda, MD 20892, 301–451–4467, *howardz@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: NIDDK Translational Research.

Date: October 26, 2015.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Targets for Retina and Sclera Diseases.

Date: November 2, 2015.

Time: 9:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Behavioral Genetics and Epidemiology.

Date: November 2, 2015.

Time: 11:00 a.m. to 12:00 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: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Developmental Cell Biology.

Date: November 2, 2015.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiome and Related Sciences.

Date: November 3, 2015.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Metabolic Pathways.

Date: November 5, 2015.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–306: Developmental Pharmacology and Toxicology: Role of Ontogeny.

Date: November 5, 2015.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

(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 7, 2015.*

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25994 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of 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 Mental Health Special Emphasis Panel; NRSA Institutional Research Training (T32).

Date: November 2, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Psychiatric Gene Networks (R01 and Collaborative R01).

Date: November 4, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence Awards (K99).

Date: November 4, 2015.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: October 8, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26104 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; 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: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: October 28, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Ross D Shonat, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6196, MSC 7804, Bethesda, MD 20892, 301–435–2786, *ross.shonat@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, 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 7, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25995 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Support for Conference and Scientific Meetings (R13).

Date: October 26, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Minority Health and Health Disparities, Internet Assisted Meeting, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892

Contact Person: Xinli Nan, M.D., Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 435–3481, *Xinli.Nan@nih.gov.*

Dated: October 8, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26103 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Population Assessment of Tobacco and Health (PATH) Study (NIDA)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 30, 2015, pages 37276–37277 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_Submission@omb.eop.gov* or by fax to (202) 395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project, contact: Dr. Kevin P. Conway, Deputy Director, Division of Epidemiology, Services, and Prevention Research, NIDA, NIH, 6001 Executive Boulevard, Room 5185, Rockville, MD 20852; or call non-toll-free number (301) 443–8755 or Email your request, including your address to: *PATHprojectofficer@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Cognitive Interviews and Focus Groups for the Population Assessment of Tobacco and Health (PATH) Study (NIDA), 0925–0663, Expiration Date 11/30/2015, Revision, National Institute on Drug Abuse, National Institutes of Health (NIH), in partnership with the Food and Drug Administration (FDA).

Need and Use of Information Collection: This is a revision request for the Population Assessment of Tobacco and Health (PATH) Study to conduct cognitive interviews and focus groups, to support the development of the Study's questionnaires and other materials. The PATH Study is a national longitudinal cohort study of tobacco use behavior and health among the U.S. household population of adults age 18 and older and youth ages 12 to 17; the Study conducts annual interviews and collects biospecimens from adults to inform FDA's regulatory actions under the Family Smoking Prevention and

Control Act. Cognitive interviews and focus groups are qualitative methods to assess how people interpret, process, retrieve, and respond to phrases, questions, response options, and product images that may be used in the development of the PATH Study's questionnaires and other materials. These methods have previously been used to help the PATH Study improve the comprehensibility of its materials for Study participants, and to increase efficiencies in data collection and reduce duplication and its associated burden on participants and the public.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total annualized burden hours are 2,617.

ESTIMATED ANNUALIZED BURDEN HOURS

Activity name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Completing eligibility screener	Youth	1,600	1	10/60	267
	Adults	2,400	1	10/60	400
Examining concepts to be measured in PATH Study	Youth	100	1	90/60	150
	Adults	200	1	90/60	300
Examining assent forms for participation in PATH Study	Youth	200	1	90/60	300
Examining consent forms for participation in PATH Study	Adults	200	1	90/60	300
Examining other forms and materials to support PATH Study data collection	Adults	200	1	90/60	300
Examining PATH Study questionnaires	Youth	100	1	90/60	150
	Adults	300	1	90/60	450

Dated: October 7, 2015.

Genevieve deAlmeida-Morris,

Project Clearance Liaison, NIDA, NIH.

[FR Doc. 2015–26100 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel Innovative Technologies for Cancer Research.

Date: November 5–6, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove 9609 Medical Center Drive, Room 7W246 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nicholas J. Kenney, Ph.D. Scientific Review Officer Research Technology and Contract Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W246 Rockville, MD 20850 240–276–6374 *nicholas.kenney@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Quantitative Imaging for Evaluation of Responses to Cancer Therapies.

Date: November 12, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove 9609 Medical Center Drive, Room 7W246 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nicholas J. Kenney, Ph.D. Scientific Review Officer Research Technology and Contract Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W246 Rockville, MD 20850 240–276–6374 *nicholas.kenney@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Advanced Development and Validation of Emerging Molecular Analysis Technologies for Cancer Research.

Date: November 18, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove 9609 Medical Center Drive, Room 2E914 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Gerard Lacourciere, Ph.D. Scientific Review Officer Research Technology and Contract Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W248 Rockville, MD 20850 240–276–5457 gerard.lacourciere@nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Lasker Clinical Research Scholars Program.

Date: November 19, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove 9609 Medical Center Drive, Room 7W126 Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Caron Lyman, Ph.D. Chief, Scientific Review Officer Research Programs Review Branch Division of Extramural Activities National Cancer Institute 9609 Medical Center Drive, Room 7W126 Bethesda, MD 20892–9750 240–276–6348 *lymanc@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group Subcommittee A—Cancer Centers.

Date: December 4, 2015.

Time: 8:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications..

Place: Bethesda North Marriott Hotel & Conference Center 5701 Marinelli Road Rockville, MD 20852.

Contact Person: Shamala K. Srinivas, Ph.D. Associate Director Office of Referral, Review, and Program Coordination Division Of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W530 Bethesda, MD 20892–8328 240–276–6442 *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Center Support Grant.

Date: December 4, 2015.

Time: 10:45 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center 5701 Marinelli Road Bethesda, MD 20852.

Contact Person: David G. Ransom, Ph.D. Scientific Review Officer Resources and Training Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W124 Rockville, MD 20850 240–276–6351 *david.ransom@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Innovative Molecular Analysis Technologies for Cancer Research.

Date: December 8, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street Arlington, VA 22202.

Contact Person: Gerard Lacourciere, Ph.D. Scientific Review Officer Research technology and Contract Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W248 Rockville, MD 20850 240–276–5457 *gerard.lacourciere@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 8, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26101 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. The meeting is open to the public except for parts that are closed, as indicated on the agenda. Registration is requested for both attendance and oral comment and required to access the webcast. Information about the meeting and registration will be available at *http://ntp.niehs.nih.gov/go/165.*

DATES:

Meeting: December 1–2, 2015; it begins at 8:00 a.m. Eastern Standard Time (EST) on December 1 and at 10:00 a.m. on December 2 and continues each day until adjournment.

Written Public Comment Submissions: Deadline is November 17, 2015.

Registration for Meeting and/or Oral Comments: Deadline is November 24, 2015.

Registration to View Webcast: Deadline is December 2, 2015. Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web Page: The preliminary agenda, registration, and other meeting materials will be at *http://ntp.niehs.nih.gov/go/165.*

Webcast: The meeting will be webcast on December 2; the URL will be provided to those who register for viewing.

FOR FURTHER INFORMATION CONTACT:

Dr. Lori White, Designated Federal Officer for the BSC, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709. Phone: 919–541–9834, email: *whiteld@niehs.nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2124, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Meeting and Registration: Parts of the meeting are open to the public as indicated on the agenda; in-person attendance at NIEHS is limited only by the space available. Parts of the meeting are closed to the public as indicated on the agenda in accordance with the provisions set forth in section 552(c)(6), Title 5 U.S.C., as amended, for the review, discussion, and evaluation of individual intramural programs and projects conducted by NIEHS, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The BSC will provide input to the NTP on programmatic activities and issues. Preliminary agenda topics include: Reports from the NIEHS/NTP Director and the NTP Associate Director, review of the Cellular and Molecular Pathology Branch, a contract concept titled Statistical Support—Informatics, an update on the National Center for Toxicological Research Interagency Agreement and arsenic research project, a report on the NTP Technical Report peer review on pentabromodiphenyl ether mixture [DE–71 Technical Grade], and a report on the Office of Report Carcinogens peer review on cobalt and certain cobalt compound. The Office of Health Assessment and Translation will present two evaluation concepts: Mountaintop removal mining (health impacts on surrounding communities) and fluoride (developmental neurotoxicity).

The preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Designated Federal Officer for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting Web site.

The public may attend the meeting in person on both days or view the webcast on December 2. Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Individuals who plan to provide oral comments (see below) should register online at the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) by November 24, 2015, to facilitate planning for the meeting. Individuals are encouraged to access the Web site to stay abreast of the most current information regarding the meeting. Visitor and security information for those attending in-person is available at *niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Ms. Robbin Guy at phone: (919) 541–4363 or email: *guyr2@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Request for Comments: Written comments submitted in response to this notice should be received by November 17, 2015. Comments will be posted on the BSC meeting Web site and persons submitting them will be identified by their name and affiliation and/or sponsoring organization, if applicable. Persons submitting written comments should include their name, affiliation (if applicable), phone, email, and sponsoring organization (if any) with the document.

Time is allotted during the meeting for the public to present oral comments to the BSC on the agenda topics. Public comments can be presented in-person at the meeting or by teleconference line. There are 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open on December 2 from 10:00 a.m. until adjournment, although the BSC will receive public comments only during

the formal public comment periods, which are indicated on the preliminary agenda. Each organization (sponsoring organization or affiliation) is allowed one time slot per agenda topic. Each speaker is allotted at least 7 minutes, which if time permits, may be extended to 10 minutes at the discretion of the BSC chair. Persons wishing to present oral comments should register on the BSC meeting Web site by November 24, 2015, indicate whether they will present comments in-person or via the teleconference line, and identify the topic(s) on which they plan to comment. The access number for the teleconference line will be provided to registrants by email prior to the meeting. On-site registration for oral comments will also be available on the meeting day, although time allowed for comments by these registrants may be limited and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked to send a copy of their statement and/or PowerPoint slides to the Designated Federal Officer by November 24, 2015. Written statements can supplement and may expand upon the oral presentation. If registering on-site and reading from written text, please bring 20 copies of the statement for distribution to the BSC and NTP staff and to supplement the record.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology, neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets biannually. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended. The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: October 8, 2015.

John R. Bucher,

Associate Director, NTP.

[FR Doc. 2015–26051 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft Report on Carcinogens Monographs on Five Viruses; Availability of Documents; Request for Comments; Notice of Peer-Review Meeting

SUMMARY: The notice announces a meeting to peer review Draft Report on Carcinogens (RoC) Monographs on Five Viruses: Epstein-Barr virus [EBV], human immunodeficiency virus type 1 [HIV–1], human T-cell lymphotropic virus type 1 [HTLV–1], Kaposi sarcoma-associated herpesvirus [KSHV], and Merkel cell polyomavirus [MCV]. The monographs were prepared by the Office of the Report on Carcinogens (ORoC), Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS). The peer-review meeting is open to the public. Registration is requested for both public attendance and oral comment and required to access the webcast. Information about the meeting and registration is available at *http://ntp.niehs.nih.gov/go/38853.*

DATES:

Meeting: December 17, 2015, 8:30 a.m. Eastern Standard Time (EST) to adjournment.

Document Availability: Draft monographs should be available by the week of November 2, 2015, at *http://ntp.niehs.nih.gov/go/38853.*

Written Public Comments Submissions: Deadline is December 3, 2015.

Registration for Attendance and/or Oral Comments: Deadline is December 10, 2015. Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Agency Meeting Web site: The draft monographs, draft agenda, registration, and other meeting materials will be posted at *http://ntp.niehs.nih.gov/go/38853.*

Webcast: The URL for viewing the webcast will be provided to those who register.

FOR FURTHER INFORMATION CONTACT:

Dr. Lori White, NTP Designated Federal Official, Office of Liaison, Policy, and Review, DNTP, NIEHS, P.O. Box 12233, MD K2–03, Research Triangle Park, NC 27709. Phone: (919) 541–9834. Email: *whiteld@niehs.nih.gov.* Hand Delivery/Courier: 530 Davis Drive, Room 2124, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

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. The NTP prepares the RoC on behalf of the Secretary of Health and Human Services.

The NTP follows an established, four-part process for preparation of the RoC (*http://ntp.niehs.nih.gov/go/rocprocess*). A RoC monograph is prepared for each candidate substance selected for review for the RoC. A draft RoC monograph consists of (1) a cancer hazard evaluation component that reviews all information that may bear on a listing decision, assesses its quality and sufficiency for reaching a listing decision, applies the RoC listing criteria to the relevant scientific information, and recommends a listing status for the candidate substance in the RoC and (2) a substance profile that contains the NTP's preliminary listing recommendation and a summary of the scientific evidence considered key to reaching that recommendation.

Five viruses, EBV, HIV–1, HTLV–1, KSHV, and MCV, were selected as candidate substances following solicitation of public comment, review by the NTP Board of Scientific Counselors on April 16–18, 2014, and approval by the NTP Director (*http://ntp.niehs.nih.gov/go/9741*). A RoC monograph was prepared for each virus and this meeting is planned for peer review of the five draft RoC monographs.

Approximately 10% of cancers in the United States and 17.8% worldwide are linked to infectious disease. Several viruses, including hepatitis B virus, hepatitis C virus, and some human papilloma viruses of the genital-mucosal type, are currently listed in the RoC as *known to be human carcinogens.* NTP is conducting an evaluation of the following five viruses for possible listing in the RoC: EBV and KSHV, which are herpesviruses; MCV, which is a recently discovered polyomavirus; and HIV–1 and HTLV–1, which are retroviruses. HIV and HTLV–1 infection occurs from sexual, parenteral, and

perinatal transmission, whereas transmission via saliva is a common route of exposure for KSHV and EBV. Although MCV is found in the skin and saliva, it is not clear how people are infected. Additional information about the evaluation of these viruses for the RoC is available at *http://ntp.niehs.nih.gov/go/733995.*

Meeting and Registration

This meeting is open to the public with time set aside for oral public comment. The public may attend the meeting at NIEHS, where attendance is limited only by the space available, or view the webcast. Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Individuals who plan to provide oral comments (see below) are encouraged to register online at the meeting Web site (*http://ntp.niehs.nih.gov/go/38853*) by December 10, 2015, to facilitate planning for the meeting.

The preliminary agenda and draft monographs should be posted on the NTP Web site (*http://ntp.niehs.nih.gov/go/38853*) by the week of November 2, 2015. Additional information will be posted when available or may be requested in hardcopy, see **FOR FURTHER INFORMATION CONTACT**. Following the meeting, a report of the peer review will be prepared and made available on the NTP Web site. Interested individuals are encouraged to access the meeting Web site to stay abreast of the most current information regarding the meeting.

Visitor and security information is available at *http://www.niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Ms. Robbin Guy at phone: (919) 541–4363 or email: *guyr2@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

Request for Comments

The NTP invites written and oral public comments on the draft monographs. The deadline for submission of written comments is December 3, 2015, to enable review by the peer-review panel and NTP staff prior to the meeting. Registration to provide oral comments is by December 10, 2015, at *http://ntp.niehs.nih.gov/go/38853.* Public comments and any other correspondence on the draft monographs should be sent to the **FOR FURTHER INFORMATION CONTACT**. Persons submitting written comments should include their name, affiliation (if applicable), phone, email, and sponsoring organization (if any) with the document. Written comments received in response to this notice will be posted on the meeting Web site, and the submitter identified by name, affiliation, and/or sponsoring organization.

Public comment at this meeting is welcome, with time set aside for the presentation of oral comments on the draft monographs. In addition to in-person oral comments at the meeting at the NIEHS, public comments can be presented by teleconference line. There will be 50 lines for this call; availability will be on a first-come, first-served basis. The lines will be open from 8:30 a.m. until adjournment on December 17, 2015; oral comments will be received only during the formal public comment period indicated on the preliminary agenda. Each organization (sponsoring organization or affiliation) is allowed one time slot. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes at the discretion of the chair.

Persons wishing to make an oral presentation are asked to register online at *http://ntp.niehs.nih.gov/go/38853* by December 10, 2015, and if possible, to send a copy of their slides and/or statement or talking points at that time. Written statements can supplement and may expand the oral presentation. Registration for in-person oral comments will also be available at the meeting, although time allowed for presentation by on-site registrants may be less than that for registered speakers and will be determined by the number of speakers who register on-site.

Background Information on the RoC

Published biennially, each edition of the RoC is cumulative and consists of substances newly reviewed in addition to those listed in previous editions. For each listed substance, the RoC contains a substance profile, which provides information on cancer studies that support the listing—including those in humans, animals, and studies on possible mechanisms of action—information about potential sources of exposure to humans, and current federal regulations to limit exposures. The 13th RoC, the latest edition, was published on October 2, 2014 (available at *http://ntp.niehs.nih.gov/go/roc13*), and the 14th RoC is under development.

Background Information on NTP Peer-Review Panels

NTP panels are technical, scientific advisory bodies established on an ''as needed'' basis to provide independent scientific peer review and advise the NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods for toxicity screening. The NTP welcomes nominations of scientific experts for upcoming panels. Scientists interested in serving on an NTP panel should provide a current *curriculum vitae* to the **FOR FURTHER INFORMATION CONTACT**. The authority for NTP panels is provided by 42 U.S.C. 217a; section 222 of the Public Health Service (PHS) Act, as amended. The panel is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: October 7, 2015.

John R. Bucher,

Associate Director, NTP.

[FR Doc. 2015–26050 Filed 10–13–15; 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; Amended Notice

SUMMARY: This notice amends **Federal Register** notice 80 FR 60692, published October 7, 2015, requesting information on nominations to the Report on Carcinogens and Office of Health Assessment and Translation. The correct CASRN for vinylidene chloride is 75-35-4. All other information in the original notice has not changed. Information on nominations is available at *http://ntp.niehs.nih.gov/go/rocnom* and *http://ntp.niehs.nih.gov/go/763346.*

DATES: Deadline for receipt of information is November 6, 2015.

Dated: October 7, 2015.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2015–26054 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Support of Competitive Research (SCORE).

Date: November 12, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, 3An.12N, Bethesda, MD 20892 (Telephone Conference Call).

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 Special Emphasis Panel; Research Centers in Trauma, Burn and Perioperative Injury.

Date: November 12, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, 3An.12N, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12P, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 8, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26102 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Child Health and Human Development Special Emphasis Panel, October 29, 2015, 01:00 p.m. to October 29, 2015 03:00 p.m., National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on September 30, 2015, 2015–24821.

The meeting notice is being amended to clarify the meeting title: Non-or Minimally-Invasive Methods to Measure Biochemical Substances during Neonatal and Perinatal Patient Care and Research (R41). The meeting is closed to the public.

Dated: *October 7, 2015.*

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25996 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Endowment Program.

Date: November 9, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Minority Health and Health Disparities, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892.

Contact Person: Thomas Vollberg, Sr., Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 594–9582, *vollbert@mail.nih.gov*.

Dated: October 8, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26105 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of an Interagency Pain Research Coordinating Committee (IPRCC) meeting.

The meeting will feature invited speakers and discussions of committee business items including pain research updates from federal agencies and discussion of a federal pain research strategy.

The meeting will be open to the public and accessible by live webcast.

Name of Committee: Interagency Pain Research Coordinating Committee.

Type of meeting: Open Meeting.

Date: December 3, 2015.

Time: 8:00 a.m. to 5:00 p.m. *Eastern Time*—Approximate end time.

Agenda: The meeting will feature invited speakers and discussions of Committee business items including pain research updates from federal agencies and discussion of a federal pain research strategy.

Place: National Institutes of Health, Building 35A, Porter Neuroscience Center, Rm 610, 35 Convent Drive, Bethesda, MD 20892.

Cost: The meeting is free and open to the public.

Webcast Live: *http://videocast.nih.gov/*.

Deadlines: Notification of intent to present oral comments: Thursday, November 19, 2015, by 5:00 p.m. ET; Submission of written/electronic statement for oral comments: Friday, November 27, 2015, by

5:00 p.m. ET; Submission of written comments: Friday, November 27, 2015, by 5:00 p.m. ET.

Access: Medical Center Metro (Red Line); Visitor Information: *http://www.nih.gov/about/visitor/index.htm.*

Contact Person: Linda L. Porter, Ph.D., Pain Policy Advisor, Office of Pain Policy, Officer of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451–4460, Email: *Linda.Porter@nih.gov*.

Please Note: Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Thursday, November 19, 2015, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5:00 p.m. ET on Friday, November 27, 2015.

Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments on behalf of that organization, and presentations will be limited to three to five minutes per speaker, depending on number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline. If special accommodations are needed, please email the Contact Person listed above.

In addition, any interested person may submit written comments to the IPRCC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5:00 p.m. ET, Friday, November 27, 2015. The comments should include the name and, when applicable, the business or professional affiliation of the interested person. All written comments received by the deadlines for both oral and written public comments will be provided to the IPRCC for their consideration and will become part of the public record.

The meeting will be open to the public and webcast live on the Internet. If you experience any technical problems with the webcast, please call the NIH IT Service Desk at (301) 496–4357, toll free (866) 319–4357, for webcast issues.

Individuals who participate in person or by using the web service and who need special assistance, such as captioning, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

As a part of security procedures, attendees should be prepared to present a photo ID during the security process to get on the NIH campus. For a full description, please see: *http://www.nih.gov/about/visitorsecurity.htm.*

Information about the IPRCC is available on the Web site: *http://iprcc.nih.gov/.*

Dated: October 7, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26004 Filed 10–13–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0002]

Notice of Adjustment of Countywide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the countywide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2015, will be increased.

DATES: *Effective Date:* October 1, 2015, and applies to major disasters declared on or after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: In assessing damages for area designations under 44 CFR 206.40(b), FEMA uses a county-wide per capita indicator to evaluate the impact of the disaster at the county level. FEMA will adjust the countywide per capita impact indicator under the Public Assistance program to reflect annual changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase in the countywide per capita impact indicator to $3.57 for all disasters declared on or after October 1, 2015.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 0.2 percent for the 12-month period that ended in August 2015. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 16, 2015.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–26168 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0002]

Notice of Adjustment of Minimum Project Worksheet Amount

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the minimum Project Worksheet Amount under the Public Assistance program for disasters and emergencies declared on or after October 1, 2015, will be increased.

DATES: *Effective Date:* October 1, 2015, and applies to major disasters and emergencies declared on or after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act 42 U.S.C. 5121–5207 and 44 CFR 206.202(d)(2) provide that FEMA will annually adjust the minimum Project Worksheet amount under the Public Assistance program to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase to $3,050 for the minimum amount that will be approved for any Project Worksheet under the Public Assistance program for all major disasters and emergencies declared on or after October 1, 2015.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 0.2 percent for the 12-month period that ended in August 2015. This is based on information released by the Bureau of Labor Statistics at the U.S. Department of Labor on September 16, 2015.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–26166 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0002]

Notice of Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice of an increase of the maximum amount for Small Project Grants made to state, tribal, and local governments and private nonprofit facilities for disasters declared on or after October 1, 2015.

DATES: *Effective date:* October 1, 2015, and applies to major disasters and emergencies declared on or after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207, as amended by the Sandy Recovery Improvement Act, Public Law 113–2, provides that FEMA will annually adjust the maximum grant amount made under section 422, Simplified Procedures, relating to the Public Assistance program, to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase to $121,800 in the maximum amount of any Small Project Grant made to state, tribal, and local governments or to the owner or operator of an eligible private nonprofit facility under section 422 of the Stafford Act for all major disasters or emergencies declared on or after October 1, 2015.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 0.2 percent for the 12-month period that ended in August 2015. This is based on information released by the Bureau of Labor Statistics at the U.S. Department of Labor on September 16, 2015.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–26173 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0002]

Notice of Adjustment of Statewide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the statewide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2015, will remain the same.

DATES: *Effective Date:* October 1, 2015, and applies to major disasters declared on or after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: 44 CFR 206.48 provides that FEMA will adjust the statewide per capita impact indicator under the Public Assistance program to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice that the statewide per capita impact indicator will remain at $1.41 for all disasters declared on or after October 1, 2015.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 0.2 percent for the 12-month period that ended in August 2015. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 16, 2015.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–26174 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities: Application for Naturalization, Form N–400; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Extension of comment period past original 30-day notice end date.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) has submitted 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 requesting comments for 30 days was previously published on September 28, 2015, at 80 FR 58292. The comment period is being extended to allow additional time to review the documentation submitted in support of this information collection request. All detail in this Notice other than the updated comment end period and the Action remains the same. The information collection notice was previously published in the **Federal Register** on April 8, 2015, at 80 FR 18856, allowing for a 60-day public comment period. USCIS did receive 6 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 12, 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 1615–0052.

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–2008–0025 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 Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information gathered on Form N–400 to make a determination as to a respondent's eligibility to naturalize and become a U.S. citizen.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 774,634.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 7,570,500.

(7) *An estimate of the total public burden (in cost) associated with the collection:* $131,230,065.

Dated: October 7, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–26047 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0012]

Agency Information Collection Activities: Petition for Alien Relative, Form I–130, and Form I–130A; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*e.g.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until December 14, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0012 in the subject box, the agency name, and Docket ID USCIS–2007–0037. To avoid duplicate submissions please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0037;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;* or

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377. (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 entering USCIS–2007–0037 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–130, and I–130A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–130 allows U.S. citizens or lawful permanent residents of the United States to petition on behalf of certain alien relatives who wish to immigrate to the United States. Form I–130A allows for the collection of additional information for spouses of the petitioners necessary to facilitate a decision.

(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–130 is 787,037 and the estimated hour burden per response is 2 hours. The estimated total number of respondents for the information collection Form I–130A is 36,689 and the estimated hour burden per response is 0.833 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 1,604,636 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 314,603,120.

Dated: October 7, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–26164 Filed 10–13–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5893–N–01]

Notice of Deadlines for Installers' Licenses Under the HUD Manufactured Housing Installation Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice.

SUMMARY: The National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, is intended to protect the quality, safety, durability, and affordability of manufactured homes. In order to accomplish those objectives, the Act requires HUD to establish and implement manufactured home installation programs for States that choose not to operate their own installation programs. Among other things, HUD's installation program for these States includes the training and licensing of manufactured home installers. HUD has recently begun providing the training that would qualify individuals to apply to obtain a manufactured home installation license. As a result, this notice advises that installers wishing to install manufactured homes in States where HUD administers their installation program that they will be required to apply for and obtain a HUD Installer's License.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (the Act) is intended, among other things, to protect the quality, safety, durability, and affordability of manufactured homes. The Act was amended on December 27, 2000 (Manufactured Housing Improvement Act of 2000, Title VI, Pub. L. 106–659, 114 Stat. 2997) to require that HUD establish and implement a Federal manufactured home installation program that includes installation standards, the training and licensing of manufactured home installers, and the inspection of the installation of manufactured homes.

On October 19, 2007 (72 FR 59338), HUD began implementing these requirements with the publication of its Model Manufactured Home Installation Standards final rule. The Model Installation Standards, which are codified at 24 CFR part 3285, establish the minimum requirements for the initial installation of new manufactured homes. Under these standards, States that choose to operate an installation program for manufactured homes must implement installation standards that provide protection to its residents that equals or exceeds the protections provided by part 3285.

The Model Manufactured Home Installation Standards are, however, one component of HUD's efforts to implement the Act. The second component, HUD's Manufactured Housing Installation Program, establishes requirements for training and licensing manufactured home installers. HUD published its Manufactured Housing Installation Program regulations, codified at 24 CFR part 3286, on June 20, 2008 (73 FR 35292). Together parts 3285 and 3286 establish requirements that implement Section 605 (42 U.S.C. 5404). Under Section 605, HUD is required to implement an installation program to enforce the Installation Standards in States that do not have installation programs approved by HUD.

II. Installer Licensing in HUD-Administered States

HUD's Manufactured Home Installation program is designed to apply minimum standards to the installation of new manufactured homes and ensure that qualified persons install the homes properly. Manufactured homes that are properly installed provide safe and durable quality housing that can also be highly affordable, since proper installation can mean fewer repairs and longer home-lives. Recognizing that the quality of the installation work on a manufactured home depends primarily on the installer, the training and licensure of individual installers is a central feature of HUD's Manufactured Home

Installation program. Any individual or entity that engages in the business of directing, supervising, or controlling initial installations of new manufactured homes in a state without a qualifying installation program must have, or must employ someone who has, a valid manufactured home installation license, pursuant to § 3286.203.

Under § 3286.205, an individual must meet at least one of the following minimum experience requirements in order to obtain an installation license to perform manufactured home installations under the HUD-administered installation program:

(i) 1,800 hours of experience installing manufactured homes;

(ii) 3,600 hours of experience in the construction of manufactured homes;

(iii) 3,600 hours of experience as a building construction supervisor;

(iv) 1,800 hours as an active manufactured home installation inspector;

(v) Completion of one year of a college program in a construction-related field; or

(vi) Any combination of experience or education as described in paragraphs (i) through (v) that totals 3,600 hours.

In addition, initial applicants for an installation license must complete 12 hours of training, at least 4 hours of which must consist of training on the federal installation standards and HUD's installation program regulations. In order to qualify for renewal of an installation license, the licensed installer must complete 8 hours of continuing education during the 3-year license period, including in any particular subject area that may be required by HUD to be covered in order to assure adequate understanding of installation requirements. This training, however, must be conducted by HUD approved trainers.

HUD was, for various reasons, unable to make the training available to implement these requirements after publishing its Manufactured Housing Installation Program regulations. Beginning in Fiscal Year 2015, however, HUD has taken a number steps to ensure that individuals wishing to obtain a manufactured home installation license had access to the training required to obtain a license. Specifically, HUD awarded a contract to SEBA Professional Services (SEBA) in September 2014, to assist in administering the installation program. Since this time, HUD and SEBA developed procedures for implementing the installation program in the 13 states that do not have a HUD approved installation program, established a Web site for information dissemination, and prepared sets of test questions for the installer training program. Since June, 2015, HUD and SEBA have conducted pilot installation programs in Maryland and Nebraska to determine and develop program procedures. HUD has approved in-person and online training programs for installers to meet the required 12 hours of training and has approved 3 installation training programs. In July, 2015, HUD and SEBA, using an approved training program and trainer, conducted an in-person 12 hour training for installers and inspectors in Maryland. HUD has also approved an online training program which is currently available, and is working with approved installation program providers to plan regularly scheduled in-person training programs for individuals wishing to take the training required to obtain a HUD Installer License. Additional conference calls will be conducted with specific groups and individuals as needed.

Finally, to disseminate information regarding HUD's implementation of the installation program, SEBA provided program overviews at the April 2015, State Administrative Agency and Third Party Inspection Agency training conference and at the August 2015, meeting of the Manufactured Housing Consensus Committee. The Manufactured Housing Educational Institute (MHEI) is also developing an on-line training course for home inspectors. HUD will hold a retailer webinar on October 20, 2015, to assist retailers in understanding their responsibilities under the program. SEBA has posted all pertinent information associated with installer licensing requirements and other related information on their Web site at *www.manufacturedhousing installation.com.*

As a result, HUD is now able to implement the licensure requirements as provided by § 3286.203. As described below, HUD is implementing these requirements on a rolling basis based on the date on which HUD implemented the State's installation program.

III. Deadlines for Obtaining Installer's License

HUD conducted an initial conference call on July 14, 2015, with Maryland State officials, code officials, installer and retailers to introduce the program and outline the requirements and schedule for full implementation of the program. Participants were advised during the call, that any installers wanting to continue to install manufactured homes in Maryland must obtain a HUD Installer's License by November 1, 2015. This is the date when full compliance with the requirements of HUD's installation program will be implemented in Maryland. Similarly, HUD conducted a conference call with Nebraska State and local officials, installers and retailers in Nebraska on September 1, 2015. Installers wanting to continue to install manufactured homes in Nebraska must obtain a HUD Installer's License by December 1, 2015, when full compliance with the requirements of HUD's installation program will be required.

HUD plans to conduct conference calls or meetings to introduce its installation programs in Connecticut, Massachusetts, New Jersey, Rhode Island, and Vermont, on December 1, 2015. Again, installers wishing to continue to install manufactured homes in these states, must obtain a HUD Installer's License by May 1, 2016, when full compliance with HUD's installation program will be required.

HUD also plans to conduct conference calls or meetings to introduce its installation programs in Alaska, Hawaii, Illinois, Montana, South Dakota, and Wyoming, on January 1, 2016. All installers wanting to continue to install manufactured homes in Alaska, Hawaii, Illinois, Montana, South Dakota, and Wyoming must obtain a HUD Installer's License by June 1, 2016, when full compliance with HUD's installation program will be required.

More information on obtaining a HUD Installer's License may be obtained online at *http://manufacturedhousing installation.com/*, or by writing to the Office of Manufactured Housing Installation Programs, C/O SEBA Professional Services, LLC, 1325 G Street NW., Suite 500, Washington DC 20005, or via email at *Hudinfo@ sebapro.com.*

IV. Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0578. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

V. Environmental Impact

This notice provides operation instructions and procedures for training and licensing manufactured homes installers as required by 24 CFR part

3286, which was previously subject to an environmental review. Accordingly, under 24 CFR 50.19(c)(4), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: October 8, 2015.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2015–26143 Filed 10–13–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5849–N–05]

Notice of a Federal Advisory Committee Manufactured Housing Consensus Committee Regulatory Subcommittee Teleconference

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

ACTION: Notice of a Federal Advisory Meeting.

SUMMARY: This notice announces the schedule and proposed agenda for a teleconference meeting of the Manufactured Housing Consensus Committee (MHCC), Regulatory Subcommittee. The teleconference meeting is open to the public. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

DATES: The teleconference meeting will be held on October 27, 2015, 1 p.m. to 4 p.m. Eastern Daylight Time (EDT). The teleconference numbers are: U.S. toll-free: 1–866–622–8461, Participant Code: 4325434.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, (42 U.S.C. 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring; and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make oral comments on the business of the MHCC are encouraged to register by or before October 23, 2015, by contacting Home Innovation Research Labs, 400 Prince Georges Boulevard, Upper Marlboro, MD 20774; Attention: Kevin Kauffman, or email to: *MHCC@homeinnovation.com* or by calling 1–888–602–4663. Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the Regulatory Subcommittee.

Tentative Agenda:

October 27, 2015, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT)

I. Call to Order and Roll Call

II. Opening Remarks: Subcommittee Chair and DFO

III. Approve Regulatory Subcommittee Minutes from the August 18–20, 2015, meeting

IV. New Business

- Action Item 6—Shower, bathtub and tub-shower combination valves adjustment during installation
- Review of HUD's SAA funding option proposals

V. Open Discussion

VI. Public Comments

VII. Adjourn: 4:00 p.m.

Dated: October 8, 2015.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2015–26144 Filed 10–13–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[16XD4523WS/DWSN00000.000000/DS61200000/DP61203]

Public Meetings of the Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of meetings of the Invasive Species Advisory Committee (ISAC). Comprised of 30 nonfederal invasive species experts and stakeholders from across the nation, the purpose of the Advisory Committee is to provide advice to the National Invasive Species Council, as authorized by Executive Order 13112, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues.

Purpose of Meeting: To convene the full ISAC and to provide expert input and recommendations to NISC federal agencies and their partners on invasive species matters of national importance. While in session, ISAC will review a draft of the white paper entitled, *Enhancing the Effectiveness of Biological Control Programs of Invasive Species by Utilizing an Integrated Pest Management Approach,* as proposed by ISAC's Subcommittee on Control and Management. Additional topics of discussion include a status update on the development of the next iteration of the National Invasive Species Management Plan, as well as ongoing progress under a variety of priority initiatives focused on invasive species early detection and rapid response (EDRR). The meeting agenda and supplemental materials are available on the NISC Web site at *http://www.doi.gov/invasivespecies/isac/isac-meetings.cfm.*

DATES: Meeting of the Invasive Species Advisory Committee: Wednesday, October 28, 2015: 8:30 a.m. to 5:00 p.m.; Thursday, October 29, 2015: 8:30 a.m. to 5:30 p.m.; Friday, October 30, 2015; 8:15 a.m.–12:00 p.m.

ADDRESSES: U.S. Department of Agriculture, National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD 20705. The general

session will be held in the Reading Room on the first floor. NOTE: All meeting participants and interested members of the public must register their attendance at *https://app.smartsheet.com/b/form?EQBCT=86e55ccd349243cb94e735764b6683cc*. Attendees will be cleared through building security prior to being escorted to the meeting.

FOR FURTHER INFORMATION CONTACT: Kelsey Brantley, National Invasive Species Council Program Specialist and ISAC Coordinator, Phone: (202) 208–4122; Fax: (202) 208–4118, email: *Kelsey_Brantley@ios.doi.gov*.

Dated: October 7, 2015.

Jamie K. Reaser,

Executive Director, National Invasive Species Council.

[FR Doc. 2015–26003 Filed 10–13–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–19403; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before September 19, 2015 for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by October 29, 2015.

ADDRESSES: Comments may be sent via U.S. Postal Service the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September 19, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

HAWAII

Hawaii County

Ferreira Building, (Honakaa Town, Hawaii MPS), 45–3625 Mamane St., Honokaa, 15000756

IOWA

Linn County

Cedar Rapids Central Business District Commercial Historic District, (Commercial & Industrial Development of Cedar Rapids MPS), Roughly bounded by 1st & 5th Aves. SE. & 5th & 2nd Sts. SE., Cedar Rapids, 15000757

Harper and McIntire Company Warehouse, (Industrial Development of Cedar Rapids, Iowa MPS (AD)), 411 6th Ave. SE., Cedar Rapids, 15000758

MARYLAND

Queen Anne's County

Wye Hall, 505 Wye Hall Dr., Queenstown, 15000759

MISSOURI

Jackson County

Ten Main Center, 920 Main St., Kansas City, 15000760

St. Louis Independent city

Green, Philip and Louisa, House, 4171 W. Belle Place, St. Louis (Independent City), 15000761

NEW JERSEY

Atlantic County

Tofani—DiMuzio House, 12 S. Cambridge Ave., Ventnor, 15000762

Cumberland County

Maurice River Lighthouse and East Point Archeological District (Boundary Increase), Address Restricted, Maurice River, 15000763

SOUTH DAKOTA

Meade County

McMillan, John and Elsie, House, 1611 Davenport, Sturgis, 15000765

VIRGINIA

Accomack County

Assateague Beach Coast Guard Station, (U.S. Government Lifesaving Stations MPS) Beach Rd., Chincoteague, 15000766

Authority: 60.13 of 36 CFR part 60

Dated: September 22, 2015.

Roger Reed,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2015–26036 Filed 10–13–15; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–523 and 731–TA–1259 (Final)]

Boltless Steel Shelving Units Prepackaged for Sale from China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of boltless steel shelving units prepackaged for sale (''boltless steel shelving'') from China, provided for in subheadings 9403.10.00 and 9403.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of China.[2]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective August 26, 2014, following receipt of petitions filed with the Commission and Commerce by Edsal Manufacturing Co., Inc., Chicago, Illinois. The Commission scheduled the final phase of the investigations following notification of preliminary determinations by Commerce that imports of boltless steel shelving from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Meredith M. Broadbent and Commissioner David S. Johanson determined that an industry in the United States was threatened with material injury by reason of imports of boltless steel shelving that Commerce found to be sold in the United States at LTFV and subsidized by the government of China.

International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on May 7, 2015 (80 FR 26296). The hearing was held in Washington, DC, on August 13, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on October 7, 2015. The views of the Commission are contained in USITC Publication 4565 (October 2015), entitled *Boltless Steel Shelving Units Prepackaged for Sale From China: Investigation Nos. 701–TA–523 and 731–TA–1259 (Final).*

By order of the Commission.

Issued: October 7, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–26049 Filed 10–13–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–935]

Certain Personal Transporters, Components Thereof, and Manuals Therefor; Commission Determination To Review in Part an Initial Determination Granting Complainant's Motion for Summary Determination of Violation of Section 337 and, on Review, To Modify the Initial Determination; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination (''ID'') (Order No. 28) of the presiding administrative law judge (''ALJ'') granting complainants' motion for summary determination of violation of section 337 and, on review, to make certain modifications in the ID.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), on November 10, 2014, based on a complaint filed by Segway, Inc. of Bedford, New Hampshire (''Segway'') and DEKA Products Limited Partnership of Manchester, New Hampshire (''DEKA'') (collectively, ''Complainants''). 79 FR 66739–40 (Nov. 10, 2014). The amended complaint, as supplemented, alleges violations of Section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,789,640 (''the '640 patent''); 7,275,607 (''the '607 patent''); and 8,830,048 (''the '048 patent''); the claim of U.S. Design Patent No. D551,722 (''the '722 design patent''); the claim of U.S. Design Patent No. D551,592 (''the '592 design patent''); and U.S. Copyright Registration No. TX–7–800–563 by numerous respondents. *Id.* In particular, the notice of investigation named the following thirteen entities as respondents: Ninebot Inc., Ninebot (Tianjin) Technology Co., Ltd., and PowerUnion (Beijing) Tech Co. Ltd. (the ''Ninebot Respondents''); Robstep Robot Co., Ltd. (''Robstep''); Shenzhen INMOTION Technologies Co., Ltd. (''INMOTION''); Tech in the City; and Freego USA, LLC (''FreeGo USA'') (collectively, ''Terminated Respondents''); UPTECH Robotics Technology Co., Ltd. (''UPTECH''); Beijing Universal Pioneering Technology Co., Ltd. (''U.P. Technology''); Beijing Universal Pioneering Robotics Co., Ltd. (''U.P. Robotics''); FreeGo High-Tech Corporation Limited (''FreeGo China''); and EcoBoomer Co. Ltd. (''EcoBoomer'') (collectively, ''Defaulting Respondents''); and Roboscooters.com (''Roboscooters''). The Commission's Office of Unfair Import Investigations was also named as a party.

In the course of the investigation, the ALJ issued the following IDs with respect to the Terminated Respondents: ALJ Order Nos. 13 (Feb. 19, 2015) (*not reviewed* Mar. 18, 2015) (terminating respondent FreeGo USA by consent order); 19 (May 4, 2015) (*not reviewed* May 20, 2015) (terminating respondent Robstep by settlement); 23 (Jun. 19, 2015) (*not reviewed* Jul. 15, 2015) (terminating respondent INMOTION by settlement); 24 (Jul. 8, 2015) (*not reviewed* Jul. 28, 2015) (terminating respondent Tech in the City by consent order); and 27 (Aug. 20, 2015) (*not reviewed* Sept. 18, 2015) (terminating the Ninebot Respondents by settlement). The ALJ also issued an ID finding all of the Defaulting Respondents in default. *See* ALJ Order No. 20 (May 7, 2015) (*not reviewed* May 27, 2015). The sole remaining respondent Roboscooters participated in a preliminary teleconference on December 15, 2014, filed an answer to the complaint and notice of investigation (Dec. 31, 2014), partially responded to one set of Requests for Document Production, and produced a corporate witness for deposition on May 6, 2015, but did not otherwise participate in the investigation.

On July 8, 2015, Complainants filed a motion for summary determination of violation of Section 337 by defaulting respondents and respondent Roboscooters. The Commission investigative attorney filed a response in support of the motion. No other responses were filed.

On August 21, 2015, the ALJ issued an ID (Order No. 28) granting Complainants' motion and making recommendations regarding remedy and bonding. The ID finds, *inter alia*, a violation of Section 337 under subsection 337(g)(2) by reason of infringement of the '048 patent based on substantial, reliable, and probative evidence. 19 U.S.C. 1337(g)(2). The ID also finds a violation by the defaulting respondents and respondent Roboscooters by reason of infringement of the '640 patent, the '607 patent, the '722 design patent, the '592 design patent, and U.S. Copyright Registration No. TX–7–800–563. No party petitioned for review of the ID.

The Commission has determined to review the ID in part and, on review, to clarify that the authority for the ALJ to draw adverse inferences against respondent Roboscooters for its failures to act during the investigation and find Roboscooters in violation is found in Commission Rule 210.17, 19 CFR 210.17. On review, the Commission also corrects certain apparent typographical errors. Specifically, in the last paragraph on page 45, ''Ex. 19'' should be substituted for ''Ex. 9,'' the ''FreeGo F3'' should be substituted for the ''WindRunner G1U.'' Likewise, we

substitute ''Focxess'' for ''Estway'' in the last paragraph on page 60. *See* ID at 45; 60. Furthermore, we substitute the clause ''In support of their allegations in the Complaint that the Gen 2 PT vehicles practice claims of the Asserted Utility Patents,'' for the first clause of the last sentence on page 65 of the ID. *See* ID at 65–66.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are further requested to provide the expiration dates of each of the asserted patents and copyright, and state the HTSUS subheadings under which the accused articles are imported. Complainants are also requested to supply the names of known importers of the infringing articles. The written submissions and proposed remedial orders must be filed no later than the close of business on October 21, 2015. Reply submissions must be filed no later than the close of business on October 28, 2015. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 28. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–935'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 7, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–26048 Filed 10–13–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 30, 2015, a fully-executed proposed Settlement Agreement was received by the Department of Justice, among the United States on behalf of the U.S. Department of the Interior, U.S. Fish and Wildlife Service (''FWS''), the State of Ohio, on behalf of the Ohio Environmental Protection Agency (''OEPA''), and the State of Ohio, on behalf of the Ohio Department of Transportation (''ODOT'').

The Settlement Agreement resolves certain claims by the FWS and OEPA for natural resource damages with respect to a portion of the Ottawa River, primarily located in Lucas County, Ohio, against ODOT. The Settlement Agreement requires ODOT to pay $221,865 to the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund to be used by the FWS and OEPA, the natural resource trustees (''Trustees'') for this matter, for the joint benefit and use of the Trustees to pay for Trustee-sponsored natural resource restoration efforts.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States' Settlement Agreement with State of Ohio Department of Transportation,* D.J. Ref. No. 90–11–3–09090/3. 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 e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Settlement Agreement 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 Settlement Agreement 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 $4.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–25992 Filed 10–13–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claims and Payment Activities

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Unemployment Insurance Claims and Payment Activities,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 13, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201508–1205–003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Unemployment Insurance Claims and Payment Activities information collection that provides important program information on unemployment insurance claims taking and benefit payment activities under State and Federal laws. These data are used for budget preparation and control, program planning and evaluation, personnel assignment, actuarial and program research, and accounting to the Congress and public. This information collection has been classified as a revision, because the Emergency Unemployment Compensation 2008 and Temporary Extended Unemployment Compensation programs have ended; consequently, maintaining the associated information collection requirements no longer has practical utility. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0010. The current approval is scheduled to expire on October 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 2, 2015 (80 FR 11229).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0010. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Unemployment Insurance Claims and Payment Activities.

OMB Control Number: 1205–0010.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 2,544.

Total Estimated Annual Time Burden: 6,996 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 6, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–26087 Filed 10–13–15; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Self-Employment Assistance of the Federal Emergency Unemployment Compensation Program

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Self-Employment Assistance of the Federal Emergency Unemployment Compensation Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 13, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201508-1205-007* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Self-Employment Assistance (SEA) of the Federal Emergency Unemployment Compensation Program information collection. Reporting Form ETA–9161, Self-Employment Assistance, includes information about people who enter the SEA program and the benefits they receive and some limited outcome data. These data are used for oversight and to provide data responsive to statutorily required evaluations of this program. A State summarizes information collected from SEA program participants to prepare the reports. This information collection has been classified as a revision, because legislative authority for certain information collected about participants eligible for Emergency Unemployment Compensation has expired and that portion of this information collection no longer has practical utility for the ETA. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0490. The current approval is scheduled to expire on October 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 23, 2015 (80 FR 22744).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0490. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Self-Employment Assistance of the Federal Emergency Unemployment Compensation Program.

OMB Control Number: 1205–0490.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 1,607.

Total Estimated Number of Responses: 12,828.

Total Estimated Annual Time Burden: 6,456 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 7, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–26088 Filed 10–13–15; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Bureau of Labor Statistics Technical Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Technical Advisory Committee will meet on Friday, November 20, 2015. The meeting will be held in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Committee provides advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures. The BLS presents issues and then draws on the expertise of Committee members representing specialized fields within the academic disciplines of economics, statistics and survey design.

The meeting will be held in rooms 1–3 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

8:45 a.m. Commissioner's welcome and review of agency developments
9:15 a.m. Census-BLS Micro-productivity project
11:15 a.m. Discussion of future priorities
12:45 p.m. Consumer Expenditure Survey (CE) Redesign
2:30 p.m. American Time Use Survey (ATUS) Web Collection
4:00 p.m. Approximate conclusion

The meeting is open to the public. Any questions concerning the meeting should be directed to Sarah Dale, Bureau of Labor Statistics Technical Advisory Committee, on 202–691–5643. Individuals who require special accommodations should contact Ms. Dale at least two days prior to the meeting date.

Signed at Washington, DC, this 8th day of October 2015.

Eric P. Molina,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2015–26086 Filed 10–13–15; 8:45 am]

BILLING CODE 4510–24–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 15–04]

Notice of Entering Into a Compact With the Republic of Liberia

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (22 U.S.C. 7701–7718) as amended (the Act), and the heading ''Millennium Challenge Corporation'' of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Republic of Liberia. Representatives of the United States Government and Liberia executed the Compact documents on October 2, 2015. The complete text of the Compact has been posted at *https://assets.mcc.gov/documents/compact-liberia.pdf.*

Dated: October 7, 2015.

Maame Ewusi-Mensah Frimpong,

Vice President and General Counsel, Millennium Challenge Corporation.

Summary of Millennium Challenge Compact With the Republic of Liberia

Overview

MCC has signed a five-year, nearly $257 million Compact with the Republic of Liberia aimed at reducing poverty and accelerating economic growth. The Compact seeks to address two binding constraints to economic growth in Liberia: Lack of access to reliable and affordable electricity, and inadequate road infrastructure.

Program Overview and Budget

Liberia first became compact eligible in fiscal year (''FY'') 2013, but failed the scorecard in FY 2014, largely due to a change (by the indicator provider, not the government of Liberia) in the methodology for collecting and reporting on data associated with the Natural Resource Protection Indicator. As a result, MCC's Board of Directors authorized MCC to continue development of a compact, but with the expectation that Liberia again pass the scorecard prior to the compact coming forward for approval. In FY 2015, Liberia passed its scorecard: It met ten of the twenty indicators, including the Control of Corruption and Democratic Rights ''hard hurdles.'' An analysis completed in September 2013 found lack of access to reliable and affordable electricity and inadequate road infrastructure to be binding constraints to growth in Liberia.

The high cost and unreliability of publicly provided electricity (at $0.52 per kilowatt-hour, one of the world's highest electricity tariffs), coupled with limited electricity grid infrastructure (currently the electric utility, Liberia Electric Corporation (''LEC''), has an installed generating capacity of only 22 megawatts (''MW'') mean that less than two percent of Liberia's approximately four million citizens have access to the network, imposing a significant barrier to Liberia's long-term economic development. Similarly, inadequate capacity to plan for, finance and execute maintenance on the predominately unpaved road network, coupled with sustained rainfall for nearly half the year (which renders many of these roads impassable), undermines national and regional trade opportunities, threatens sustained political stability and severely constrains economic growth and social diversification. The Compact will address these issues through the following investments in wide-ranging policy reforms, institutional strengthening, and infrastructure:

- Increasing Liberia's domestic generation capacity by up to 88 MW through investment in rehabilitation of the Mount Coffee Hydropower Project (with the European Investment Bank, and the governments of Norway and Germany);
- Supporting sustainability in the power sector by, among other things, providing training for LEC employees and support to establish an independent regulator; and
- Supporting sustainability in the roads sector, including re-establishing regional maintenance centers and standing up a dedicated fund.

The budget for the Compact is approximately $257 million, allocated as follows (figures are approximate due to rounding):

COMPACT BUDGET SUMMARY

Project/activity	Budget (in US $)
Energy Project:	
Mt. Coffee Rehabilitation Activity	$146,800,000
Mt. Coffee Support Activity	$18,100,000
LEC Training Center Activity	$5,500,000
Energy Sector Reform Activity	$31,190,000
Energy Project Subtotal	$201,590,000
Roads Project:	
National Road Maintenance Activity	$15,000,000
Roads Sector Reform Activity	$6,070,000
Roads Project Subtotal	$21,070,000
Monitoring and Evaluation Project:	

COMPACT BUDGET SUMMARY—Continued

Project/activity	Budget (in US $)
Monitoring and Evaluation Activity	$5,500,000
Monitoring and Evaluation Project Subtotal	$5,500,000
Compact Administration:	
MCA-Liberia Administration	$17,066,000
Financial Management and Procurement Controls	$9,500,000
Financial Audits	$2,000,000
Compact Administration Subtotal	$28,566,000
Compact Grand Total	$256,726,000

The Energy Project aims to improve various aspects of the energy sector in Liberia. The Mt. Coffee Rehabilitation Activity aims to increase the amount of electricity generated in Liberia, facilitate a decrease in the overall electricity tariff, and contribute to increased reliability and adequacy of electricity. This activity addresses the overarching problem in the energy sector, *i.e.,* lack of access to affordable and reliable electricity, by targeting the insufficient supply of electricity in Liberia. Complementary activities in the Energy Project should support the results of the Mt. Coffee Rehabilitation Activity, address other root cause problems in the sector and/or mitigate negative impacts and risks of the investment, such as the risk of increased saltwater intrusion in the municipal water supply.

The Roads Project aims to improve the quality of Liberia's road network by supporting the piloting of a new road maintenance regime and building capacity within the sector. Improved management of the road sector is expected to decrease vehicle operating costs and provide time savings for road users.

Energy Project ($201.6 Million)

The Energy Project is comprised of the following four interlinked activities aimed at enhancing power generation, strengthening the capacity of key sector institutions, and supporting the development of foundational policies as the sector modernizes and becomes more commercially viable.

1. Mt. Coffee Rehabilitation Activity ($146.8 million). MCC funding along with funding from other donors will cover: (i) The expected cost of the Mt. Coffee Hydropower Plant's fourth turbine, allowing the rehabilitated plant to generate up to 88 MW of power once operational; (ii) unfunded gaps between existing and available other stakeholder commitments and a total cost to complete the project at $357 million (which includes contingencies to provide a 98 percent confidence level that the costs will not exceed that amount); (iii) the cost of a second 66 kilovolt transmission line from the Mt. Coffee Hydropower Plant to a substation at Paynesville; and (iv) the cost of rehabilitating a raw water intake located inside the reservoir. MCC's investment in the rehabilitation of the Mt. Coffee Hydropower Plant will take advantage of an existing project and financial management structure (the project implementation unit (''PIU'') being used by the other international donors. Like an accountable entity, the PIU is a single-purpose government of Liberia entity with the responsibility for managing and overseeing the rehabilitation of the Mt. Coffee Hydropower Plant. The PIU is composed of Liberian and international experts and will remain subject to applicable MCC-mandated audits. MCC will be part of the PIU's donor oversight committee, and MCC funds will be isolated in a new, separate project bank account, to be established.

2. Mt. Coffee Support Activity ($18.1 million). In its assessment of the rehabilitation of the hydropower facility, MCC concluded that additional areas of support would be required to better mitigate environmental and social risks and ensure long-term sustainability that could not be procured under the contract structures already in place. These include (i) the provision of small-scale community infrastructure (foot bridges, water points, pit latrines, *etc.*) for project affected persons, (ii) additional human resources support to the activity's project implementation unit to ensure timely and professional management, oversight and reporting, (iii) a watershed management plan (including climate change and fisheries studies), and (iv) rehabilitation of the raw water transmission line from the Mt. Coffee reservoir to the White Plains Water Treatment Works.

3. LEC Training Center Activity ($5.5 million). MCC funding will support the construction of a training center for LEC and the provision of equipment and training materials. The LEC training center will form the core base for training of technicians in the electricity sector. The training center will provide training in the following core areas: (i) Transmission and distribution, (ii) electrical, (iii) mechanical, (iv) hydro-electric, and (v) other specialized training. The proposed training center will also provide training for the director, instructors, and support staff of the LEC training center, who will be hired as employees of LEC.

4. Energy Sector Reform Activity ($31.2 million). The Energy Sector Reform Activity aims to provide support to the key institutions responsible for policy making, investment planning, asset management, and environmental and social oversight—namely the Ministry of Lands, Mines and Energy, LEC and the Liberian Environmental Protection Agency. With considerable donor financing secured for new transmission, distribution and generation infrastructure as well as residential and commercial connections, the proposed activity and its components have been developed to complement support programmed by other sector stakeholders. The central components of this activity are:

i. The provision of support for the development of an independent regulator which is seen by all sector stakeholders as necessary within the next three to five years, given the levels of investment in the sector and the proposed expansion plans. MCC assistance will help establish the regulator within the Department of Energy until such time as it can function independently. Work to establish the regulator will be done in cooperation with the European Union, which is separately assisting the Department of Energy as a whole. Compact funding will also provide for a situation assessment of the energy sector, development of a financial model for the sector, analyses of demand, willingness to pay, connections, and cost of service, and the design of a regulatory information system;

ii. Support to the enhancement of the capacity of the Liberian Environmental Protection Agency to better manage its core functions, including environmental licensing and permitting, review and approval of environmental and social impact assessments and management plans, review and approval of resettlement action plans, and monitoring and oversight of the implementation of these plans to mitigate environmental and social risks. This support will include the provision of technical assistance and capacity building for staff of the Liberian Environmental Protection Agency and the provision of material support such as IT upgrades and laboratory equipment; and

iii. Support to the implementation of a management arrangement for LEC. As part of Compact development, MCC has worked with the government of Liberia

to study the options for medium to long-term management of LEC, and the disbursement of Compact funding after February 2016, is conditioned on the government of Liberia's decision to pursue a long-term management solution likely to lead to a financially stable utility based on the results of that study. The form of MCC support will depend on the management arrangement selected, but could, for example, include technical assistance to LEC management and staff in the case that a public management option is selected, or funding and technical assistance to execute a transaction for a private sector management option.

Roads Project ($21.1 Million)

Inadequate road infrastructure is a binding constraint to economic growth in Liberia. Rather than a large capital investment directly in road construction or maintenance, however, the Roads Project will focus on institutional strengthening via two activities:

1. National Road Maintenance Activity ($15 million). This activity will pilot up to five Regional Maintenance Centers (''RMC''), including the construction of at least two RMCs, and match government of Liberia contributions (up to $8 million dollars) into a Road Maintenance Fund (which will be managed by an agency known as the ''Road Fund Administration''), which is considered critical for the sustainability of road maintenance.

i. RMCs existed prior to the Liberian civil war and were responsible for providing routine and periodic maintenance under the auspices of the Ministry of Public Works (''MPW''), which owned the maintenance equipment and directly executed road works. In the post-conflict setting, MPW has moved away from direct implementation of works to contracting maintenance work to the private sector, due to ongoing institutional reforms within the sector. The activity will include the construction of at least two regional RMCs located in the western region of Liberia, in Tubmanburg, Bomi County and the other in the southeastern region, in River Gee County, each covering two additional counties. An RMC will include residential quarters for staff and resident engineers, technicians and operators. RMCs will not be fitted with equipment owned by the MPW; rather they will rely on private contractors to provide the equipment and implement works. MCC may fund the remaining three RMCs, depending on successful completion of the first two and an assessment of their viability.

ii. The Road Fund Administration will be created by the government of Liberia during the first year of the Compact and will exist as a stand-alone entity under the Ministry of Transport, with the primary responsibility of collecting, managing, and disbursing money in a Road Fund dedicated to periodic road maintenance. The fund will be supported by revenues from a fuel levy, vehicle licensing and registration fees. MCC will match the government of Liberia's contributions to the Road Fund on a one-to-one basis up to $8 million during the Compact term, subject to measurable indicators of performance on maintenance planning, capacity, and implementation.

2. Roads Sector Reform Activity ($6.1 million). This activity will provide for capacity building and technical assistance at the national and regional level, including training support for RMCs, the Ministry of Public Works, the Ministry of Transport, and Road Fund Administration staff in transportation planning, policy, maintenance, and institutional systems from the local to international level.

i. Data on Liberia's road network is sparse; even the most comprehensive traffic counts collected for the Transport Master Plan of 2010 have significant gaps in the primary road network and little to no data for the secondary network. Therefore, data collection on roadway conditions and traffic counts will be carried out under the Compact, including on primary, secondary and feeder roads. This data will then be used to inform sector planning, including a network analysis to support efforts to prioritize road rehabilitation and maintenance.

ii. Compact activities to increase the capacity of the many actors in the roads sector will be coordinated with and complement the activities of other donors, building on current efforts of the donor working group. Compact funding will support an axle load control law, strengthening the operational framework of the Road Fund and its administration, training in transportation planning methods, development of a five-year transportation asset management plan for Liberia, urban transportation planning in Monrovia, and a review of existing policies on road safety to develop recommendations for updates and their implementation. These activities will be undertaken in partnership with the U.S. Department of Transportation.

Economic Analysis

Currently, the supply and distribution of electricity in Liberia are extremely limited, both in terms of the number of connections and the total demand of those connections. Current customers pay a high tariff, due to the expensive fuel price for the high-speed diesel generators that are currently used for LEC's entire supply of electricity. After the completion of the Mt. Coffee Rehabilitation Activity, existing customers on the grid will receive a one-time benefit of the drop in tariff, and after that will receive benefits based on their consumption of grid-delivered electricity, as measured by the amount they pay for electricity.

Demand for electricity and the provision of new connections to the grid drive MCC's economic model for the Energy Project. Using a ''base case'' scenario developed as part of Liberia's Electricity Sector Least Cost Development Plan (which assumes 90,000 new household connections and 1,450 new industrial connections by 2020), the project yields an economic rate of return (''ERR'') of 11 percent with the possibility of variation, based on the number of additional connections made by LEC during the lifetime of the Compact.

This figure is inclusive of all capacity building activities that support the Mt. Coffee Rehabilitation Activity (both operations and maintenance) and connecting new customers to the grid (*e.g.,* the LEC Training Center Activity).

Economic analysis for the Roads Project is pending, but will be complete once designs and feasibility studies are complete. Road maintenance programs of this nature typically have strong ERRs and these projects will be subject to MCC's normal investment criteria.

Update on Liberia Threshold Program

Liberia was selected as eligible to receive MCC threshold program funding in 2010 and the $15.1 million program was then implemented by USAID from July 2010 to December 2013. It included three components:

1. Strengthen Land Rights and Access. This project was designed to improve the policy and legal frameworks for land management and thereby increase security of tenure, investment in land, and land market activity. A great success of this project, though an unintended one, was the creation of a stand-alone land agency. Twenty-five communities successfully prepared land rights inventories.

2. Improve Girls' Access to Primary Education. This project aimed to improve girls' primary education enrollment and retention. It was designed as a research-based project to increase educational opportunities for primary school girls in selected

communities in three counties, and tested three different intervention models. Girls' attendance rates at all 40 school programs increased beyond project targets, and baseline enrollment of girls increased by 23 percent, in comparison to a decrease of over 19 percent in control schools.

3. Improve Trade Freedom. This project intended to improve Liberia's trade freedom and to enable Liberia to participate more effectively in the Economic Community of West African States by improving performance on key policy measures. As a result of the project, the government of Liberia eased requirements for processing import and export declaration permits. The project also provided support to government of Liberia efforts to revise policies in a way that would lead to accession to the World Trade Organization; Liberia's accession is expected to be concluded by December of this year.

[FR Doc. 2015–26064 Filed 10–13–15; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 24 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: All meetings are Eastern time and ending times are approximate:

Design (review of applications): This meeting will be closed.

Date and time: November 2, 2015; 10:30 a.m. to 1:00 p.m.

Design (review of applications): This meeting will be closed.

Date and time: November 3, 2015; 12:00 p.m. to 2:30 p.m.

Design (review of applications): This meeting will be closed.

Date and time: November 3, 2015; 3:00 p.m. to 5:30 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: November 5, 2015; 1:30 p.m. to 3:30 p.m.

Dance (review of applications): This meeting will be closed.

Date and time: November 6, 2015; 12:00 p.m. to 2:00 p.m.

Dance (review of applications): This meeting will be closed.

Date and time: November 6, 2015; 3:00 p.m. to 5:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: November 10, 2015; 12:00 p.m. to 2:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: November 10, 2015; 3:00 p.m. to 5:00 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: November 10, 2015; 11:30 a.m. to 1:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: November 10, 2015; 2:30 p.m. to 4:30 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: November 12, 2015; 1:30 p.m. to 3:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: November 12, 2015; 11:30 a.m. to 1:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: November 12, 2015; 2:30 p.m. to 4:30 p.m.

Media Arts (review of applications): This meeting will be closed.

Date and time: November 16, 2015; 11:30 a.m. to 1:30 p.m.

Media Arts (review of applications): This meeting will be closed.

Date and time: November 16, 2015; 2:30 p.m. to 4:30 p.m.

Theater and Musical Theater (review of applications): This meeting will be closed.

Date and time: November 17, 2015; 12:00 p.m. to 2:00 p.m.

Theater and Musical Theater (review of applications): This meeting will be closed.

Date and time: November 17, 2015; 3:00 p.m. to 5:00 p.m.

Media Arts (review of applications): This meeting will be closed.

Date and time: November 18, 2015; 11:30 a.m. to 1:30 p.m.

Media Arts (review of applications): This meeting will be closed.

Date and time: November 18, 2015; 2:30 p.m. to 4:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: November 18, 2015; 12:00 p.m. to 2:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: November 18, 2015; 3:00 p.m. to 5:00 p.m.

Theater and Musical Theater (review of applications): This meeting will be closed.

Date and time: November 19, 2015; 12:00 p.m. to 2:00 p.m.

Theater and Musical Theater (review of applications): This meeting will be closed.

Date and time: November 19, 2015; 3:00 p.m. to 5:00 p.m.

Media Arts (review of applications): This meeting will be closed.

Date and time: November 20, 2015; 2:30 p.m. to 4:30 p.m.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: October 7, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–25997 Filed 10–13–15; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Request for Public Comment

AGENCY: National Science Foundation (NSF).

ACTION: Request for public comment on updated Research Terms and Conditions (RTC) to address and implement the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* issued by the U.S. Office of Management and Budget (OMB).

SUMMARY: In 2000, the Federal Demonstration Partnership (FDP), a cooperative initiative among numerous Federal agencies and institutional recipients of research funds aimed at reducing the administrative burdens

associated with research grants and contracts, developed Standard Terms and Conditions as a model implementation of OMB Circular A–110. These terms were an effective set of requirements for many agency research awards. In 2005, following public and agency comment on the original FDP terms, standard research terms and conditions were developed by Research Business Models (RBM), an Interagency Working Group of the Social, Behavioral & Economic Research Subcommittee of the Committee on Science (CoS), a committee of the National Science and Technology Council (NSTC). In 2008, a side-by-side comparison of OMB Circular A–110 and the Research Terms and Conditions was developed; the terms and conditions were updated in 2011.

This project is an initiative of the Research Business Models (RBM) Interagency Working Group. One of the RBM Subcommittee's priority areas is to create greater consistency in the administration of Federal research awards. Given the increasing complexity of interdisciplinary and interagency research, it has become increasingly important for Federal agencies to manage awards in a similar fashion.

On June 30, 2014, a proposal was presented to the RBM on behalf of the participating agencies from the RBM Interagency Working Group to develop a revised set of RTCs for implementing the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* 2 CFR 200 (Uniform Guidance). The purpose was to develop a revised set of RTCs as they apply to research and research-related grants made by the following awarding agencies to institutions of higher education and non-profit organizations.

The agencies participating in this activity include the: U.S. Department of Commerce/National Oceanic and Atmospheric Administration and National Institute of Standards and Technology; U.S. Department of Energy; U.S. Environmental Protection Agency; National Aeronautics and Space Administration; National Science Foundation; U.S. Department of Health and Human Services/National Institutes of Health; U.S. Department of Agriculture/National Institute of Food and Agriculture; U.S. Department of Transportation/Federal Aviation Administration; and the U.S. Department of Homeland Security.

While the Uniform Guidance outlines provisions that are specific to research, these terms and conditions:

- Incorporate the entire Uniform Guidance by reference, clarifying or supplementing select provisions where appropriate and consistent with government-wide research policy.
- Apply to an award when included as part of the award or when incorporated in the award by reference. Use of the RTCs is envisioned as a streamlined approach that supports the implementation of the Uniform Guidance by providing clarification, supplementary guidance, and, where appropriate, selected options, while meeting the spirit and intent of a uniform implementation. The RTCs also include flexibility for additional individual agency clarification through the incorporation of appendices and matrices. The side-by-side RTCs depict pertinent sections of the Uniform Guidance on the left side and clarifications for research and research-related awards on the right side.

On behalf of the RBM, the National Science Foundation (NSF) has agreed to continue to serve as the sponsor of the updated version of these RTCs. The general public and Federal agencies are invited to comment on the proposed revised format during the 60-day public comment period. A ''For Comment'' version of the proposed RTCs, along with previous versions of the Research Terms and Conditions and other related materials, are posted on the NSF Web site at: *http://www.nsf.gov/awards/managing/rtc.jsp.*

After obtaining and considering public comment, the RBM will prepare the format for final clearance.

DATES: Comments must be received by December 14, 2015.

ADDRESSES: Comments should be addressed to Suzanne H. Plimpton, Reports Clearance Officer, Office of the General Counsel, National Science Foundation, 4201 Wilson Blvd., Arlington, VA, 22230, email *splimpto@nsf.gov;* telephone: (703) 292–7556; FAX (703) 292- 9240. We encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Please include ''*Research Terms and Conditions''* in the subject line of the email message; please also include the full body of your comments in the text of the message and as an attachment. Include your name, title, organization, postal address, telephone number, and email address in your message.

FOR FURTHER INFORMATION CONTACT: To view the draft Research Terms and Conditions, see: *http://www.nsf.gov/awards/managing/rtc.jsp.* For information on the Research Terms and Conditions, contact Jean Feldman, Head, Policy Office, Division of Institution & Support, National Science Foundation, 4201 Wilson Blvd., Arlington, VA, 22230, email: *jfeldman@nsf.gov;* telephone (703) 292–8243; FAX: (703) 292–9171.

Dated: October 8, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–26090 Filed 10–13–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting—Rescheduled.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) gives notice that the teleconference meeting of the Advisory Committee on the Medical Uses Isotopes (ACMUI) previously scheduled for December 18, 2015, from 2:00 p.m. to 4:00 p.m. Eastern Time, to discuss the draft report of the ACMUI Rulemaking Subcommittee that was formed to provide comments to the NRC staff on the draft final rule for Title 10 of the *Code of Federal Regulations (*10 CFR) Part 35, ''Medical Use of Byproduct Material,'' as published in the **Federal Register** (80 FR 57239–57240) has been rescheduled. The meeting is now scheduled for January 06, 2016, from 2:00 p.m. to 4:00 p.m. Eastern Time. Meeting information, including a copy of the agenda and the subcommittee's draft report, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2015.html* no later than December 24, 2015. The agenda and handouts may also be obtained by contacting Ms. Sophie Holiday using the information below.

DATES: The teleconference meeting will be held on Wednesday, January 06, 2016, 2:00 p.m. to 4:00 p.m. Eastern Time.

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Holiday using the contact information below.

Contact Information: Sophie Holiday, email: *Sophie.Holiday@nrc.gov,* telephone: (404) 997–4691.

Conduct of the Meeting

Dr. Philip Alderson, ACMUI Chairman, will preside over the meeting. Dr. Alderson will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by December 31, 2015, 3 business days prior to the meeting, and must pertain to the subcommittee's draft report. Staff is not soliciting public comment on the draft final rule itself.

2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the Vice Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's Web site *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2015.html* on or about February 19, 2016.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations of 10 CFR part 7.

Dated at Rockville, Maryland, this 7th day of October, 2015.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2015–26180 Filed 10–13–15; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Initial Certification of Full-Time School Attendance, RI 25–41, 3206–0099

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension without change of a currently approved information collection (ICR) 3206–0099, Initial Certification of Full-Time School Attendance. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until December 14, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Alberta Butler, Room 2349, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of 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 submissions of responses.

RI 25–41, Initial Certification of Full-Time School Attendance is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older under title 5, U.S.C. sections 8341(A)(4) and chapter 84, section 8441(4)(C).

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Initial Certification of Full-Time School Attendance.

OMB: 3206–0099.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 1,200.

Estimated Time per Respondent: 90 minutes.

Total Burden Hours: 1,800.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2015–26094 Filed 10–13–15; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Federal Annuitant Benefits Survey

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Office of Planning and Policy Analysis, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR) 3206–NEW, the Federal Annuitant Benefits Survey (FABS). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on 06/10/2015 at Volume. 80, No. 111 allowing for a 60-day public comment period. OPM received comments from one Federal Employees Health Benefits (FEHB) carrier trade association. The comments requested that: (1) OPM more closely replicate the Consumer Assessment of Healthcare Providers and Systems (CAHPS) when administering the FABS; (2) OPM add specific topics to the FABS that are currently part of CAHPS if FABS results will be used as part of OPM's Plan Performance Assessment and Service Fee Calculations; (3) OPM consider alternatives to an online only survey administration. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 13, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Planning and Policy

Analysis, Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, Attention: Cristin Kane or sent via electronic mail to *cristin.kane@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Planning and Policy Analysis, Office of Personnel Management, 1900 E. Street, NW., Washington, DC 20415, Attention: Cristin Kane or sent via electronic mail to *cristin.kane@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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 submissions of responses.

Overview: In the past, the Office of Personnel Management contracted with a vendor to administer the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey to a sample of both active Federal employees and retirees. CAHPS surveys ask consumers and patients to report on and evaluate their experiences with their health care.

Since the CAHPS survey instrument is designed for the active population, it will no longer be administered to retirees. However, annuitant feedback about their health plan experience is an essential part of successful benefit administration for the Federal Employees Health Benefits (FEHB) Program. As a result, the Federal Annuitant Benefits Survey is designed to assess annuitant satisfaction with their health plan's benefits and services.

Analysis:

Agency: Planning and Policy Analysis, Office of Personnel Management

Title: Federal Annuitant Benefits Survey

OMB Number: 3260–NEW

Frequency: Annually

Affected Public: Federal Retirees

Number of Respondents: Unknown at this time, as survey will be administered via ''open participation.'' No firm sample size exists; however, target completion is between 200 and 1,000 surveys.

Estimated Time Per Respondent: 20 minutes

Total Burden Hours: Dependent on final participation numbers.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2015–26098 Filed 10–13–15; 8:45 am]

BILLING CODE 6325–63–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CSRS/FERS Documentation in Support of Disability Retirement Application, SF 3112, 3206–0228

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension without change, of a currently approved information collection request (ICR) 3206–0228, CSRS/FERS Documentation in Support of Disability Retirement Application. As required by the Paperwork Reduction Act of 1995 (Pub. Law 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until December 14, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415–3500, Attention: Alberta Butler, Room 2349 or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION:

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of 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 submissions of responses.

SF 3112, CSRS/FERS Documentation in Support of Disability Retirement Application collects information from applicants for disability retirement so that OPM can determine whether to approve a disability retirement under title 5, U.S.C. Sections 8337 and 8455. The applicant will only complete Standard Forms 3112A and 3112C. Standard Forms 3112B, 3112D and 3112E will be completed by the immediate supervisor and the employing agency of the applicant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: CSRS/FERS Documentation in Support of Disability Retirement Application.

OMB Number: 3206–0228.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: SF 3112A = 1,350; SF 3112C = 12,100.

Estimated Time per Respondent: SF 3112A = 30 minutes; SF 3112C = 60 minutes.

Total Burden Hours: 12,775.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director

[FR Doc. 2015–26096 Filed 10–13–15; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76095; File No. SR–BYX–2015–41]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3.13 (Payment Designed To Influence Market Prices, Other than Paid Advertising)

October 7, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2015, BATS Y-Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend BYX Rule 3.13 to conform with: (i) Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 5230 for purposes of an agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act [5] and (ii) the rules of EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').[6] The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Rule 17d–2 under the Act,[7] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA (''Common Members'') and allocates to FINRA regulatory responsibility, with respect to Common Members, for the following: (i) Examination of Common Members for compliance with federal securities laws, rules and regulations and Exchange rules that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of Common Members for violations of federal securities laws, rules or regulations, and Exchange rules that the Exchange has certified as identical or substantially identical to FINRA rules; and (iii) enforcement of compliance by Common Members with the federal securities laws, rules and regulations, and Exchange rules that the Exchange has certified as identical or substantially similar to FINRA rules.[8]

The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical, or substantially similar, to certain FINRA rules that have been identified as comparable. Currently, Exchange Rule 3.13 is not fully incorporated into the 17d–2 Agreement as it does not include exceptions similar to FINRA Rule 5230. Therefore, to conform to comparable FINRA Rule 5230 for purposes of the 17d–2 Agreement, the Exchange proposes to amend Exchange Rule 3.13 to adopt rule text that is substantially similar to FINRA Rule 5230.

Currently, Exchange Rule 3.13 (Payment Designed to Influence Market Prices, Other than Paid Advertising) states that ''[n]o Member shall directly or indirectly, give, permit to be given, or offer to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service or similar publication of any matter which has, or is intended to have, an effect upon the market price of any security; provided, that the Rule shall not be construed to apply to a matter which is clearly identifiable as paid advertising.''

First, the Exchange proposes to redesignate Rule 3.13 as ''Payments Involving Publications that Influence the Market Price of a Security''. This title would mirror that of FINRA Rule 5230. The Exchange also proposes to delete the text of Rule 3.13 in its entirety and replace it with rule text that is substantially similar to FINRA Rule 5230. As amended, paragraph (a) would continue to prohibit Exchange members from directly or indirectly, giving, permitting to be given, or offering to give anything of value to ''any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any electronic or other public media, including any investment service or similar publication, Web site, newspaper, magazine or other periodical, radio, or television program of any matter that has, or is intended to have, an effect upon the market price of any security.'' This language is similar to current Rule 3.13. Proposed paragraph (b) would set forth exceptions to the prohibitions under paragraph (a). These exceptions would allow for compensation paid to a person in connection with the publication or circulation of: (i) A communication that is clearly distinguishable as paid advertising, like current Rule 3.13; (ii) a communication that discloses the receipt of compensation and the amount thereof in accordance with section 17(b) of the Securities Act of 1933; or (iii) a research report, as that term is defined in FINRA Rule 2241.[9] Proposed paragraph (a) and the exceptions set forth under proposed paragraph (b) are substantially similar to FINRA Rule 5230.[10]

The proposed rule text is also identical to EDGA Rule 3.13 and EDGX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] 17 CFR 240.17d–2.

[6] *See* EDGA Rule 3.13 and EDGX Rule 3.13.

[7] 17 CFR 240.17d–2.

[8] *See* Exchange Release No. 62716 (Aug. 13, 2010), 75 FR 51295 (Aug. 19, 2010) (approving File No. 10–198).

[9] *See* FINRA Rule 2241(a)(9) for the definition of the term ''research report''.

[10] The only difference between the proposed text of Rule. 3.13 and FINRA Rule 5230 is that FINRA Rule 5230 references NASD Rule 2711 while proposed Rule 3.13 references FIRNA Rule 2241. This difference reflects the Commission's approval of a proposed rule change filed by FINRA that replaced NASD Rule 2711 with FINRA Rule 2241. *See* Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482 (July 22, 2015) (SR–FINRA–2014–047).

Rule 3.13.[11] In early 2014, the Exchange and its affiliate, BATS Exchange, Inc. (''BZX''), received approval to effect a merger (''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA (together with BZX and BYX, the ''BGM Affiliated Exchanges''). In the context of the Merger, the BGM Affiliated Exchanges are working to align their rules, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposed text of Rule 3.13 is also identical to recent rule changes filed with the Commission by EDGA and EDGX to amend their identical rule text to that proposed herein. This proposed rule change would enable the Exchange to adopt rules that correspond to rules of EDGA and EDGX and provide a consistent rule set across each of the BGM Affiliated Exchanges.[12]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[13] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change would further these requirements by providing greater harmonization between Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the Exchange believes that the proposed rule change would provide greater harmonization between rules of similar purpose on the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance and understanding of Exchange rules. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. Similarly, the Exchange also believes that, by harmonizing the rules across each BGM Affiliated Exchange, the proposal would enhance the Exchange's ability to fairly and efficiently regulate its members, meaning that the proposed rule change is equitable and would promote fairness in the market place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Common Members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. In addition, the Exchange believes that allowing it to implement substantively identical rules across each of the BGM Affiliated Exchanges does not present any competitive issues, but rather is designed to provide greater harmonization among Exchange, BZX, EDGX, and EDGA rules of similar purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, 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) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend the rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes this action, the Commission shall institute proceedings under section 19(b)(2)(B) of the Act[17] to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–BYX–2015–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BYX–2015–41. 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

[11] EDGA and EDGX have filed proposed rule changes with the Commission to replace references to NASD Rule 2711 in their respective Rules 3.13 with FINRA Rule 2241. *See* SR–EDGA–2015–38 and SR–EDGX–2015–43. *See also supra* note 10.

[12] BZX has filed an identical proposal with the Commission to amend its Rule 3.13. *See* SR–BATS–2015–77.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4.

[16] Rule 19b–4(f)(6) also requires that the Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[17] 15 U.S.C. 78s(b)(2)(B).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File No. SR–BYX–2015–41 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26026 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76092; File No. SR–BATS–2015–77]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3.13 (Payment Designed To Influence Market Prices, Other Than Paid Advertising)

October 7, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2015, BATS Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend BZX Rule 3.13 to conform with: (i) Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 5230 for purposes of an agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act[5] and (ii) the rules of EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').[6] The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Rule 17d–2 under the Act,[7] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA (''Common Members'') and allocates to FINRA regulatory responsibility, with respect to Common Members, for the following: (i) Examination of Common Members for compliance with federal securities laws, rules and regulations and Exchange rules that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of Common Members for violations of federal securities laws, rules or regulations, and Exchange rules that the Exchange has certified as identical or substantially identical to FINRA rules; and (iii) enforcement of compliance by Common Members with the federal securities laws, rules and regulations, and Exchange rules that the Exchange has certified as identical or substantially similar to FINRA rules.[8]

The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical, or substantially similar, to certain FINRA rules that have been identified as comparable. Currently, Exchange Rule 3.13 is not fully incorporated into the 17d–2 Agreement as it does not include exceptions similar to FINRA Rule 5230. Therefore, to conform to comparable FINRA Rule 5230 for purposes of the 17d–2 Agreement, the Exchange proposes to amend Exchange Rule 3.13 to adopt rule text that is substantially similar to FINRA Rule 5230.

Currently, Exchange Rule 3.13 (Payment Designed To Influence Market Prices, Other than Paid Advertising) states that ''[n]o Member shall directly or indirectly, give, permit to be given, or offer to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service or similar publication of any matter which has, or is intended to have, an effect upon the market price of any security; provided, that the Rule shall not be construed to apply to a matter which is clearly identifiable as paid advertising.''

First, the Exchange proposes to redesignate Rule 3.13 as ''Payments Involving Publications that Influence the Market Price of a Security''. This title would mirror that of FINRA Rule 5230. The Exchange also proposes to delete the text of Rule 3.13 in its entirety and replace it with rule text that is substantially similar to FINRA Rule 5230. As amended, paragraph (a) would continue to prohibit Exchange members from directly or indirectly, giving, permitting to be given, or offering to give anything of value to ''any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any electronic or other public media, including any investment service or similar publication, Web site,

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] 17 CFR 240.17d–2.

[6] *See* EDGA Rule 3.13 and EDGX Rule 3.13.

[7] 17 CFR 240.17d–2.

[8] *See* Exchange Act Release No. 58375 (Aug. 18, 2008), 73 FR 46498 (Aug. 21, 2008) (approving File No. 10–182).

newspaper, magazine or other periodical, radio, or television program of any matter that has, or is intended to have, an effect upon the market price of any security.'' This language is similar to current Rule 3.13. Proposed paragraph (b) would set forth exceptions to the prohibitions under paragraph (a). These exceptions would allow for compensation paid to a person in connection with the publication or circulation of: (i) A communication that is clearly distinguishable as paid advertising, like current Rule 3.13; (ii) a communication that discloses the receipt of compensation and the amount thereof in accordance with Section 17(b) of the Securities Act of 1933; or (iii) a research report, as that term is defined in FINRA Rule 2241.[9] Proposed paragraph (a) and the exceptions set forth under proposed paragraph (b) are substantially similar to FINRA Rule 5230.[10]

The proposed rule text is also identical to EDGA Rule 3.13 and EDGX Rule 3.13.[11] In early 2014, the Exchange and its affiliate, BATS Y-Exchange, Inc. (''BYX''), received approval to effect a merger (''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA (together with BZX and BYX, the ''BGM Affiliated Exchanges''). In the context of the Merger, the BGM Affiliated Exchanges are working to align their rules, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposed text of Rule 3.13 is also identical to recent rule changes filed with the Commission by EDGA and EDGX to amend their identical rule text to that proposed herein. This proposed rule change would enable the Exchange to adopt rules that correspond to rules of EDGA and EDGX and provide a consistent rule set across each of the BGM Affiliated Exchanges.[12]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[13] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change would further these requirements by providing greater harmonization between Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the Exchange believes that the proposed rule change would provide greater harmonization between rules of similar purpose on the BGM Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance and understanding of Exchange rules. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. Similarly, the Exchange also believes that, by harmonizing the rules across each BGM Affiliated Exchange, the proposal would enhance the Exchange's ability to fairly and efficiently regulate its members, meaning that the proposed rule change is equitable and would promote fairness in the market place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Common Members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. In addition, the Exchange believes that allowing it to implement substantively identical rules across each of the BGM Affiliated Exchanges does not present any competitive issues, but rather is designed to provide greater harmonization among Exchange, BYX, EDGX, and EDGA rules of similar purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, 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) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend the rule change if it appears to the Commission that this action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes this action, the Commission shall institute proceedings under section 19(b)(2)(B) of the Act[17] to

[9] *See* FINRA Rule 2241(a)(9) for the definition of the term ''research report''.

[10] The only difference between the proposed text of Rule 3.13 and FINRA Rule 5230 is that FINRA Rule 5230 references NASD Rule 2711 while proposed Rule 3.13 references FIRNA Rule 2241. This difference reflects the Commission's approval of a proposed rule change filed by FINRA that replaced NASD Rule 2711 with FINRA Rule 2241. *See* Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482 (July 22, 2015) (SR–FINRA–2014–047).

[11] EDGA and EDGX have filed proposed rule changes with the Commission to replace references to NASD Rule 2711 in their respective Rules 3.13 with FINRA Rule 2241. *See* SR–EDGA–2015–38 and SR–EDGX–2015–43. *See also supra* note 10.

[12] BYX has filed an identical proposal with the Commission to amend its Rule 3.13. *See* SR–BYX–2015–41.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4.

[16] Rule 19b–4(f)(6) also requires that the Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[17] 15 U.S.C. 78s(b)(2)(B).

determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–BATS–2015–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2015–77. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2015–77 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26033 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76088; File No. SR–NYSE–2015–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend Certain Exchange Disciplinary Rules To Facilitate the Reintegration of Certain Regulatory Functions From Financial Industry Regulatory Authority, Inc.

October 7, 2015.

On August 5, 2015, New York Stock Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending certain of its disciplinary rules to facilitate the reintegration of certain regulatory functions from Financial Industry Regulatory Authority, Inc.. On August 14, 2015, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published in the **Federal Register** on August 24, 2015.[3] On October 6, 2015, the Exchange filed Amendment No. 2 to the proposal. No comments were received on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is October 8, 2015. The Commission is extending this 45-day time period. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, as modified by Amendment Nos. 1 and 2.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates November 22, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2015–35).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26031 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31863; File No. 812–14533]

CLA Strategic Allocation Fund and CLA Asset Management, LLC; Notice of Application

October 7, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY: *Summary of Application:* Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution fees and early withdrawal charges (''EWCs'').

Applicants: CLA Strategic Allocation Fund (the ''Initial Fund'') and CLA Asset Management, LLC (the ''Adviser'').

DATES: *Filing Dates:* The application was filed on August 13, 2015, and amended on September 29, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 19s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75721 (August 18, 2015), 80 FR 51334.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

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 November 2, 2015, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: CLA Strategic Allocation Fund and CLA Asset Management, LLC, c/o JoAnn Strasser, Esq., Thompson Hine LLP, 41 South High Street, Suite 1700, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Senior Counsel, at (202) 551–7758, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's primary investment objective is to seek attractive risk-adjusted returns with low to moderate volatility and low correlation to the broader markets. Applicants represent that the Initial Fund pursues its investment objective by investing primarily in the income-producing securities, including real estate investment trusts and alternative investment funds, as well as common stocks, preferred stocks, and structured notes, notes, bonds and asset-backed securities.

2. The Adviser is a Delaware corporation and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Initial Fund.

3. Applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution fees and EWCs.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund is currently making a continuous public offering of its common shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund intends to redesignate its common shares as ''Class A Shares'' and to continuously offer two additional classes of shares (''Class I Shares'' and ''Class C Shares''). Because of the different distribution fees, services and any other class expenses that may be attributable to the Class A, Class I and Class C Shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ from the Class A, Class I and Class C Shares in the following respects: (i) The amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of shares allocated on a class basis as described in the application; (v) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or in class expenses; (vi) any EWC or other sales load structure; and (vii) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5%) at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the other Funds will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make quarterly repurchase offers to its shareholders or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of NASD Rule 2830(d) (''NASD Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule to the NASD Sales Charge Rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

for fund of funds, including registered funds of hedge funds.[6]

10. Each Fund will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class (if any), services fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

12. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with such Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose

[6] Fund of Funds Investments, Investment Company Act Release Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, *et seq.* of the Act.

CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs from shareholders who exit their investments early. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-Based Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26029 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76099; File No. SR–NSCC–2015–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Require Real-Time Trade Submission and to Prohibit Pre-Netting Practices through NSCC's Correspondent Clearing Service

October 7, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 [2] thereunder, notice is hereby given that on September 30, 2015, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(2) [3] of the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to NSCC's Rules & Procedures (''Rules'') in order to require that trade data submitted to NSCC through its Correspondent Clearing service, other than position movements between NSCC Members that are Affiliates and Client Custody Movements, as described further below, be submitted in real-time, and to prohibit pre-netting and other practices that prevent real-time trade submission.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose [5]

Requiring trades to be submitted in real-time facilitates efficient risk management for both NSCC and its Members, enables same-day bookkeeping and reconciliation, and, therefore, significantly reduces risk to the industry. Receipt of trade data on a real-time basis permits NSCC's risk management processes to monitor trades closer to trade execution on an intra-day basis, and to identify and risk manage any issues relating to exposures earlier in the day. Contract information is currently reported out to submitting firms by NSCC's Universal Trade Capture (''UTC'') system upon trade comparison and validation, and receipt of trade data in real-time enables NSCC

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(2).

[4] Terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] Pursuant to a telephone call with NSCC's internal counsel on October 1, 2015, staff in the Office of Clearance and Settlement added the heading. NSCC inadvertently omitted the heading.

to report to Members trade data as it is received, thereby promoting intra-day reconciliation of transactions at the Member level. The majority of trades submitted to NSCC for clearing are currently being submitted in real-time on a trade-by-trade basis, and NSCC is operationally capable of managing trade volumes that are multiple times larger than the historical peak volumes.

NSCC is proposing to require that trade data submitted through its Correspondent Clearing service, as described below, be submitted in real-time and to prohibit pre-netting and other practices that prevent real-time trade submission (''pre-netting practices''). NSCC would exclude from this requirement position movements between NSCC Members that are Affiliates and Client Custody Movements, as described below. The term ''real-time,'' when used with respect to trade submission, is defined in Procedure XIII (Definitions) of the Rules as the submission of trade data on a trade-by-trade basis promptly after trade execution, in any format and by any communication method acceptable to NSCC.

NSCC's UTC system receives and validates transactions that are submitted to it, reports trade details back out to the submitting firm, and prepares those transactions for netting and settlement by routing transactions to netting and settlement systems, such as Continuous Net Settlement Accounting Operation, the Balance Order Accounting Operation, or the Foreign Security Accounting Operation, as applicable. Transactions are submitted to UTC either on a locked-in basis by self-regulatory organizations (including national and regional exchanges and marketplaces) (''SROs'') and Qualified Special Representatives (''QSRs''),[6] or are submitted to UTC as a part of NSCC's Correspondent Clearing service, which allows for post-execution position movements between two clearing firms. Currently all transactions submitted to NSCC on a locked-in basis by SROs and QSRs, which constitute approximately 95% of all transactions processed at NSCC,[7] are required to be submitted in real-time and may not be pre-netted or batched prior to submission.[8]

NSCC's Correspondent Clearing service is designed to provide an automated method by which a Member, acting as a Special Representative, may move a position that has been submitted to NSCC for clearing to the account of another Member (the submitting Member's correspondent) on whose behalf the original trade was executed.[9] Members participating in the Correspondent Clearing service for post-execution position movements and those participating as a QSR for submission of original, locked-in trades are required to apply for status as a Special Representative or as a QSR, and to establish relationships with other NSCC Members that will be designated as their correspondents.[10] While NSCC encourages Special Representatives to submit Correspondent Clearing submissions to NSCC as soon as possible following execution, currently these position movements may be sent to NSCC either in real-time, intraday, or at the end of the day.

NSCC has continued to engage widely with its Members about the benefits of expanding the requirements to submit transactions in real-time and, as a result of these continuing discussions, is now proposing to modify its Rules to require that trade data submitted through its Correspondent Clearing service also be submitted in real-time. The proposed rule change would also prohibit pre-netting practices that prevent real-time trade submission through Correspondent Clearing.

NSCC's Rules currently prohibit pre-netting practices that preclude real-time submission with respect to submissions by QSRs and SROs. Pre-netting practices that are currently prohibited include ''summarization'' (a technique in which the clearing broker nets all trades in a single CUSIP by the same correspondent broker into fewer submitted trades), ''compression'' (a technique to combine submissions of data for multiple trades to the point where the identity of the party actually responsible for the trades is masked), netting, or any other practice that combines two or more trades prior to their submission to NSCC.

NSCC is proposing to extend the prohibition against pre-netting practices to submissions through Correspondent Clearing because pre-netting practices prevent the submission to NSCC of transactions on a trade-by-trade basis, and cause Special Representatives to delay submission of their trades, thereby undermining the risk mitigation benefits of real-time trade submission. Pre-netting practices disrupt NSCC's ability to accurately monitor market and credit risks as they evolve during the trading day.

NSCC would exclude from the requirements of this proposal any position movements between Members that are Affiliates, as identified within NSCC's membership management records. As defined in Rule 4A, ''Affiliate'' means a person that controls or is controlled by or is under common control with another person.[11] Position movements between Affiliates do not introduce the risk management concerns that are mitigated by real-time trade submission. As such, Members would not be required to submit these position movements in real-time, but would continue to be encouraged to do so. Positions movements between Affiliates represent fewer than 5% of trade data submitted through Correspondent Clearing to NSCC.[12]

In order to submit trade data through Correspondent Clearing outside of the

[6] QSRs are defined in Section 3 of Rule 7 as NSCC Members that have applied to NSCC to be a Special Representative, and either (i) operate an automated execution system where they are always the contra side of every trade, (ii) are the parent or affiliate of an entity operating such an automated system, where they are the contra side of every trade, or (iii) clear for a broker/dealer that operates such a system and the subscribers to the system acknowledge the clearing Member's role in the clearance and settlement of these trades. Rules, *supra* note 4.

[7] Based on data from the second quarter of 2015, which show an approximate daily average of 41 million transactions processed at NSCC, with an approximate total daily value of an average of $455 billion; and an approximate average of 1.1 million submissions through Correspondent Clearing, with an approximate total daily value of an average of $57 billion. The average daily volume of submissions through Correspondent Clearing is less than 5% of NSCC's overall daily volume.

[8] Securities Exchange Act Release No. 69890 (June 28, 2013), 78 FR 40538 (July 5, 2013) (File No. SR–NSCC–2013–05). *See also* Rule 7 (Comparison and Trade Recording Operation), Procedure II (Trade Comparison and Recording Service), and Procedure IV (Special Representative Service), *supra* note 4.

[9] The term ''original trade'' is used within the Rules describing the Correspondent Clearing service solely to distinguish between trades executed in the marketplace by the Special Representative, and transactions booked for accounting purposes to accommodate the movement of positions between Members as provided for in Section C of Procedure IV. Original trades may not be submitted through NSCC's Correspondent Clearing service. Rules, *supra* note 4.

[10] Pursuant to a telephone call with NSCC's internal counsel on October 5, 2015, staff in the Office of Clearance and Settlement corrected an incorrect statement that Members utilizing the services of a QSR are required to apply for status as a Special Representative or as a QSR. NSCC intended to state that Members participating as a QSR are required to apply for status as a Special Representative or as a QSR.

[11] Control of a person means the direct or indirect ownership or power to vote more than 50% of any class of the voting securities or other voting interests of any person. Rule 4A, *supra* note 4.

[12] Based on data from the second quarter of 2015, which show an approximate daily average of 1.1 million submissions through Correspondent Clearing at NSCC, with an approximate total daily value of an average of $57 billion; and an approximate average of 52,000 position movements through Correspondent Clearing between Affiliates, with an approximate total daily value of an average of $13 billion. The average daily volume of position movements through Correspondent Clearing between Affiliates is less than 1% of NSCC's overall daily volume.

real-time trade submission requirements, Special Representatives would need to identify a transaction as an Affiliate position movement. NSCC would validate the Affiliates' relationship between the counterparties by a check against the information within NSCC's membership management records as of the time of the trade submission. Members continue to be required to provide NSCC with current information regarding their corporate ownership structure. If an Affiliate relationship is not reflected on NSCC's records at the time of the trade submission, the transaction will be rejected.

NSCC would also exclude from the requirements of this proposal position movements that occur between two unaffiliated clearing brokers, typically at the end of the day, on behalf of a common customer for custody purposes (''Client Custody Movements''). These movements, which today represent approximately 1% of submissions through Correspondent Clearing, would be exempt from the requirement because they necessarily take place at the end of the day, after the common client has reviewed its end of day positions and has instructed the clearing brokers as to which positions it will move for custody purposes.

NSCC proposes to amend Rule 7 (Comparison and Trade Recording Operation), Procedure II (Trade Comparison and Recording Service), and Procedure IV (Special Representative Service) to require that trades submitted by Special Representatives for trade recording through NSCC's Correspondent Clearing service be submitted on a real-time basis and to make clear that trade data submitted to NSCC through Correspondent Clearing service must be submitted on a trade-by-trade basis, in the original form executed, and that pre-netting practices are prohibited. The proposed rule change would also make clear that these requirements would not apply to position movements between NSCC Members that are Affiliates or to Client Custody Movements.

Implementation Timeframe

Pending Commission approval of this proposed rule change, Members would be advised of the implementation date through issuance of an NSCC Important Notice. The proposed rule change would not be implemented earlier than ten business days from the date of Commission approval.

2. Statutory Basis

NSCC believes that this proposal is consistent with Section 17A(b)(3)(F) of the Act, which requires that NSCC's Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.[13]

The proposal would enable NSCC to monitor trades closer to trade execution on an intra-day basis and identify and risk manage any issues relating to exposures earlier in the day. Further, receipt of trade data in real-time would enable NSCC to report to Members trade data as it is received, promoting intra-day reconciliation of transactions at the Member level. Therefore, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions by reducing operational, market, and credit risks faced by NSCC and its Members, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F), as cited above.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have any impact on competition because the proposed requirements would apply an existing requirement equally to all Members that submit transactions to NSCC through its Correspondent Clearing service.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

NSCC has not received any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[13] 15 U.S.C. 78q–1(b)(3)(F). Pursuant to a telephone call with NSCC's internal counsel on October 1, 2015, staff in the Office of Clearance and Settlement corrected an incorrect reference to 5 U.S.C. 78q–1(b)(3)(F). NSCC intended to refer to 15 U.S.C. 78q–1(b)(3)(F).

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–NSCC–2015–004 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–NSCC–2015–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2015–004 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26028 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76093; File No. SR–EDGA–2015–38]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3.13 (Payments Involving Publications That Influence the Market Price of a Security)

October 7, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2015, EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend EDGA Rule 3.13 to update references to recently amended FINRA rules and make a ministerial, non-substantive change. The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 3.13 to update references to a recently amended FINRA rule and make a ministerial, non-substantive change. Rule 3.13(a) prohibits Exchange members from ''directly or indirectly, giv[ing], permit[ting] to be given, or offer[ing] to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any electronic or other public media, including any investment service or similar publication, Web site, newspaper, magazine or other periodical, radio, or television program of any matter that has, or is intended to have, an effect upon the market price of any security.'' The Exchange proposes to amend paragraph (a) by replacing the term ''Web site'' with ''Web site''.

Rule 3.13(b) sets forth exceptions to the prohibitions under paragraph (a) set forth above. These exceptions allow for compensation paid to a person in connection with the publication or circulation of: (i) A communication that is clearly distinguishable as paid advertising; (ii) a communication that discloses the receipt of compensation and the amount thereof in accordance with Section 17(b) of the Securities Act of 1933; or (iii) a research report, as that term is defined in NASD Rule 2711. Rule 3.13 also states that FINRA is in the process of consolidating certain NASD rules into a new FINRA rulebook. This provision also states that ''[i]f the provisions of NASD Rule 2711 are transferred into the FINRA rulebook, then Rule 2711 shall be construed to require Exchange members to comply with FINRA rule corresponding to NASD Rule 2711 (regardless of whether such rule is renumbered or amended) as if such rule were part of the Rules of the Exchange.''

The Commission recently approved a proposed rule change by FINRA to transfer NASD Rule 2711 to the FINRA rulebook and redesignate it as FINRA Rule 2241.[5] This was proposed as part of FIRNA's process of consolidating certain NASD rules into the new FINRA rulebook. To reflect the approval of this recent FINRA proposed rule change, the Exchange proposes to replace the reference to NASD Rule 2711 with FINRA 2241 under paragraph (b)(3). The Exchange also proposes to delete the provision within Rule 3.13 referencing the transferring of NASD Rule 2711 to the FINRA rulebook as NASD Rule 2711 was transferred to the FINRA rule book as Rule 2241 (described above), as no longer necessary.

2. Statutory Basis

The Exchange believes that proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange does not propose to amend the prohibition or exceptions of any of its Rule 3.13. The Exchange believes that by updating cross references to FINRA rules as a result of the transfer of NASD Rule 2711 to the FINRA rulebook as FINRA Rule 2241 and making a ministerial, non-substantive change the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by avoiding potential investor and member confusion. The Exchange believes that these clarifying changes also would, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not propose to amend the prohibition or exceptions of any of its Rule 3.13. The proposed rule change

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482 (July 22, 2015) (SR–FINRA–2014–047).

[6] 15 U.S.C. 78f(b)(5).

is not designed to address any competitive issues but rather update Rule 3.13 to reflect the recent amendment to a referenced FINRA rule and make a ministerial, non-substantive change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, 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) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend the rule change if it appears to the Commission that this action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[10] to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–EDGA–2015–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGA–2015–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–EDGA–2015–38 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26034 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] Rule 19b–4(f)(6) also requires that the Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, October 15, 2015, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On September 22, 2015, the Commission issued notice of the Committee meeting (Release No. 33–9924), indicating that the meeting is open to the public (except during that portion of the meeting reserved for an administrative work session during lunch), and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: Remarks from Commissioners; a discussion of recent market structure developments; a discussion of exchange-traded fund pricing; a report of the Committee chair regarding Committee matters; a discussion of SEC enforcement priorities; and a nonpublic administrative work session during lunch.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 8, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–26158 Filed 10–9–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76094; File No. SR–NYSEArca–2015–90]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.89 To Update a Cross-Reference to Exchange's Recently Revised Rule Regarding Obvious Errors

October 7, 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 October 1, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.89 to update a cross-reference to Exchange's recently revised rule regarding Obvious Errors. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 6.89 (Erroneous Trades due to System Disruptions and Malfunctions) to update a cross-reference to Exchange's recently revised rule regarding Obvious Errors. Specifically, in coordination with other options exchanges, the Exchange recently revised Rule 6.87 (Nullification and Adjustment of Options Transactions including Obvious Errors) (the ''O/E Rule'') to harmonize substantial portions of the Rule with recently adopted, and proposed rules of other options Exchanges.[4] In connection with that revision, the Exchange reorganized and re-numbered certain sections of the O/E Rule, but inadvertently failed to update a cross-reference to the O/E Rule that is contained in Rule 6.89. Specifically, Rule 6.89 incorrectly refers to guidelines contained in paragraphs (a)(3)(C)(A)(i)–(ii) of Rule 6.87, and should refer to paragraph (b) of Rule 6.87, in regards to the potential adjustment of ''[e]lectronic or open outcry transactions arising out of a 'verifiable disruption or malfunction' in the use or operation of any Exchange dissemination, execution, or communication system.''

This rule filing is intended to replace the incorrect reference to the O/E Rule with the correct, updated reference, which will clarify Exchange rules and alleviate any investor confusion. The proposed change will further harmonize the Exchange's rules with those of other option exchanges that also reference paragraph (b) in their respective rules governing System Disruptions and Malfunctions.[5] In addition, the proposed change would ensure that the Exchange would not be prevented from adjusting a trade in the event of a systems disruption, which would protect investors and the public interest.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5),[7] 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) [8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanisms of a free and open market by making cross-references contained in Rule 6.89 consistent with the updated O/E Rule text.[9] In addition, the proposed change would ensure that the Exchange would not be prevented from adjusting a trade in the event of a systems disruption, which would protect investors and the public interest. The Exchange believes that the proposed rule change would provide transparency, internal consistency, and operational certainty and may reduce potential investor confusion. The Exchange believes additional transparency and clarity removes a potential impediment to, and would contribute to perfecting, the mechanism for a free and open market and a national market system, and, in general, would 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 proposed change is not designed to address any competitive issue but rather to update cross references to the O/E Rule, thereby reducing confusion and making the Exchange's rules easier to understand and navigate. The Exchange believes that the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release 74921 (May 8, 2015), 80 FR 27747 (May 14, 2015) (SR–NYSEArca–2015–41).

[5] *See* MKT Rule 975NY(l). *See also* Chicago Board Options Exchange Rule 6.25, Commentary .05.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] *See supra* n. 4.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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 [10] and Rule 19b–4(f)(6) thereunder.[11]

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 waiver of the operative delay will permit the Exchange to correct outmoded references without delay, thereby promoting clarity in the Exchange rules and reducing potential investor confusion. The Commission believes that waiving the 30-day 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 operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[12] 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).

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–2015–90 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–2015–90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–90, and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26035 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76098; File No. SR–MIAX–2015–58]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Its Fee Schedule

October 7, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 28, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule''). The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to change the transaction

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

fee rebates for Priority Customer [3] orders submitted by Members that meet certain percentage thresholds of national customer volume in multiply-listed option classes listed on MIAX in the Priority Customer Rebate Program (the ''Program'').[4]

Priority Customer Rebate Program

Currently, the Exchange credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member that is executed electronically on the Exchange in all multiply-listed option classes (excluding Qualified Contingent Cross Orders,[5] mini-options,[6] Priority Customer-to-Priority Customer Orders, PRIME Auction Or Cancel Responses, PRIME Contra-side Orders, PRIME Orders for which both the Agency and Contra-side Order are Priority Customers,[7] and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400), provided the Member meets certain tiered percentage thresholds in a month as described in the Priority Customer Rebate Program table.[8] For each Priority Customer order transmitted by that Member and executed electronically on the Exchange, MIAX will continue to credit each member at the per contract rate for option classes that are not in MIAX Select Symbols (as defined below). For each Priority Customer order transmitted by that Member and executed electronically on the Exchange in MIAX Select Symbols (as defined below), MIAX will continue to credit each Member at the separate per contract rate for MIAX Select Symbols.[9] For each Priority Customer order submitted into the PRIME Auction as a PRIME Agency Order, MIAX will continue to credit each member at the separate per contract rate for PRIME Agency Orders.[10] The volume thresholds are calculated based on the customer volume over the course of the month. Volume will be recorded for and credits will be delivered to the Member Firm that submits the order to the Exchange.

The amount of the rebate is calculated beginning with the first executed contract at the applicable threshold per contract credit with rebate payments made at the highest achieved volume tier for each contract traded in that month. For example, under the current Program, a Member that executes a number of Priority Customer contracts above 1.75% of the national customer volume in multiply-listed options during a particular calendar month currently receives a credit of $0.21 for each Priority Customer contract in both non-Select Symbols and Select Symbols executed during that month, even though there are lower incremental percentages for lower volume tiers leading up to the 1.75% volume threshold.

The current Priority Customer Rebate Program table designates the following monthly volume tiers and corresponding per contract credits:

Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (Monthly)	Per contract credit (non-select symbols)	Per contract credit in MIAX select symbols	Per contract credit for PRIME agency order
Tier 1 0.00%–0.50%	$0.00	$0.00	$0.10
Tier 2 Above 0.50%–1.00%	$0.10	$0.10	$0.10
Tier 3 Above 1.00%–1.75%	$0.15	$0.21	$0.10
Tier 4 Above 1.75%	$0.21	$0.21	$0.10

The $0.21 per contract credit described in Tier 4 is applied to each contract traded in both non-Select Symbols and Select Symbols in that month, beginning with the first contract executed in a particular month if the Tier 4 volume threshold is achieved.

Proposal

The Exchange proposes to decrease the per contract credit for transactions in MIAX Select Symbols for tier 3. Currently, the Exchange credits $0.21 per contract for qualifying Priority Customer transactions in MIAX Select Symbols in tier 3. The Exchange proposes to decrease the per contract credit for transactions in MIAX Select Symbols to $0.20 for the tier 3 volume threshold.

The Exchange also proposes to increase the per contract credit for transactions in MIAX Select Symbols for tier 4. Currently, the Exchange credits $0.21 per contract for qualifying Priority Customer transactions in MIAX Select Symbols in tier 4. The Exchange proposes to increase the per contract credit for transactions in MIAX Select Symbols to $0.24 for the tier 4 volume threshold.

Specifically, the new per contract credits will be as set forth in the following table:

[3] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100.

[4] *See* Securities Exchange Act Release Nos. 75856 (September 8, 2015), 80 FR 55158 (September 14, 2015)(SR–MIAX 2015–53); 75631 (August 5, 2015), 80 FR 48382 (August 6, 2015) (SR–MIAX–2015–51); 74758 (April 17, 2015), 80 FR 22756 (April 23, 2015)(SR–MIAX–2015–27); 74007 (January 9, 2015), 80 FR 1537 (January 12, 2015) (SR–MIAX–2014–69); 72799 (August 8, 2014), 79 FR 47698 (August 14, 2014) (SR–MIAX–2014–40); 72355 (June 10, 2014), 79 FR 34368 (June 16, 2014) (SR–MIAX–2014–25); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR–MIAX–2014–12); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR–MIAX–2013–63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR–MIAX–2013–56).

[5] A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretations and Policies .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. A Qualified Contingent Cross Order is not valid during the opening rotation process described in Rule 503. *See* Exchange Rule 516(j).

[6] A mini-option is a series of option contracts with a 10 share deliverable on a stock, Exchange Traded Fund share, Trust Issued Receipt, or other Equity Index-Linked Security. *See* Exchange Rule 404, Interpretations and Policies .08.

[7] The MIAX Price Improvement Mechanism (''PRIME'') is a process by which a Member may electronically submit for execution (''Auction'') an order it represents as agent (''Agency Order'') against principal interest, and/or an Agency Order against solicited interest. For a complete description of PRIME and of PRIME order types and responses, *see* Exchange Rule 515A.

[8] *See* Fee Schedule Section (1)(a)(iii).

[9] *See* Securities Exchange Release Nos. 75856 (September 8, 2015), 80 FR 55158 (September 14, 2015)(SR–MIAX 2015–53); 75631 (August 5, 2015), 80 FR 48382 (August 6, 2015) (SR–MIAX–2015–51); 74291 (February 18, 2015), 80 FR 9841 (February 24, 2015)(SR–MIAX–2015–09); 74288 (February 18, 2015), 80 FR 9837 (February 24, 2015) (SR–MIAX–2015–08); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR–MIAX–2014–13); 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR–MIAX–2014–26); 72567 (July 8, 2014), 79 FR 40818 (July 14, 2014) (SR–MIAX–2014–34); 73328 (October 9, 2014), 79 FR 62230 (October 16, 2014) (SR–MIAX–2014–50).

[10] *See* Securities Exchange Release No. 72943 (August 28, 2014), 79 FR 52785 (September 4, 2014) (SR–MIAX–2014–45).

Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (Monthly)	Per contract credit (non-select symbols)	Per contract credit in MIAX select symbols	Per contract credit for PRIME agency order
Tier 1 0.00%–0.50%	$0.00	$0.00	$0.10
Tier 2 Above 0.50%–1.00%	$0.10	$0.10	$0.10
Tier 3 Above 1.00%–1.75%	$0.15	$0.20	$0.10
Tier 4 Above 1.75%	$0.21	$0.24	$0.10

The Exchange believes that the proposed new monthly credits should provide incentives for Members to direct greater Priority Customer trade volume to the Exchange in Select Symbols at the highest volume threshold.

The proposed new monthly per contract credits will apply to MIAX Select Symbols,[11] with the per contract credit increasing for certain monthly volume thresholds. The monthly per contract rebate will decrease to $0.20 for all contracts executed in Select Symbols in tier 3 in order to incentivize Members to trade such number of contracts per month in Select Symbols which will earn them the proposed higher rebate in tier 4. Accordingly, the monthly per contract rebate will increase to $0.24 for all contracts executed in Select Symbols in tier 4.

All other aspects of the Program will remain unchanged. The Exchange is not proposing any change to the per contract credit for non-Select Symbols or for PRIME Agency Orders. Consistent with the current Fee Schedule, the Exchange will continue to aggregate the contracts resulting from Priority Customer orders transmitted and executed electronically on the Exchange from affiliated Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Priority Customer Rebate Program as a separate direct payment.

The purpose of the proposed rule change is to encourage Members to direct greater Priority Customer trade volume to the Exchange in Select Symbols at the highest volume threshold and to compete with other options exchanges that have similar rebates.[12] The Exchange believes that increased Priority Customer volume in Select Symbols at the highest volume threshold will attract more liquidity to the Exchange, which benefits all market participants. Increased retail customer order flow should attract professional liquidity providers (Market Makers), which in turn should make the MIAX marketplace an attractive venue where Market Makers will submit narrow quotations with greater size, deepening and enhancing the quality of the MIAX marketplace. This should provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

The specific volume thresholds of the Program's tiers are set based upon business determinations and an analysis of current volume levels. The volume thresholds are intended to incentivize firms to increase the number of Priority Customer orders they send to the Exchange so that they can achieve the next threshold, and to encourage new participants to send Priority Customer orders as well. Increasing the number of orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different credit rates at the different tier levels are based on an analysis of current revenue and volume levels and are intended to provide increasing ''rewards'' to MIAX participants for increasing the volume of Priority Customer orders sent to, and Priority Customer contracts executed on, the Exchange. The specific amounts of the tiers and rates are set in order to encourage suppliers of Priority Customer order flow to reach for higher tiers.

The credits paid out as part of the program will be drawn from the general revenues of the Exchange.[13] The Exchange calculates volume thresholds on a monthly basis.

The Exchange proposes to implement the proposed changes to the Fee Schedule effective as of October 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(4) of the Act[15] in particular, in that it is an equitable allocation of reasonable fees and other charges.

The Exchange believes that the proposal is equitable and not unfairly discriminatory. The Program and the proposed decrease in the per contract rebate for all contracts executed in Select Symbols in tier 3 is reasonably designed because it will encourage Members to send increased volume of Priority Customer order flow in Select Symbols in order to reach the highest volume threshold, thereby receiving the greater per contract credit. The proposed increase in the per contract rebate for all contracts executed in Select Symbols in tier 4 is reasonably designed because it will reward those providers of higher volume Priority Customer order flow in Select Symbols to the Exchange with the greater per contract credit for achieving volume tier 4. The Exchange believes that the proposed changes in the per contract rate for Select Symbols should improve market quality for all market participants. The proposed changes to the rebate program are fair and equitable and not unreasonably discriminatory because they apply equally to all Priority Customer orders in Select Symbols. All similarly situated Priority Customer orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. Furthermore, the proposed changes in

[11] The term ''MIAX Select Symbols'' means options overlying AA, AAL, AAPL, AIG, AMAT, AMD, AMZN, BA, BABA, BBRY, BIDU, BP, C, CAT, CBS, CELG, CLF, CVX, DAL, EBAY, EEM, FB, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, HTZ, INTC, IWM, JCP, JNJ, JPM, KMI, KO, MO, MRK, NFLX, NOK, NQ, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, S, SPY, SUNE, T, TSLA, USO, VALE, VXX, WBA, WFC, WMB, WY, X, XHB, XLE, XLF, XLP, XOM, XOP and YHOO. *See* Fee Schedule, note 13.

[12] *See, e.g.,* Securities Exchange Act Release No. 75702 (August 14, 2015), 80 FR 50685 (August 20, 2015) (SR–PHLX–2015–68).

[13] Despite providing credits under the Program, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and fulfill its responsibilities as a self-regulatory organization while the Program is in effect.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

credits for all contracts executed in Select Symbols in tiers 3 and 4 are equitable and not unfairly discriminatory because the proposed rates and changes encourage Members to direct increased amounts of Priority Customer contracts in Select Symbols to the Exchange in order to achieve the highest volume threshold thereby receiving the largest per contract credit. Market participants want to trade with Priority Customer order flow. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger sized quotations in the effort to trade with such Priority Customer order flow. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change would increase both intermarket and intramarket competition by encouraging Members to direct their Priority Customer orders in Select Symbols to the Exchange, which should enhance the quality of quoting and increase the volume of contracts traded on MIAX. Respecting the competitive position of non-Priority Customers, the Exchange believes that this rebate program should provide additional liquidity that enhances the quality of its markets and increases the number of trading opportunities on MIAX for all participants, including non-Priority Customers, who will be able to compete for such opportunities. This should benefit all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it encourages market participants to direct an increased volume of customer order flow, to provide liquidity, and as a result to attract additional transaction volume to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, enhancing the existing volume based customer rebate program to attract a higher volume of order flow is consistent with the goals of the Act. The Exchange believes that the proposal will enhance competition, because market participants will have another additional pricing consideration in determining where to execute orders and post liquidity if they factor the benefits of the proposed rebate program into the determination.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[16] and Rule 19b–4(f)(2)[17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2015–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2015–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–58 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26027 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC–31864; File No. 812–14479]

ARK ETF Trust, et al.; Notice of Application

October 7, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an

exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Creation Units in-kind in a master-feeder structure.

Applicants: ARK ETF Trust (the ''Trust''), ARK Investment Management LLC (the ''Initial Adviser''), and Foreside Fund Services, LLC (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on June 3, 2015, and amended on September 16, 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 November 2, 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: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: The Trust and the Initial Adviser, 155 West 19th Street, 5th Floor, New York, New York 10011; The Distributor, Three Canal Plaza, Portland, Maine 04101.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel at (202) 551–8707, or Holly L. Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. ARK ETF Trust is organized as a Delaware statutory trust. The Trust is registered under the Act as an open-end management investment company.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the initial series of the Trust (the ''Initial Funds''). Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. Each Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds, or their respective Master Funds, (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust has entered into a distribution agreement with the Distributor. The distributor for the Initial Funds will be the Distributor. The Distributor is a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the Initial Funds and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future that operate as an exchanged-traded fund (''ETF'') and that track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index'') (together, the ''Future Funds''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Funds and Future Funds, together, are the ''Funds.'' [1]

5. Applicants state that a Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund to acquire shares of another registered investment company in the same group of investment companies having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) of the Act and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) of the Act (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[2] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Fund, or its respective Master Fund, will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/

[1] All existing entities that intend to rely on the requested 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 order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will consider any such potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest its portfolio in compliance with the requested order.

or fixed income securities (''Foreign Funds'').

7. Applicants represent that each Fund, or its respective Master Fund, will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[3] and in the case of Foreign Funds, Component Securities and Depositary Receipts [4] representing Component Securities. Each Fund, or its respective Master Fund, may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the applicable Adviser believes will help the Fund, or its respective Master Fund, track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

8. Future Funds may seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, the Adviser for each Long/Short Fund and 130/30 Fund will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Long/Short Fund or 130/30 Fund's, or its respective Master Fund's, Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

9. A Fund, or its respective Master Fund, will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund, or its respective Master Fund, using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund, or its respective Master Fund, using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund, or its respective Master Fund, using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that the returns of each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the applicable Adviser, which will have a licensing agreement with such Index Provider.[7] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Advisers, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of an Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the potential ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

12. Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds, and their respective Master Funds, to maintain full portfolio transparency will provide an additional alternative mechanism for addressing any such potential conflicts of interest.

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds, or their respective Master Funds, may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund, or its respective Master Fund, will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund, or its respective Master Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to tract the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

13. Applicants do not believe the potential for conflicts of interest raised by an Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds, their respective Master Funds, and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[9]

14. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds, their respective Master Funds, and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Initial Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any other Adviser and/or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [10] and Inside Information Policy of each Adviser and Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [11] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. Each Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds or their respective Master Funds transact with an Affiliated Person of an Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, an Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by an Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[12] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [13] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [14] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [15] will be excluded from the Deposit Instruments and the Redemption Instruments; [16] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [17] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

17. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given

[9] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[10] Each Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[11] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[12] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[13] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[14] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[15] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[16] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[17] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants (as defined below) on a given Business Day.

Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [18] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash *in lieu* of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash *in lieu* of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[19]

18. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

19. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange or other major market data provider will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

20. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[20] In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

21. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

22. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

23. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to

[18] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[19] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[20] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[21] Where a Fund permits an ''in-kind'' purchaser to substitute cash in lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant. A redeeming investor will pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

24. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[23] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[24] Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from

[23] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will issue individually redeemable securities.

[24] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[25]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.[26]

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Advisers and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[27] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds' Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds' Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a

[25] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[26] In addition, the requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

[27] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

Fund, or its respective Master Fund, under rule 12b-1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[28]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund, nor its respective Master Fund, will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by an Adviser or an entity controlling, controlled by or under common control with an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

21. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

22. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing

[28] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

23. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[29] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[30] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transactions are consistent with the policy of each Fund and will be consistent with the investment objectives and policies of each Fund of Funds, and the proposed transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the section 12(d)(1) Relief and the section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. Each Fund's Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for the Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing, Long/Short and 130/30 Fund will post on its Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's, or its respective Master Fund's, Portfolio Holdings.

6. Neither Adviser nor any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for a Self-Indexing Fund, or its respective Master Fund, through a transaction in which the Self-Indexing Fund, or its respective Master Fund, could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund, or its respective Master Fund, for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the

[29] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[30] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund, or its respective Master Fund, or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund, or its respective Master Fund, or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, or its respective Master Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund, or its respective Master Fund, to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund, or its respective Master Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund, or its respective Master Fund, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–l under the Act) received from a Fund, or its respective Master Fund, by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by a Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company

including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26030 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76091; File No. SR–EDGX–2015–43]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3.13 (Payments Involving Publications that Influence the Market Price of a Security)

October 7, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2015, EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend EDGX Rule 3.13 to update references to recently amended FINRA rules and make a ministerial, non-substantive change. The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 3.13 to update references to a recently amended FINRA rule and make a ministerial, non-substantive change. Rule 3.13(a) prohibits Exchange members from ''directly or indirectly, giv[ing], permit[ting] to be given, or offer[ing] to give anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any electronic or other public media, including any investment service or similar publication, Web site, newspaper, magazine or other periodical, radio, or television program of any matter that has, or is intended to have, an effect upon the market price of any security.'' The Exchange proposes to amend paragraph (a) by replacing the term ''Web site'' with ''Web site''.

Rule 3.13(b) sets forth exceptions to the prohibitions under paragraph (a) set forth above. These exceptions allow for compensation paid to a person in connection with the publication or circulation of: (i) A communication that is clearly distinguishable as paid advertising; (ii) a communication that discloses the receipt of compensation and the amount thereof in accordance with Section 17(b) of the Securities Act of 1933; or (iii) a research report, as that term is defined in NASD Rule 2711. Rule 3.13 also states that FINRA is in the process of consolidating certain NASD rules into a new FINRA rulebook. This provision also states that ''[i]f the provisions of NASD Rule 2711 are transferred into the FINRA rulebook, then Rule 2711 shall be construed to require Exchange members to comply with FINRA rule corresponding to NASD Rule 2711 (regardless of whether such rule is renumbered or amended) as if such rule were part of the Rules of the Exchange.''

The Commission recently approved a proposed rule change by FINRA to transfer NASD Rule 2711 to the FINRA rulebook and redesignate it as FINRA Rule 2241.[5] This was proposed as part of FIRNA's process of consolidating certain NASD rules into the new FINRA rulebook. To reflect the approval of this recent FINRA proposed rule change, the Exchange proposes to replace the reference to NASD Rule 2711 with FINRA 2241 under paragraph (b)(3). The Exchange also proposes to delete the provision within Rule 3.13 referencing the transferring of NASD Rule 2711 to the FINRA rulebook as NASD Rule 2711 was transferred to the FINRA rule book as Rule 2241 (described above), as no longer necessary.

2. Statutory Basis

The Exchange believes that proposed rule change is consistent with section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482 (July 22, 2015) (SR–FINRA–2014–047).

[6] 15 U.S.C. 78f(b)(5).

and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange does not propose to amend the prohibition or exceptions of any of its Rule 3.13. The Exchange believes that by updating cross references to FINRA rules as a result of the transfer of NASD Rule 2711 to the FINRA rulebook as FINRA Rule 2241 and making a ministerial, non-substantive change the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by avoiding potential investor and member confusion. The Exchange believes that these clarifying changes also would, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not propose to amend the prohibition or exceptions of any of its Rule 3.13. The proposed rule change is not designed to address any competitive issues but rather update Rule 3.13 to reflect the recent amendment to a referenced FINRA rule and make a ministerial, non-substantive change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, 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) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend the rule change if it appears to the Commission that this action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes this action, the Commission shall institute proceedings under section 19(b)(2)(B) of the Act[10] to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–EDGX–2015–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGX–2015–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–EDGX–2015–43 and should be submitted on or before November 4, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26032 Filed 10–13–15; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] Rule 19b–4(f)(6) also requires that the Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14495 and #14496]

South Carolina Disaster # SC–00031

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–4241–DR), dated 10/05/2015.

Incident: Severe Storms and Flooding

Incident Period: 10/01/2015 and continuing.

Effective Date: 10/05/2015

Physical Loan Application Deadline Date: 12/04/2015

Economic Injury (EIDL) Loan Application Deadline Date: 07/05/2016

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/05/2015, 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 (Physical Damage and Economic Injury Loans):
Charleston, Dorchester, Georgetown, Horry, Lexington, Orangeburg, Richland, Williamsburg.

Contiguous Counties (Economic Injury Loans Only): South Carolina:
Aiken, Bamberg, Barnwell, Berkeley, Calhoun, Clarendon, Colleton, Dillon, Fairfield, Florence, Kershaw, Marion, Newberry, Saluda, Sumter.

North Carolina:
Brunswick, Columbus, Robeson.

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 144956 and for economic injury is 144960.

(Catalog of Federal Domestic Assistance Numbers 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2015–26038 Filed 10–13–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before December 14, 2015.

ADDRESSES: Send all comments to Andrienne Johnson, Staff Assistant, Office of Administrator, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Andrienne Johnson, Staff Assistant, 202–205–6685, *andrienne.johnson@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: This form is used to collect information from candidates for advisory councils. This form is needed to determine eligibility, potential conflict-of-interest and mailing data. SBA made some minor revisions to Form 898 in an effort to improve the quality of information received from advisory committee nominees and to enhance the evaluation and conflict of interest determination process. The Form 898 has also been reformatted for readability. The former design proved to be confusing for respondents and people inadvertently skipped questions. The redesign especially the incorporation of ''yes/no'' checkboxes increases the likelihood that respondents will answer all questions.

Title: U.S. Small Business Advisory Committee Membership—Nominee Information.

Description of Respondents: Candidates for Advisory Councils.

SBA Form No: 898.

Total Estimated Annual Responses: 100.

Total Estimated Annual Hour Burden: 100.

Curtis Rich,

Management Analyst.

[FR Doc. 2015–26040 Filed 10–13–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Final Re-Evaluation of the O'Hare Modernization Environmental Impact Statement (Final Re-Evaluation)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability of the Final Re-Evaluation of the O'Hare Modernization Environmental Impact Statement (Final Re-Evaluation).

SUMMARY: The Federal Aviation Administration (FAA) announces that the Final Written Re-Evaluation of the O'Hare Modernization Environmental Impact Statement (Final Re-Evaluation) for Chicago O'Hare International Airport, Chicago, Illinois is available.

The Final Re-Evaluation identifies the potential environmental impacts associated with the construction schedule modification that alters the timing for commissioning new Runway 10R/28L, new Runway 9C/27C, and the extension of Runway 9R/27L at O'Hare International Airport pursuant to the National Environmental Policy Act.

ADDRESSES: *Location of Proposed Action:* O'Hare International Airport, Des Plaines and DuPage River Watersheds, Cook and DuPage Counties, Chicago, Illinois (Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18, Township 41 North, Range 10 East, 3rd P.M.).

FOR FURTHER INFORMATION CONTACT: Amy Hanson, Environmental Protection Specialist, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018, FAX: 847–294–7046, email address: *omre-eval@faa.gov.*

SUPPLEMENTARY INFORMATION: The Final Re-Evaluation is available on line (*http://www.faa.gov/airports/airport_development/omp/eis_re-eval/*) and was provided to the following libraries:

Addison Public Library	4 Friendship Pl	Addison.
Albany Park Library	3401 W. Foster Ave	Chicago.
Arlington Heights Library	500 N. Dunton Ave	Arlington Heights.
Austin Irving Library	6100 E. Irving Park Rd	Chicago.
Bartlett Public Library	800 South Bartlett Rd	Bartlett.
Bellwood Public Library	600 Bohland Ave	Bellwood.
Bensenville Community Public Library	200 S. Church Rd	Bensenville.
Berkeley Public Library	1637 Taft Ave	Berkeley.

Bezazian Library	1226 W. Ainslie St	Chicago.
Bloomingdale Public Library	101 Fairfield Way	Bloomingdale.
Bucktown—Wicker Park Library	1701 N. Milwaukee Ave	Chicago.
Budlong Woods Library	5630 N. Lincoln Ave	Chicago.
Carol Stream Public Library	616 Hiawatha Dr	Carol Stream.
College of DuPage Library	425 Fawell Blvd	Glen Ellyn.
Conrad Sulzer Regional Library	4455 N. Lincoln Ave	Chicago.
Des Plaines Public Library	1501 Ellinwood Ave	Des Plaines.
Dunning Library	7455 W. Cornelia Ave	Chicago.
Edgebrook Library	5331 W. Devon Ave	Chicago.
Edgewater Library	6000 N. Broadway	Chicago.
Eisenhower Public Library	4652 N. Olcott Ave	Harwood Heights.
Elk Grove Village Public Library	1001 Wellington Ave	Elk Grove Village.
Elmhurst Public Library	211 Prospect Ave	Elmhurst.
Elmwood Park Public Library	4 W. Conti Pkwy	Elmwood Park.
Evanston Public Library	1703 Orrington Ave	Evanston.
Forest Park Public Library	7555 Jackson Blvd	Forest Park.
Franklin Park Public Library	10311 Grand Ave	Franklin Park.
Galewood—Mont Clare Library	6871 W. Belden Ave	Chicago.
Glendale Heights Library	25 E. Fullerton Ave	Glendale Heights.
Glenview Public Library	1930 Glenview Rd	Glenview.
Glen Ellyn Public Library	400 Duane St	Glen Ellyn.
Hanover Park Branch Library	1266 Irving Park Rd	Hanover Park.
Harold Washington Library	400 S. State St	Chicago.
Hillside Public Library	405 Hillside Ave	Hillside.
Hoffman Estates Library	1550 Hassell Rd	Hoffman Estates.
Humboldt Park Library	1605 N. Troy St	Chicago.
Independence Library	3548 W. Irving Park Rd	Chicago.
Itasca Community Library	500 W. Irving Park Rd	Itasca.
Jefferson Park Library	5363 W. Lawrence Ave	Chicago.
Lincoln Belmont Library	1659 W. Melrose St	Chicago.
Lincoln Park Library	1150 W. Fullerton Ave	Chicago.
Logan Square Library	3030 W. Fullerton Ave	Chicago.
Lombard Public Library	110 W. Maple St	Lombard.
MayFair Library	4400 W. Lawrence Ave	Chicago.
Maywood Public Library	121 S. 5th Ave	Maywood.
Melrose Park Public Library	801 N. Broadway	Melrose Park.
Merlo Library	644 W. Belmont Ave	Chicago.
Morton Grove Public Library	6140 Lincoln Ave	Morton Grove.
Mount Prospect Public Library	10 S. Emerson St	Mount Prospect.
Niles Public Library	6960 W. Oakton St	Niles.
North Austin Library	5724 W. North Ave	Chicago.
North Pulaski Library	4300 W. North Ave	Chicago.
Northlake Public Library	231 N. Wolf Rd	Northlake.
Northtown Library	6435 N. California Ave	Chicago.
Oak Park Public Library	834 Lake St	Oak Park.
Oakton Community College Library	1616 E. Golf Rd	Des Plaines.
Oriole Park Library	7454 W. Balmoral Ave	Chicago.
Park Ridge Public Library	20 S. Prospect Ave	Park Ridge.
Portage-Cragin Library	5108 W. Belmont Ave	Chicago.
Prospect Heights Public Library	12 North Elm Street	Prospect Heights.
River Forest Public Library	735 Lathrop Ave	River Forest.
River Grove Public Library	8638 W. Grand Ave	River Grove.
Roden Library	6083 N. Northwest Highway	Chicago.
Rogers Park Library	6907 N. Clark St	Chicago.
Rolling Meadows Library	3110 Martin Ln	Rolling Meadows.
Roselle Public Library	40 South Park St	Roselle.
Schaumburg Township District Library	130 S. Roselle Rd	Schaumburg.
Schiller Park Public Library	4200 Old River Rd	Schiller Park.
Skokie Public Library	5215 Oakton Street	Skokie.
Uptown Library	929 W. Buena Ave	Chicago.
Villa Park Public Library	305 S. Ardmore Ave	Villa Park.
West Belmont	3104 N. Narragansett Ave	Chicago.
Wilmette Public Library	1242 Wilmette Ave	Wilmette.
Wood Dale Public Library	520 N. Wood Dale Rd	Wood Dale.

Issued in Des Plaines, Illinois, October 6, 2015.

James G. Keefer,

Manager, Chicago Airports District Office.

[FR Doc. 2015–26007 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

[Docket Number FRA–2010–0057]

Federal Railroad Administration

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 August 18, 2015, the Canadian National Railway Company (CN) 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 236, subpart I. FRA assigned the petition Docket Number FRA–2010–0057.

CN requests relief from the requirement to implement Positive Train Control (PTC) system(s) pursuant to CFR part 236 on the portion of the Sprague Subdivision (Prairie Sub-Region from Milepost 0.0 to Milepost144.9) located within the United States. The Canadian portion is not subject to PTC implementation.

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 30, 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 October 5, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–26000 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0105]

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 September 22, 2015, the Association of American Railroads (AAR) 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 224, Reflectorization of Rail Freight Rolling Stock. FRA assigned the petition Docket Number FRA–2015–0105.

AAR seeks a waiver of compliance from 49 CFR 224.111, *Renewal,* which requires retroreflective sheeting to be replaced with new sheeting no later than 10 years after the date of initial installation, regardless of the sheeting's condition. The final rule for the reflectorization of rail freight rolling stock went into effect on November 28, 2005, making November 28, 2015, the replacement deadline for all initially applied retroreflective materials on rail freight rolling stock. The 10-year renewal period was based on most manufacturers' stated useful life of retroreflective materials at the time of the rulemaking. However, FRA indicated it would monitor the retroreflective qualities of various fleet segments over time and would consider extending the 10-year interval.

AAR and Texas A&M Transportation Institute (TTI) conducted testing and evaluation of retroreflective sheeting on 920 freight cars and 120 locomotives in service and found that much of that material tested meets or exceeds reflectivity requirements set forth in the regulation. This data, collected in 2012 and 2014, shows that the performance of the retroreflective sheets on rail cars and locomotives is more a function of material condition and cleanliness than it is of the date applied. In particular, the FRA–224 stamped material has demonstrated that, after more than 9 years in service, it is in good condition and can remain in service if properly maintained. Therefore, this petition is being made to permit well-performing material to remain in service and to be evaluated using a performance-based approach.

The AAR Equipment Engineering Committee presently favors the Federal Highway Administration Comparison Panel Method; however, some additional time is needed to develop a ''standard panel'' and the related training that would be used with this method. An alternative performance-based method is to use a hand-held device similar to the RoadVista 922 Retroreflectometer that AAR and TTI used during testing and evaluation. However, at approximately $10,000 per unit, this device is substantially more expensive and is not feasible for regular use in a railroad-shop environment. AAR is requesting a waiver to extend the renewal requirement for at least 3 years while work on a performance-based evaluation procedure is completed.

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 13, 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 October 5, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–26001 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0146; Notice 2]

BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: BMW of North America, LLC, (BMW) a subsidiary of BMW AG in Munich, Germany, has determined that certain model year (MY) 2014 BMW 7 series and 6 series vehicles do not fully comply with paragraph S5.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays.* BMW has filed an appropriate report dated December 5, 2013 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Amina Fisher, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5307, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. BMW's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of BMW's petition was published, with a 30-day public comment period, on June 6, 2014 in the **Federal Register** (FR 32815). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0146.''

II. Vehicles Involved: Affected are approximately 5,806 of the following MY 2014 BMW vehicles:

2014 BMW 7 Series manufactured between July 1, 2013 and November 4, 2013;

2014 BMW 6 Series Coupe M Sport Edition manufactured between May 15, 2013 and October 29, 2013;

2014 BMW 6 Series Grand Coupe M Sport Edition manufactured between May 15, 2013 and July 30, 2013; and

2014 BMW 6 Series Convertible M Sport Edition manufactured between April 2, 2013 and October 29, 2013.

III. Noncompliance: BMW explains that while using in-vehicle controls and displays, there is a possibility for the vehicle operator or front seat passenger to enable the speedometer to display vehicle speed in units of either only miles-per-hour (mph) or only kilometers-per-hour (km/h). Since all vehicles sold in the U.S. must display vehicle speeds in mph, or mph and km/h these vehicles fail to fully meet the requirements set forth in paragraph S5.2.1 of FMVSS No. 101.

IV. Rule Text: Paragraph S5.2.1 of FMVSS No. 101 requires in pertinent part:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2 . . .

TABLE 1—CONTROLS, TELLTALES, AND INDICATORS WITH ILLUMINATION OR COLOR REQUIREMENTS

Column 1 item	Column 2 symbol	Column 3 words or abbreviations	Column 4 function	Column 5 illumination	Column 6 color
*	*	* *	*	*	*
Speedometer	.....	MPH, or MPH and km/h [14]	Indicator	Yes	
*	*	* *	*	*	*

Notes:

* * * * * * *

14. If the speedometer is graduated in both miles per hour and in kilometers per hour, the scales must be identified ''MPH'' and ''km/h'', respectively, in any combination of upper- and lowercase letters. . . .

V. Summary of BMW's Analyses: BMW stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. BMW states that vehicles are initially delivered for first-sale in a compliant state (speed display in miles-per-hour) and that it is only through driver (or passenger) interaction within the Settings menu that the display can be changed from miles-per-hour to kilometers-per-hour. BMW believes that this adjustment cannot be accomplished inadvertently.

2. BMW states that the two speedometer scales are noticeably different, and that if a previous driver changed the units, a subsequent driver would be able to tell at a glance that the scale is not in miles-per-hour.

3. BMW states that the indicated vehicle speed in km/h is 1.6 times greater than speed in mph. BMW believes that if a vehicle operator changes the display to indicate km/h and later forgets that the change had been made, the operator will clearly recognize that the vehicle is moving at a lower speed than intended and adjust the vehicle speed to match road and traffic conditions. This should signal the operator (at the next appropriate opportunity) to perform the necessary steps to adjust the speedometer.

4. BMW also states that the vehicle's Owner Manual contains information pertaining to the use of the iDrive™ controller to change the units displayed within the ''Settings'' menu. Therefore, if a vehicle operator needs to reconfigure the display to indicate mph, instructions are available.

5. BMW further states that the vehicle's Owner Manual and Service and Warranty Book contain the toll-free telephone number for BMW Customer Relations. Additionally, the in-vehicle iDrive™ system offers the vehicle operator a BMW Customer Relations menu option to directly contact BMW Customer Relations via the embedded wireless communications module. Therefore, if a vehicle operator notices that the speed is incorrectly displayed in km/h and does not know how to reset the speed to display in mph, *e.g.,* as set by a prior operator, the vehicle operator can easily contact BMW Customer Relations for assistance.

6. BMW is not aware of any contacts from vehicle operators regarding this issue.

7. BMW is also not aware of any accidents or injuries that have occurred as a result of this issue.

BMW has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 101.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA Decision

NHTSA Analysis: NHTSA has reviewed BMW's justification for an inconsequential noncompliance determination and agrees that the subject noncompliance is inconsequential to motor vehicle safety.

BMW explained that the affected vehicles are delivered in a compliant state with the speedometer displaying miles-per-hour (mph) and that switching the display to kilometers-per-hour (km/h) could not be done inadvertently because the driver (or passenger) would have to complete multiple interactions within the vehicle's settings menu to make the change. NHTSA agrees with BMW that it is unlikely that the switch from mph to km/h could be done inadvertently because several physical actions are required by the operator to make the change. We believe that if an operator were to make this change it would be done intentionally and with some understanding of the implications, and that such a change would not cause any impact to vehicle safety. Furthermore, we believe that the vast majority of the owners of these vehicles will continue to operate these vehicles as purchased (with the speed identified in mph) and never attempt to change to the metric units.

Next, BMW stated that the speedometer scales are noticeably different and provided figures showing the speedometer appearance with each different unit of measure. BMW explained that if a previous driver changed the units being displayed a subsequent driver would be able to tell at a glance which scale is being used. The agency reviewed the speedometer figures provided by BMW indicating the different units of measure. We agree that it is easy to identify the units of measure being used because the abbreviated units are clearly labeled in the top center of the speedometer. We believe that the act of a driver realizing the vehicle is indicating speed in km/h instead of mph would not cause any unintended or unsafe actions by the driver and would thus be inconsequential to motor vehicle safety. In this case, once a driver realized the speedometer was indicating in km/h, we anticipate the driver would want to change the speedometer back to mph, and would refer to the owner's manual or BMW's customer assistance for guidance.

Lastly, BMW stated its belief that because indicated vehicle speed in km/h is 1.6 times greater than the same speed in mph, a driver who does not initially notice that a vehicle's speed indication is in km/h would soon recognize that the vehicle is moving at a speed much slower than the surrounding traffic and will adjust accordingly to match road and traffic conditions. With some caution, we agree with BMW's assessment. While a vehicle traveling as much as 1.6 times slower could hamper the natural flow of traffic, we believe that affected drivers would in-fact adjust their speed to the surrounding traffic and then, at the next appropriate opportunity, perform the necessary steps to adjust the speedometer back to mph.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that BMW has met its burden of persuasion that the FMVSS No. 101 noncompliance is inconsequential to motor vehicle safety. Accordingly, BMW's petition is hereby granted and BMW is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–26062 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2012–0082 (Notice No. 15–16)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on its intention to revise an information collection under Office of Management and Budget (OMB) Control Number 2137–0628, ''Flammable Hazardous Materials by Rail Transportation.'' This reporting requirement would require tank car owners to report their progress in the retrofitting of tank cars to the Department of Transportation (DOT).

DATES: Interested persons are invited to submit comments on, or before November 13, 2015.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, by mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for DOT–PHMSA, 725 17th Street NW., Washington, DC 20503, by fax, 202–395–5806, or by email, to *OIRA_Submission@omb.eop.gov.* Comments should refer to the information collection by title and/or OMB Control Number.

We invite comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Andrews or T. Glenn Foster, Standards and Rulemaking Division (PHH–12), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Section 1320.8 (d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will be submitting to OMB for revision. This information collection request is contained in 49 CFR part 174 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised the burden estimate, where appropriate, to reflect current reporting levels or adjustments based on changes described in this notice. The following information is provided for the information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a three-year term of approval for the information collection activity and, when approved by OMB, publish a notice of the approval in the **Federal Register**.

PHMSA requests comments on the following information collection:

Title: Flammable Hazardous Materials by Rail Transportation.

OMB Control Number: 2137–0628.

Summary: This information collection pertains to requirements for the creation of a sampling and testing program for unrefined petroleum-based products and rail routing for High Hazard Flammable Trains (HHFTs) [a], routing requirements for rail operators, and the reporting of incidents that may occur from HFFTs.

In the final rule entitled ''Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains'' PHMSA and the Federal Railroad Administration (FRA) adopted a risk-based timeline for the retrofit of existing tank cars to meet an enhanced Casualty Prevention Circular (CPC–1232) standard when used as part of an HHFT. The retrofit timeline focuses on two risk factors, the packing group and differing types of DOT–111 and CPC–1232 tank cars. The timeline provides an accelerated risk reduction that more appropriately addresses the overall risk. The timeline is provided in the §§ 173.241, 173.242, and 173.243 tables of the final rulemaking [80 FR 26643] and includes a January 1, 2017 deadline for of non-jacketed DOT–111 tank cars in PG I service in an HHFT. Not adhering to the January 1, 2017 deadline would trigger a reporting requirement.

This reporting requirement would require owners of non-jacketed DOT–111 tank cars in Packing Group I service in an HHFT to report to DOT the following information regarding the retrofitting progress:

- The total number of tank cars retrofitted to meet the DOT–117R specification;
- The total number of tank cars built or retrofitted to meet the DOT–117P specification;
- The total number of DOT–111 tank cars (including those built to CPC–1232 industry standard) that have not been modified;
- The total number of tank cars built to meet the DOT–117 specification; and
- The total number of tank cars built or retrofitted to a DOT–117, 117R, or 117P specification that are Electronically Controlled Pneumatic (ECP) brake ready or ECP brake equipped.

Although this reporting requirement applies to individual owners of non-jacketed DOT–111 tank cars in PG I service in an HHFT, DOT would accept a consolidated report from a group representing the affected industries. Furthermore, while not adhering to the January 1, 2017 retrofit deadline triggers an initial reporting requirement, it would also trigger a requirement which would authorize the Secretary of Transportation to request additional reports of the above information with reasonable notice.

PHMSA received comments on the 60-Day Notice (80 FR 27844) for the revision to this collection from the American Fuel & Petrochemical Manufacturers (AFPM) and the Oklahoma Department of Transportation (DOT) both in support of the tank car retrofit reporting requirements. AFPM states that expanding the final rule's reporting requirement would improve the understanding of how the retrofit

[a] An HHFT means a single train transporting 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block or a single train carrying 35 or more loaded tank cars of a Class 3 flammable liquid throughout the train consist.

activity is affecting rail transportation of flammable liquids and allow PHMSA to make data-driven decisions in advance of the compliance milestones in the retrofit schedule. The Oklahoma DOT states that it does not object to the tank car retrofitting reporting requirements but encourages PHMSA to reemphasize the importance of evaluating the causes of oil by rail accidents so as to prevent them in the future.

We estimate that this reporting requirement will result in a revised information collection and recordkeeping burden as follows:

OMB No. 2137–0628, ''Flammable Hazardous Materials by Rail Transportation.''

Additional Burden request:

Additional Number of Respondents: 50.

Additional Annual Responses: 50.

Additional Annual Burden Hours: 25.

Additional Total Annual Burden Cost: $1,000.

Revised Total First Year Burden:

Revised Total Annual Number of Respondents: 2,039.

Revised Total Annual Responses: 2,609.

Revised Total Annual Burden Hours: 103,814.

Revised Total Annual Burden Cost: $7,384,633.55.

Revised Subsequent Year Burden:

Revised Total Annual Number of Respondents: 2,039.

Revised Total Annual Responses: 2,609.

Revised Total Annual Burden Hours: 29,054.

Revised Total Annual Burden Cost: $2,038,988.

Signed in Washington, DC, on October 7, 2015.

William S. Schoonover,

Deputy Associate Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2015–26025 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2015–0188, Notice No. 15–19]

International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: Notice of public meetings.

SUMMARY: This notice is to advise interested persons of two public meetings occurring on Thursday, November 12, 2015, both held at the Department of Transportation (DOT) headquarters. PHMSA will conduct a public meeting to discuss proposals in preparation for the 48th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG), to be held November 30 to December 09, 2015, in Geneva, Switzerland. During this meeting, PHMSA is also requesting comments relative to potential new work items that may be considered for inclusion in its international agenda.

Also on Thursday, November 12, 2015, the Occupational Safety and Health Administration (OSHA) will conduct a public meeting (Docket No. OSHA–H022k–2006–0062) to discuss proposals in preparation for the 30th session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS), to be held December 9 to December 11, 2015, in Geneva, Switzerland.

Time and Location: Both the PHMSA and OSHA public meetings will take place on Thursday, November 12, 2015 at the DOT Headquarters in the West Building, which is located at 1200 New Jersey Avenue SE., Washington, DC 20590–0001. The times are:

PHMSA pubic meeting: 9:00 a.m. to 12:00 noon EST.

OSHA public meeting: 1:00 p.m. to 4:00 p.m. EST.

Advanced Meeting Registration: The DOT requests that attendees pre-register for these meetings by completing the form at *https://www.surveymonkey.com/r/LVXNWYT.* Attendees may use the same form to pre-register for both the PHMSA and the OSHA meetings. Failure to pre-register may delay your access into the DOT Headquarters building. Additionally, if you are attending in-person, arrive early to allow time for security checks necessary to access the building.

Conference call-in and ''live meeting'' capability will be provided for both meetings. Specific information on call-in and live meeting access will be posted when available at *http://www.phmsa.dot.gov/hazmat/regs/international* under Upcoming Events and at *http://www.osha.gov/dsg/hazcom/.*

FOR FURTHER INFORMATION CONTACT: Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590, 202–366–8553.

Supplementary Information on the PHMSA Meeting: The primary purpose of PHMSA's meeting will be to prepare for the 48th session of the UNSCOE TDG, which is the second of four meetings scheduled for the 2015–2016 biennium. The UNSCOE will consider proposals for the 20th Revised Edition of the *United Nations Recommendations on the Transport of Dangerous Goods Model Regulations,* which may be implemented into relevant domestic, regional, and international regulations from January 1, 2019. Copies of working documents, informal documents, and the meeting agenda may be obtained from the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3age.html.* General topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters;
- Listing, classification, and packing;
- Electric storage systems;
- Transport of gases;
- Global harmonization of transport of dangerous goods regulations with the Model Regulations;
- Guiding principles for the Model Regulations;
- Electronic data interchange for documentation purposes;
- Cooperation with the International Atomic Energy Agency (IAEA);
- New proposals for amendments to the Model Regulations;
- Issues relating to the Globally Harmonized System of Classification and Labeling of Chemicals (GHS); and
- Miscellaneous pending issues.

Following the 48th session of the UNSCOE TDG, a copy of the Sub-Committee's report will be available at the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3rep.html.* PHMSA's Web site at *http://www.phmsa.dot.gov/hazmat/regs/international* provides additional information regarding the UNSCOE TDG and related matters.

Supplementary Information on the OSHA Meeting: The **Federal Register** notice and additional detailed information relating to OSHA's public meeting will be available upon publication at *http://www.regulations.gov* (Docket No. OSHA–H022k-2006–0062) and on the OSHA Web site at *http://www.osha.gov/dsg/hazcom/.*

Signed at Washington, DC, on October 7, 2015.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2015–26019 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Draft Test Plan To Obtain Interference Tolerance Masks for GNSS Receivers in the L1 Radiofrequency Band (1559–1610 MHz)

AGENCY: Office of the Assistant Secretary for Research and Technology, Department of Transportation.

ACTION: Notice; extension of comment period.

SUMMARY: On September 9, 2015, the Office of the Assistant Secretary for Research and Technology (DOT) published in the **Federal Register** a Notice titled: ''Draft Test Plan to Obtain Interference Tolerance Masks for GNSS Receivers in the L1 Radiofrequency Band (1559–1610 MHz)''. The GPS Innovation Alliance petitioned DOT to extend the comment period. DOT is granting this request and extending the comment period from October 9, 2015 to October 16, 2015.

DATES: The closing date for filing comments is extended from October 9, 2015 to October 16, 2015.

ADDRESSES: You may submit comments identified by docket number [DOT–OST–2015–0099] using any one of the following methods:

(1) Federal eRulemaking Portal: *http://www.regulations.gov.*

(2) Fax: 202–493–2251.

(3) 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.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the address given below under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy from which you have deleted the claimed confidential business information to the docket. When you send a comment containing information identified as confidential business information, you should include a cover letter setting forth the reasons you believe the information qualifies as ''confidential business information''. (49 CFR 7.17)

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Stephen M. Mackey, Office of the Assistant Secretary for Research and Technology; Volpe National Transportation Systems Center; Aircraft Wakes and Weather Division, telephone 617–494–2753 or email *Stephen.Mackey@dot.gov.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2015, DOT published a Notice, ''Draft Test Plan to Obtain Interference Tolerance Masks for GNSS Receivers in the L1 Radiofrequency Band (1559–1610 MHz)''. On October 2, 2015, the GPS Innovation Alliance requested an extension of the comment period to fully evaluate additional information provided at DOT's October 2nd GPS Adjacent Band Compatibility Assessment public workshop in Washington, DC DOT has previously held three public workshops to discuss the GPS Adjacent Band Compatibility Assessment. Further background, and the draft test plan, can be viewed at: *http://www.gps.gov/spectrum/ABC/.*

DOT believes that extension of the comment period is warranted based on the information provided in this request. Therefore, DOT has extended the comment period from October 9, 2015 to October 16, 2015.

Issued in Washington, DC, on October 7, 2015.

Gregory D. Winfree,

Assistant Secretary for Research and Technology.

[FR Doc. 2015–26068 Filed 10–13–15; 8:45 am]

BILLING CODE 4910–9X–P

FEDERAL REGISTER

Vol. 80 Wednesday,
No. 198 October 14, 2015

Part II

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 1370

Family Violence Prevention and Services Programs; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1370

RIN 0970–AC62

Family Violence Prevention and Services Programs

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children and Families proposes to revise regulations applying to the Family Violence Prevention and Services Programs. These proposed revisions would update existing rules to reflect statutory changes, would update procedures for soliciting and awarding grants, and would make other changes to increase clarity and reduce potential confusion over statutory and regulatory standards. The proposed revisions would codify standards already used by the program in the Funding Opportunity Announcements and awards, in technical assistance, in reporting requirements, and in sub-regulatory guidance.

DATES: In order to be considered, comments on this proposed rule must be received on or before December 14, 2015. Current Family Violence Prevention and Services regulations remain in effect until this NPRM becomes final.

ADDRESSES: You may submit comments, identified by [docket number and using/or RIN number], by any of the following methods: (1) Electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* or (2) by mail to the Associate Commissioner, Family and Youth Services Bureau, Administration for Children and Families, 1250 Maryland Ave. SW., Washington, DC 20024.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Noyes, J.D., Senior Program Specialist, (202) 205–7891, *kenneth.noyes@acf.hhs.gov.* Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–977–8339 between 8:30 a.m. and 7 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed regulation is published under the authority granted to the Secretary of Health and Human Services by the Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10404(a)(4), as most recently amended by the Child Abuse Prevention and Treatment (CAPTA) Reauthorization Act of 2010 (Public Law (Pub. L.) 111–320).

II. Public Participation

Pursuant to the Administrative Procedure Act, the Department allows a period of time for members of the public to comment on proposed rules. In this case we will allow 60 days for comments. In making any modifications to this notice of proposed rulemaking, we are not required to consider comments received beyond the 60-day comment period. To make sure your comments are addressed fully, we suggest the following:

- Be specific;
- Address only issues raised by the proposed rule, not the provisions of the law itself;
- Explain reasons for any objections or recommended changes;
- Propose appropriate alternatives; and
- Reference the specific section of the notice of the proposed rulemaking being addressed.

III. Organization of the NPRM

The preamble to this proposed rule is organized as follows:

- Background;
- Consultation and the development of the NPRM;
- Scope of the proposed rule; and
- Section-by-section discussion of the regulatory provisions.

The use of the word(s) ''propose'' or ''we propose'' throughout the NPRM is meant to remind readers that this document is proposed as revised regulatory guidance. The language used should not be construed to mean that statutory definitions and provisions are being changed but rather more fully explained and clarified within the context of the programming and services laid out in the statute, and to ensure consistency with definitions used by other HHS components.

The section-by-section analysis is organized to follow the framework of 45 CFR part 1370. It proposes revisions or additions to the current rule in the following areas:

- Stated purposes of the program;
- significant terms used in the program;
- other Federal requirements;
- requirements that apply to all family violence prevention and services grants;
- eligibility for grants;
- application procedures; and
- other issues that may arise in the administration of the FVPSA program.

In addition to program-wide standards, specific standards are proposed for each of the major grant programs authorized under the Family Violence Prevention and Services Act.

IV. Background

As the President proclaimed during the 2014 National Domestic Violence Awareness Month, ''Domestic violence affects every American. It harms our communities, weakens the foundation of our Nation, and hurts those we love most . . . we acknowledge the progress made in reducing these shameful crimes, embrace the basic human right to be free from violence and abuse, and recognize that more work remains until every individual is able to live free from fear.''[1] Programs and services funded by the Family Violence Prevention and Services Act (''FVPSA'') are critical pieces in the Administration's fight to end domestic violence.

FVPSA authorizes three formula grant programs and other discretionary grant programs administered by the Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACFY), Administration for Children and Families (ACF), in the Department of Health and Human Services (HHS). These programs comprise the primary Federal funding stream dedicated to the support of emergency shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents. The FVPSA also authorizes additional activities conducted through grants, including but not limited to grants for research, evaluation, and service projects; grants for a national domestic violence hotline, including evaluation; grants for specialized services to abused parents and their children; grants for State

[1] *https://www.whitehouse.gov/the-press-office/2014/09/30/presidential-proclamation-national-domestic-violence-awareness-month-201.*

resource centers to reduce disparities in domestic violence in States with high proportions of Indian (including Alaska Native) or Native Hawaiian populations; and, grants for national and special issue resource centers and technical assistance and training relating to family violence, domestic violence, and dating violence. The Formula Grants to States Program (hereafter referred to as the State Grant Program) awards grants to States, the Grants for Indian Tribes Program (hereafter referred to as the Tribal Grant Program) awards grants to Tribes or Tribal organizations and Alaska Native Villages, and the Grants to State Domestic Violence Coalitions Program (hereafter referred to as Coalitions Grant Program) awards grants to statewide, nongovernmental, nonprofit 501(c)(3), private, domestic violence organizations. The proposed rule covers all of these activities.

The National and Special Issue Resource Centers and Training and Technical Assistance Centers' Programs (hereafter referred to as Resource Centers, Special Issue Resource Centers and Culturally-Specific Special Issue Resource Centers) provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services.

The CAPTA Reauthorization Act of 2010 reauthorized and made a number of changes to the FVPSA (see also 42 U.S.C. 10401 *et seq.*). These changes include:

(1) Expanded purpose areas to include family violence, domestic violence and dating violence (42. U.S.C. 10401(b));

(2) an expanded definitions section to clarify statutory language (42 U.S.C. 10402);

(3) expanded authority of the Secretary to promulgate regulations and guidance as necessary and updated the Secretary's authority to coordinate programs across the Department and with other Federal agencies, provide for and coordinate research and evaluation, and develop effective policies to address the needs of adult and youth victims of family violence, domestic violence and dating violence (42 U.S.C. 10404(a) and (b));

(4) a new State Formula grant requirement to provide specialized services for children exposed to family violence, domestic violence, or dating violence, underserved populations, and victims who are members of racial and ethnic minority populations (42 U.S.C. 10406(a)(3));

(5) nondisclosure of confidential or private information provisions that are consistent with the provisions of the Violence Against Women Act (VAWA) (42 U.S.C. 10406(c)(5));

(6) requirement that a Tribally designated official be named in Tribal applications for administration of grant programs (42 U.S.C. 10407(a)(1));

(7) clarification that administrative costs are limited to no more than 5% of State formula grants (42 U.S.C. 10407(a)(2)(B)(i));

(8) additional requirements to strengthen the consultation between States and State Domestic Violence Coalitions (42 U.S.C. 10407(a)(2)(D));

(9) changes to statutory language in the State grants and sub-grants section that requires funds to be used for providing immediate shelter and supportive services for adult and youth victims of family violence, domestic violence, or dating violence (and their dependents), and that may provide prevention services (42 U.S.C. 10408(a) and (b));

(10) expanded eligibility of the types of nonprofit private organizations that may receive State sub-grants to include community-based organizations and Tribal organizations, in addition to faith-based and charitable organizations, and voluntary associations (42 U.S.C. 10408(c)(1));

(11) a new provision that expands entities eligible for State formula sub-grantee funding to include partnerships of two or more agencies or organizations that have a documented history of effective work concerning family violence, domestic violence, or dating violence and an agency or organization that has a demonstrated history of serving populations in their communities, including providing culturally appropriate services (42 U.S.C. 10408(c)(2);

(12) clarification that the receipt of supportive services must be accepted voluntarily and that no condition may be applied for the receipt of emergency shelter (42 U.S.C. 10408(d)(2));

(13) a new requirement for Federal consultation with Tribal governments in the planning of grants for Indian Tribes (42 U.S.C. 10409(a));

(14) a requirement for two national resource centers on domestic violence, including one national Indian resource center to address domestic violence and safety for Indian women (42 U.S.C. 10410);

(15) a requirement for at least seven special issue resource centers including three focused on enhancing domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic minority groups to enhance the cultural and linguistic relevancy of service delivery (42 U.S.C. 10410);

(16) a provision giving the Secretary the discretionary authority to award grants to State resource centers to reduce Tribal disparities in domestic violence in eligible States (42 U.S.C. § 10410);

(17) clarification of the activities of State Domestic Violence Coalitions (42 U.S.C. 10411);

(18) new opt-out provisions for certain coalition activities if annual assurances are provided by Coalitions that the activities are being provided and coordinated under other specific Federal funding streams (42 U.S.C. 10411(e));

(19) a requirement that the Secretary establish a new program for specialized services for abused parents and their children with discretionary authority to make grants (42 U.S.C. 10412); such specialized services may include but are not limited to: providing direct counseling that is developmentally and age appropriate and culturally and linguistically appropriate to victims and their children, including services that are coordinated with services provided by the child welfare system; and, to provide services for non-abusing parents to support those parents' roles as caregivers and their role in responding to the social, emotional, and developmental needs of their children;

(20) clarification that a grant to one or more private entities may be made for ongoing operation of the National Domestic Violence Hotline that serves adult and youth victims of family violence, domestic violence, or dating violence (42 U.S.C. 10413(a)); including, allowing the provision of hotline services to youth victims of domestic violence or dating violence who are minors through a national teen dating violence hotline (42 U.S.C. 10413(d)(2)(G)). This notice of proposed rulemaking would revise regulations applying to the Family Violence Prevention and Services Programs, except for the Domestic Violence Prevention Enhancement and Leadership Through Alliances Program (DELTA) contained in Section 314 of the Family Violence Prevention and Services Act (FVPSA—codified in 42 U.S.C. 10414), which is separately funded and administered by the Centers for Disease Control and Prevention, Division of Violence Prevention.

While we have already implemented most of these provisions through the Funding Opportunity Announcements, technical assistance and training, and Information Memoranda issuances, this proposed rule would allow us to

integrate these legislative requirements into our codified rules. In addition, it would bring our codified regulations, last updated on February 22, 1996 (61 FR 6791), into conformity with the administrative and managerial procedures we already use in compliance with FVPSA. We do not propose to codify every provision of the statute. Finally, the proposed rule identifies a number of important linkages between the FVPSA programs and those programs conducted by the Department of Justice and authorized by VAWA. For example, both statutes contain strict prohibitions against disclosure of confidential or private information to ensure the safety of persons receiving services.

V. Consultation and the Development of the NPRM

It is our intent in this section of the NPRM preamble to highlight the various meetings and consultations, among many other activities we conducted, that assisted in the development of the NPRM. To support our statutory responsibilities for administering the State and Coalition formula grants, contingent upon available funding, we host either an annual or bi-annual, joint grantee meeting of the State FVPSA funding administrators and the State Domestic Violence Coalitions. The grantee meeting facilitates partnership building between the respective State and Coalition cohorts and across all States and Coalitions, shares and promotes best practices related to the provision of prevention and intervention services for victims of family, domestic, and dating violence (with speakers, lecturers, and facilitators on a broad range of issues in the field), and provides program guidance on implementing the statutory requirements of the FVPSA. These meetings provide important opportunities for Federal, State, and private staff to engage with each other to learn about and address issues of intersecting importance, including issues such as protecting victim/survivor confidentiality that are addressed in this proposed rule.

The National Resource Centers, Special Issue Resource Centers, and Culturally-Specific Special Issue Resource Centers comprise what is known as the FVPSA Domestic Violence Resource Network (DVRN). The DVRN convenes every one to two years to share and promote evidence-informed and best practices about prevention and intervention services for victims of family, domestic, and dating violence. Expert speakers and lecturers present on a broad range of subject matter important to the field. ACF also provides program guidance on implementing statutory requirements at the meetings.

ACF funded Tribal administrators, advocates, and leaders also are convened annually, contingent upon funding. The Tribal grantee meeting allows grantees to provide and receive technical assistance and training. Issues addressed and best practices shared are most commonly related to service delivery; new initiatives; business needs; funding issues; information exchange; collaborations ranging from service delivery models to police response; cultural sensitivity; advocacy; and the statutory requirements of the FVPSA.

ACF also hosts annual Tribal consultations. Tribal consultations discuss ACF programs and Tribal priorities and to build meaningful relationships with Federally recognized Tribes. The consultations solicit recommendations and/or mutual understanding from Tribal government leaders on issues ranging from funding availability to departmental priorities.

In addition, ACF staff participates in annual Tribal consultations sponsored by the Department of Justice Office on Violence Against Women. The purpose of those consultations is to engage in a government-to-government dialogue between the United States Government and the leaders from Indian Tribal governments on how to best enhance the safety of Alaska Natives and American Indians and reduce domestic violence, dating violence, sexual assault, and stalking committed against them. The consultations also solicit recommendations from Tribal government leaders on administering grant funds.

Finally, development of the NPRM included ongoing analyses of formula and discretionary grantees' annual performance reports as well as site visit reports and desk reviews. Information gleaned from these sources helped to identify grantees' successes and challenges implementing FVPSA requirements and, therefore, informed the NPRM development process.

VI. Scope of the Proposed Rule

This rule proposes to revise existing regulatory standards to help improve the administration of the FVPSA, to provide greater clarity and transparency to ACF's implementation of the statute, and to bring the program regulation into conformance with statutory provisions.

All grantees will be expected to comply with standards and other requirements upon the final rule's effective date. To assist grantees with compliance, we will provide guidance on best practices for implementing the standards and revised requirements. We also plan to conduct technical assistance to help grantees understand and implement changes.

This proposed rule also makes technical changes to existing program rules to correct outdated provisions. It proposes to revise our regulatory provisions on making awards to reflect current program priorities and onsite review and monitoring procedures.

VII. Section-by-Section Discussion of the Regulatory Provisions

We propose to revise 45 Part 1370 to add a Subpart A for general provisions, add a Subpart B for State and Indian Tribal grants, add a Subpart C for State Domestic Violence Coalition grants, and add a Subpart D for Discretionary grants and contracts. We also propose to add a new table of contents to this part.

Subpart A—General Provisions

Section 1370.1 What are the purposes of the Family Violence Prevention and Services Act programs?

We propose to add § 1370.1 under new Subpart A, and to revise it to reflect the statute's current purposes found at 42 U.S.C. 10401(b). One major difference from the existing regulation is new language expanding purpose areas to include family violence, domestic violence, and dating violence. Specifically, the new purposes are: assist States and Indian Tribes in efforts to increase public awareness about, and primary and secondary prevention of, family violence, domestic violence, and dating violence; assist States and Indian Tribes in efforts to provide immediate shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents; provide for a national domestic violence hotline; and provide for technical assistance and training relating to family violence, domestic violence, and dating violence programs to States and Indian Tribes, local public agencies (including law enforcement agencies, courts, and legal, social service, and healthcare professionals in public agencies), nonprofit private organizations (including faith-based and charitable organizations, community-based organizations and voluntary associations), Tribal organizations, and other persons seeking such assistance and training.

Section 1370.2 What definitions apply to these programs?

We propose to add § 1370.2 under new Subpart A and revise it to include

definitions of significant terms found in the statute at 42 U.S.C. 10402 and used in current operating practices. The definitions are intended to reflect important terms in the statute and important practices in the administration of the program. In some instances, we do not repeat the statutory definition verbatim but rather propose a regulatory definition that we believe is fully consistent with the statutory definition, but will provide clarity to the field and other interested stakeholders. The definitions section applies to all grants and contracts under the FVPSA. We welcome comments on all proposed definitions; however, we are constrained by the statutory definitions in the FVPSA. Note that many of these are longstanding definitions resulting from FVPSA reauthorization in 2010 and are already included in the Funding Opportunity Announcements.

We propose to include the statutory definition of ''dating violence,'' an important addition to the scope of persons protected under the FVPSA. The statute defines it as ''violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.'' This definition reflects the definition also found in Section 40002(a) of VAWA (as amended), as required by FVPSA. Dating violence may also include violence against older individuals and those with disabilities when the violence meets the applicable definition.

We propose to include the statutory definition of ''domestic violence.'' Section 10402(3) of the FVPSA defines ''domestic violence'' as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. This definition also reflects the statutory definition of ''domestic violence'' found in Section 40002(a) of VAWA (as amended). Older individuals and those with disabilities who meet these criteria are also included within this term's definition.

We also propose that the definition of ''domestic violence'' will also include, but will not be limited to, acts or acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, harassment, tormenting behavior, and disturbing or alarming behavior. The Centers for Disease Control and Prevention (CDC) in its *National Intimate Partner and Sexual Violence Survey, 2014 Report* (Breiding, M.J., Chen J., & Black, M.C. (2014), *Intimate Partner Violence in the United States-2010.* Atlanta, GA: National Center for Injury Prevention) describes intimate partner violence, which is commonly used interchangeably with the term ''domestic violence,'' to include psychological aggression and expressive aggression (such as name calling, insulting or humiliating an intimate partner) and coercive control, which includes behaviors that are intended to monitor, control or threaten an intimate partner.

Moreover, several states have broadened their definitions of ''domestic violence'' or similar terms to describe a range of behaviors commonly understood as abusive behavior within spousal and intimate partner relationships. For example, Maine legislatively defines ''abuse'' within family, household, or dating partner relationships to include (among other factors), threatening, harassing or tormenting behavior.'' ME. Rev. Stat. Ann. tit. 19–A § 4002 (2009). The state also defines other behavior as ''abuse'' such as following the plaintiff/[alleged victim] repeatedly and without reasonable cause; or, being in the vicinity of the plaintiff's home, school, business or place of employment both repeatedly and without reasonable cause. *Id.* In *Cole* v. *Cole,* 2008 ME 4, 940 A.2d 194, 2008 *Me, Lexus 6 (2008),* a District court issued a protection from abuse order to the wife and the parties' child, pursuant to Me. Rev. Stat. Ann. tit. 19–A, § 4002(C), because the husband had a longstanding pattern of controlling, intimidating, and threatening conduct toward his wife.

The State of New Hampshire includes ''harassment'' in the definition of ''abuse'', by including (among other factors) when a person: (a) Makes a telephone call, whether or not a conversation ensues, with no legitimate communicative purpose or without disclosing his or her identity and with a purpose to annoy, abuse, threaten, or alarm another; or (b) makes repeated communications at extremely inconvenient hours or in offensively coarse language with a purpose to annoy or alarm another; or (c) insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response. N.H. Rev. Stat. Ann. *§ 173–B:1(I)(g); 644:4 (2009).*

Another State, Hawaii, provides as one definition of ''domestic abuse'' within the context of a romantic or intimate relationship (among others) as ''extreme psychological abuse'' mean[ing] an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose. HAW. REV.STAT. § 586–1(1) (2009).

Given the continuum of behaviors constituting ''domestic violence'' identified in FVPSA, and the broader protections embodied in State and other jurisdictional law, ACF will interpret ''domestic violence'' as inclusive of additional acts recognized in other Federal, State, local, and tribal laws, as well as acts in other Federal regulatory and sub-regulatory guidance. Note that this definition is not intended to be interpreted more restrictively than FVPSA and VAWA but rather to be inclusive of other, more expansive definitions.

We propose to include the statutory definition of ''family violence'' found at Section 10402(4) of the FVPSA. ''Family violence'' means any act or threatened act of violence, including any forceful detention of an individual, that results or threatens to result in physical injury and is committed by a person against another individual (including an older individual), to or with whom such person is related by blood or marriage, or is or was otherwise legally related, or is or was lawfully residing. We would note that since 2013, the Funding Opportunity Announcements have included LGBTQ individuals as an underserved population with no reference to marital status. For the last nine years and pursuant to the FVPSA definition of family violence, ACF has required grantees, sub-grantees, and contractors to provide services to LGBTQ individuals regardless of marital status. Additionally, defining family violence to encompass same-sex spouses is consistent with the Supreme Court's decision in Obergefell v. Hodges, which held that same-sex marriages are entitled to equal treatment under the law. All FVPSA-funded grantees and contractors are required to serve program recipients regardless of whether an individual may be married to a person of the opposite or same sex.

Please note that this guidance is not a change in previous grantee guidance as survivors of intimate partner violence, regardless of marital status, have always been eligible for FVPSA-funded services and programming.

Further, ''family violence'' has become a term used interchangeably with ''domestic violence'' by both the field, and Congress, when describing the violence experienced between intimate partners and the programs and services utilized by those impacted by such violence. In 1984 when FVPSA was first named and authorized, the term ''family violence'' was commonly used as synonymous with ''domestic violence'' (violence between intimate partners). However, ''family violence'' is still often used more broadly to encompass the diverse forms of violence that occur within families, including child maltreatment, ''domestic violence'' and elder abuse. For clarity and in keeping with the historical FVPSA ''family violence'' interpretation, the term will continue to be used more narrowly and as interchangeable with ''domestic violence.''

Additionally, the legislative history of the 2010 FVPSA Reauthorization is replete with descriptive language citing ''domestic violence,'' ''domestic violence service providers,'' and ''domestic violence victims'' while only briefly referencing ''family violence'' in the Senate Committee's legislative explanation. CAPTA Reauthorization Act of 2010, 111 S. Rpt. 378 Title IV—Family Violence Prevention and Services Act, 17–19 (December 18, 2010). The Committee Report discusses multiple FVPSA sections using only the term ''domestic violence'' when describing, for example, the role of religious and faith-based communities in working with domestic violence service providers to support victims. *Id.* at 111 S. Rpt. 378, 17. In discussing the role of a coordinated community response, the report states ''the committee intends that ''coordinated community response'' means an organized effort, such as a task force, (or) coordinating council . . . representing an array of service providers responding to the needs of domestic violence populations in such area.'' *Id.* at 111 S. Rpt. 378, 18. The Committee Report goes on to estimate FVPSA costs and primarily focuses on ''domestic violence'' by reporting that ''[FVPSA] would help States prevent domestic violence, provide services to people who have suffered from such violence, and assist with technical assistance and training at the State and Local levels.'' *Id.* at 111 S. Rpt. 378, 20. In the same paragraph and in the context of discussing domestic violence, the report also cites the Congressional Budget Office's estimation of total costs and references ''family violence prevention'' only once as compared to the repeated use of ''domestic violence'' throughout the report.

Moreover, the Catalogue of Federal Domestic Assistance (CFDA) has historically described FVPSA grant programs as ''Family Violence Prevention and Services/Battered Women's Shelters—Grants to States and Indian Tribes'' (93.671) and ''Family Violence Prevention and Services/Battered Women's Shelters—Grants to State Domestic Violence Coalitions'' (93.591). ''Battered Women's Shelters'' has been a commonly used term since the 1970's to identify safe housing and refuge for victims of domestic violence. Recently, however, the CFDA program descriptions were approved to more clearly reflect the continuing intent to fund domestic violence programs with FVPSA funding. Accordingly, the CFDA descriptions are now: ''Family Violence Prevention and Services/Domestic Violence Shelter and Supportive Services'' (93.671); ''Family Violence Prevention and Services/State Domestic Violence Coalitions'' (93.591); and, ''Family Violence Prevention and Services/Discretionary'' (93.592). Additionally, the ACF Congressional Justification uses the same ''Battered Women's Shelters'' nomenclature and describes that FVPSA-funded services are used to support ''domestic violence'' programs and services even though the term ''family violence'' also is interchangeably used in the description of programming. Therefore, the definition of family violence proposed here reflects the definition long used by the Department and indicated by its interchangeable use in the FVPSA statute and by the domestic violence field and Congress.

A very important requirement in the current statute revolves around protecting victims of violence from further abuse through non-disclosure of ''personally identifying information.'' We propose to define the term using the statutory definition in FVPSA Section 10402(7), which references and incorporates the VAWA definition. Personally identifying information is proposed to be defined as individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including, (A) a first and last name; (B) a home or other physical address; (C) contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); (D) a social security number, driver license number, passport number, or student identification number; and (E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual. Note that information remains personally identifying even if physically protected through locked filing cabinets or electronically protected through encryption.

Additionally, there are FVPSA-specific waiver and consent requirements for the non-disclosure of confidential or private information as well as provisions for the release of information to law enforcement, child welfare agencies, aggregate data releases by grantees, and for the release of personally identifying information of victims who also are minors (42 U.S.C. 10405(c)(5)). All grantees are required to comply with these requirements which are included in this NPRM in Section 1370.4.

Primary prevention was included as a statutory purpose for the first time in the 2010 amendments to the FVPSA statute but not defined. Primary prevention focuses on strategies to stop both first-time perpetration and first-time victimization. Primary prevention also is defined by the CDC as ''stopping intimate partner violence before it occurs'' (*http://www.cdc.gov/violenceprevention/deltafocus/*). Primary prevention may work by modifying the events, conditions, situations, or exposure to influences that result in the initiation of intimate partner violence and associated injuries, disabilities, and deaths. Examples of primary prevention could include: ''school-based violence prevention curricula, programs aimed at mitigating the effects on children of witnessing intimate partner violence, community campaigns designed to alter norms and values conducive to intimate partner violence, worksite prevention programs, and training and education in parenting skills and self-esteem enhancement.'' 61 FR 27879 (1996), Coordinated Community Responses to Prevent Intimate Partner Violence; Notice of Availability of Funds for Fiscal Year 1996 (HHS/CDC). Therefore, we propose to use the CDC definition of ''primary prevention'' to mean strategies, policies, and programs to stop both first-time perpetration and first-time victimization. Primary prevention is stopping intimate partner violence before it occurs.

We propose to define ''primary-purpose domestic violence provider'' as one that operates a project of demonstrated effectiveness carried out by a nonprofit, nongovernmental, private entity, Tribe, or Tribal organization, that has as its project's primary-purpose the operation of shelters and supportive services for victims of domestic violence and their dependents; or provides counseling, advocacy, or self-help services to victims of domestic violence. Territorial Domestic Violence Coalitions may include government-operated domestic violence projects as ''primary-purpose'' providers for complying with the membership requirement, provided that Territorial Coalitions can document providing training, technical assistance, and capacity-building of community-based and privately operated projects to provide shelter and supportive services to victims of family, domestic, or dating violence, with the intention of recruiting such projects as members once they are sustainable as primary-purpose domestic violence service providers. This definition is not in FVPSA, however, we propose to describe the undefined term in FVPSA Section 10402(11)(A), based upon program experience and consistent with the priority for State formula funding provided in FVPSA Section 10407(a)(2)(B)(iii).

'Secondary prevention' was also added to the purpose of the FVPSA statute but not defined. The World Health Organization's World Report on Violence and Health, 2002:1–21, describes ''secondary prevention'' as approaches that focus on the more immediate responses to violence. The HHS CDC's Division of Violence Prevention also uses this definition in practice and incorporates both risk and protective factors to promote the efficacy of secondary prevention efforts. Therefore, we propose to include the CDC's definition of ''secondary prevention'' that means identifying risk factors or problems that may lead to future family violence, domestic violence, or dating violence, and taking the necessary actions to eliminate the risk factors and the potential problem. The objective is to create opportunities to identify potential problems and to intervene as soon as possible to prevent the problem from recurring or progressing. Services for children exposed to domestic violence exemplify one type of secondary prevention. By developing targeted strategies for children who have been exposed to violence, secondary prevention efforts can reduce the likelihood of such children becoming victims or perpetrators of future violence.

Among the most important services under these programs is the provision of shelter to victims of family, domestic, and dating violence. We propose to use the statutory definition of ''shelter,'' which is the provision of temporary refuge and supportive services in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents. We also propose to include in this definition emergency shelter and immediate shelter, which may include scattered-site housing, which is defined as property with multiple locations around a local jurisdiction or state. Temporary refuge is not defined in FVPSA and we propose that it includes residential services, including shelter and off-site services such as hotel or motel vouchers, which is not transitional or permanent housing. Should other jurisdictional laws conflict with this definition of temporary refuge, the definition which provides more expansive housing accessibility governs.

Under the FVPSA, grants are made to States and U.S. Territories. We propose to include the definition of ''State'' as defined in the statute. FVPSA defines ''State'' as each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The statute makes one exception to this definition for State formula grants, and provides for a different allotment of funds for Guam, American Samoa, the United States[i] Virgin Islands, and the Commonwealth of the Northern Mariana Islands. These four territories receive a smaller share of funding because of their relatively small populations.

The purpose of State Domestic Violence Coalitions is to provide education, support, and technical assistance to domestic violence service providers in their respective States to enable the providers to establish and maintain shelter and supportive services for victims of domestic violence and their dependents (including multi-generational families, *e.g.* grandparents or others impacted by witnessing the violence and dependent on the victim); and serve as information clearinghouses, primary points of contact, and resource centers on domestic violence for the States and support the development of polices, protocols, and procedures to enhance domestic violence intervention and prevention in the States. One grant is awarded to one HHS-designated Coalition in each State and Territory each year. It should be noted that the identified Territories in this section also are designated one Coalition per Territory. We propose to include a definition of and to define a State Domestic Violence Coalition (Coalition) as: A statewide, nongovernmental, nonprofit 501(c)(3) organization whose membership includes a majority of the primary-purpose domestic violence service providers in the State; whose board membership is representative of these primary-purpose domestic violence service providers, and which may include representatives of the communities in which the services are being provided in the State; that provides education, support, and technical assistance to such service providers; and that serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the State and supports the development of policies, protocols and procedures to enhance domestic violence intervention and prevention in the State/Territory.

FVPSA provides for supportive services targeted directly to the needs of victims for safety and assistance in reclaiming their agency, autonomy and well-being. We propose to include a definition of ''supportive services,'' which we define as services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents that are designed to meet the needs of such victims and their dependents for short-term, transitional, or long-term safety and recovery. Our proposed definition includes those services identified in FVPSA Section 10408(b)(1)(G), but is not limited to: Direct and/or referral-based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, child care services, health, behavioral health and preventive health services, culturally appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. Supportive services may be directly provided by grantees and/or by providing advocacy or referrals to assist victims in accessing such services.

Another important program focus is on ''underserved populations,'' which we propose to use the FVPSA definition in Section 10402(14), specifically referencing and incorporating the VAWA definition, to define as populations who face barriers in accessing and using victim services, and

populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, and populations underserved because of special needs including language barriers, disabilities, immigration status, and age. Note that regarding age, the FVPSA-defined terms of family violence, domestic violence, and dating violence do not impose age limitations on victims or their dependents that may be served in FVPSA-funded programs; elders and adolescents are also included in these definitions and we do not propose to place age limits in these categories. We also propose to include in this definition individuals with criminal histories due to victimization and individuals with substance abuse and mental health issues based on program experience and victims' needs identified by grantees. The proposed definition also includes, as allowed by FVPSA, other population categories determined by the Secretary or the Secretary's designee to be underserved.

We welcome comments on all these definitions and on ways to clarify any ambiguities or improve any elements. We are, however, constrained substantially by the FVPSA in departing significantly from most of the wording we propose because the proposed regulatory definitions come from the FVPSA and best practices identified from the field.

Section 1370.3 What government-wide and HHS-wide regulations apply to these programs?

The current rule contains no list of the other rules and regulations that apply to recipients of program funds. These applicable rules include, for example, regulations concerning civil rights obligations of grant recipients and regulations concerning fraud, waste, and abuse by grant recipients. We propose to revise § 1370.3 under new subpart A to include a list of those rules that most commonly apply to grantees and contractors under all or most HHS programs, including FVPSA. This new list does not attempt to list all of the Federal laws and regulations (*e.g.*, provisions of the Internal Revenue Code regarding non-profit status) that pertain to organizations that may be grant awardees. The provisions we list here are not all administered through ACF (though the agency may in some instances assist in their enforcement), but are for the most part administered by other HHS components or by other Federal agencies that set the conditions and enforcement mechanisms that apply to those provisions, and that determine whether and in what circumstances grant-related penalties may apply.

Section 1370.4 What confidentiality requirements apply to these programs?

We propose to add § 1370.4 under Part A and revise it to include language regarding confidentiality requirements that apply to all FVPSA programs. The essential purpose of these requirements, which are in the FVPSA (42 U.S.C. 10406(c)(5)) and in VAWA (42 U.S.C. 13925(a)(20) and (b)(2)) is to protect victims of domestic violence from being identified, located, or harmed by the perpetrators of violence and others working to assist perpetrators in gaining access to victims. These protections are robust. Grantees and subgrantees are directly prohibited from disclosing any personally identifiable information (as defined in this NPRM Section 1370.2). We propose to use the FVPSA requirements for the non-disclosure of confidential or private information. In paragraph (a), we propose that in order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families.

In paragraph (a), we propose that grantees and subgrantees shall not: (1) Disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantees' and subgrantees' programs; or (2) reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program.

In paragraph (b), we propose that consent shall be given by the person, except in the case of an unemancipated minor, the minor and the minor's parent or guardian or in the case of an individual with a guardian, the individual's guardian. Consent may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor.

In paragraph (c), we propose that if release of information described in paragraphs (a) and (b) is compelled by statutory or court mandate grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information and grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

In paragraph (d), we propose that grantees and subgrantees may share: (1) Nonpersonally identifying information, in the aggregate, regarding services to their clients and demographic nonpersonally identifying information in order to comply with Federal, State, or tribal reporting, evaluation, or data collection requirements; (2) court-generated information and law enforcement-generated information contained in secure, governmental registries for protective order enforcement purposes; and (3) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

To further explain, in meeting reporting, evaluation, or data collection requirements, grantees may not disclose individual data, but only non-identifying aggregate data. If the release of information is compelled by statutory or court mandate, grantees and sub-grantees shall make reasonable attempts to provide notice to victims affected by the release of the information and grantees and sub-grantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. Service providers, including those in co-located facilities such as Family Justice Centers, can share information about a client upon her/his request if the client signs a waiver that is limited in time and scope, reasonably responsive to individual circumstances, to coordinate and execute a specific service or request. A reasonably time-limited release is determined by an individual's safety and other needs as identified by the individual. Reasonably time-limited releases may be loosely standardized if grantees are addressing the similar needs of victims who are similarly situated; however, standardization should be rare since individual victims' circumstances are the guiding factor when determining the reasonableness and time limitations of required written releases. For example, victims residing in shelter are often receiving the services of other providers and/or are being referred by shelters to other providers. To ensure coordinated services, FVPSA-funded shelter grantees have been known to standardize form releases under such circumstances between organizations to help support efficiency and staff work flow. However, even this kind of standardization often includes and requires additional individualized instructions and limitations depending upon a victim's safety and other needs.

Funders and licensing agencies (*i.e.*, fire code inspectors, state licensing inspectors, etc.) reviewing shelter

performance or operations cannot view identifying client files. Any information shared must have all personally identifying information redacted. HHS will continue to offer technical assistance to States who are seeking a balance between oversight and confidentiality. These requirements directly track the statute (42 U.S.C. 10406(c)(5)) and there is very little discretion available to the Department, or to grantees or subgrantees. There are also additional provisions in the regulatory text which mirror statutory requirements for the consent of unemancipated minors. In this regard, consent shall be given by the person, except in the case of an unemancipated minor it shall be given by both the minor and the minor's parent or guardian; or in the case of an individual with a guardian it shall be given by the individual's guardian. A parent or guardian may not give consent if: he or she is the abuser or suspected abuser of the minor or individual with a guardian; or, the abuser or suspected abuser of the other parent of the minor. We also propose along these lines that reasonable accommodation be made to those who may be unable, due to disability or other functional limitation, to provide consent in writing. This slightly varies the statutory definition, though it is not intended as a substitution, to ensure that those with disabilities have a meaningful alternative to providing informed consent if they are otherwise incapacitated. If additional clarification would be useful in the rule, we welcome suggestions. We will issue guidance addressing any future situations that may present problems of interpretation. We also will use National Resource Centers, State Domestic Violence Coalitions, and Training and Technical Assistance Grants to assist service providers in meeting these requirements and in dealing with other Federal, State, Tribal or local agencies that may seek protected information. These regulations do not supersede stronger protections that may be provided by Federal, State, Tribal or local laws.

Pursuant to FVPSA Section 10406(c)(5)(H), we note that our proposed language also protects the addresses of shelter facilities with confidential locations, except with written authorization of the person or persons responsible for operation of the shelter. To date there have been no issues reported to FYSB regarding this requirement except when Tribal nations are geographically isolated thereby making confidentiality nearly impossible. Tribal leaders often utilize FVPSA funds to transport victims from isolated to more populated areas where victims have greater access to necessary services especially when confidentiality cannot be maintained within very confined and remote areas. In these circumstances, it is not uncommon that a Tribe may utilize most of its FVPSA grant on transportation. We welcome comments especially from Tribes and tribal organizations, as well as concerned others, about how confidentiality may be more effectively maintained given these very challenging situations.

Section 1370.5 What additional non-discrimination requirements apply to these programs?

We propose to add § 1370.5 under new Subpart A and revise it to include non-discrimination requirements that apply uniquely to FVPSA programs. These are in addition to broad government-wide or HHS-wide civil rights protections in regulations concerning discrimination on the basis of race, color, national origin, disability, and age that apply to all HHS grantees, including FVPSA grantees (see the list of other regulations that apply to these programs in § 1370.3 of this proposed rule). FVPSA contains broad prohibitions against discrimination on the basis of sex or religion in FVPSA programs, and we propose to codify in regulation these prohibitions. The HHS Office for Civil Rights (OCR) enforces FVPSA's broad prohibitions against discrimination, including on the basis of sex or religion, under delegated authority from the Secretary. In addition, our proposed language says that FVPSA State and Tribal Formula grant-funded services must be provided without imposing eligibility criteria, and without requiring documentation for eligibility (see the Domestic Violence Fact Sheet on Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence, at *http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html*). Our proposed language also includes the FVPSA's prohibition against placing conditions on receipt of emergency shelter or requiring participation in supportive services.

Prohibition Against Discrimination on the Basis of Sex or Religion

In paragraph (a), we propose to codify in regulation FVPSA's broad prohibitions against discrimination on the basis of sex or religion. Under its delegated authority, OCR enforces these prohibitions. Consistent with the usual approaches to defining civil rights obligations in Federal regulations, we do not propose to elaborate in regulatory text all the situations to which the FVPSA's protections against discrimination on the basis of sex or religion might apply. However, consistent with our longstanding policy in Funding Opportunity Announcements and reliance on regulatory guidance issued by the Department of Housing and Urban Development amending 24 CFR parts 5, 200, 203, 236, 400, 570, 574, 882, 891, and 982, published in the **Federal Register**/Vol. 77, No. 23/Friday, February 3, 2012, we interpret the prohibition against discrimination on the basis of sex as also prohibiting discrimination on the basis of gender identity.

As a result, FVPSA grantees must provide comparable services to victims regardless of sex or gender. This includes not only providing access to services for male victims of family, domestic, and dating violence, but also making sure not to limit services for victims with adolescent sons (up to the age of majority), and LGBTQ victims. Victims and their sons must be sheltered or housed together unless they request otherwise. Historically, most services have been provided to women because they are the overwhelming majority of victims, are more likely to suffer serious injuries and other impacts of the violence, and have been the primary demographic seeking services. As such, services have been mostly tailored to address the unique needs of female survivors. However, there are male victims of these crimes who deserve access to safety from their offenders and services to help them rebuild their lives free from violence. FVPSA states, ''no person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity in whole or in part with funds made available under this chapter. Nothing in this chapter shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal or safe operation of that particular program or activity'' (42 U.S.C. § 10406(c)(2)(B)). For clarification, we propose that the ''normal and safe operation'' of a program or activity be that which is essential and safe for operations.

This statutory directive should not be interpreted to eliminate programming or services tailored to the unique needs of individuals served by FVPSA grantees, sub-grantees, contractors and/or vendors provided they are not based on illegal sex classifications. Moreover, programmatic access must be assured for *all* victims of family, domestic, and dating violence, and responses to individual victims should be trauma-informed, victim-defined, and culturally relevant, which may involve providing specialized services and supports. We do not propose to define in regulation what is or is not allowed in precise circumstances.

If a shelter can reasonably separate the sexes in a manner which allows for single sex bedrooms and bathrooms and the essential and safe operation of the particular program is not substantially compromised, it is reasonable to provide such separation. Essential services are those required by the grant, which are funded to support the long-term social and emotional well-being of victims and their dependents. If the essential or safe operation of the program or activity would be substantially compromised, alternative, equivalent shelter and services should be offered as practicable. For instance, a male victim could be offered a hotel placement and provided supportive services at the shelter.

Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) individuals must also have access to FVPSA-funded shelter and non-residential programs. LGBTQ survivors face unique challenges accessing programs due to victimization often resulting from the intersection of bias and multiple oppressions as well as the limited understanding of providers in delivering welcoming and culturally-appropriate services. Examples include those of gay men who may have difficulty accessing shelter services because domestic violence shelters were founded and grew within the framework of the battered women's movement. Trans-women face service barriers because providers are often confounded by an individual's apparent biological sex which may contradict perceived or actual gender. Programmatic accessibility for transgender survivors must be afforded to meet individual needs like those provided to all survivors. For the purpose of assigning a beneficiary to sex-segregated or sex-specific services, the recipient should ask a transgender beneficiary which group or services the beneficiary wishes to join. The recipient may not, however, ask questions about the beneficiary's anatomy or medical history or make inappropriate demands for identity documents. ACF requires that a FVPSA grantee, subgrantee, contractor, or vendor that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities place a potential victim (or current victim/client seeking a new assignment) in a shelter or other appropriate placement that corresponds to the gender with which the person identifies, taking health and safety concerns into consideration. A victim's/client's or potential victim's/client's own views with respect to personal health and safety must be given serious consideration in making the placement. For instance, if the potential victim/client requests to be placed based on his or her sex assigned at birth, ACF requires that the provider place the individual in accordance with that request, consistent with health, safety, and privacy concerns. ACF also requires that a provider not make an assignment or re- assignment based on complaints of another person when the sole stated basis of the complaint is a victim/client or potential victim/client's non-conformance with gender stereotypes.

Additionally, LGBTQ individuals seeking refuge at domestic violence shelters may experience homophobia or bias or may confront the invisibility of their experiences in the form of advertising and resource materials that only address heterosexual domestic violence. Therefore, programmatic accessibility for LGBTQ survivors must be afforded to meet individual needs like those provided to all other survivors.

With respect to religion, the religion, religious beliefs or religious practices of a client should not be a relevant factor in providing or denying services. Religious practices must not be imposed upon victims. Dietary practices dictated by particular religious beliefs may require some reasonable accommodation in cooking or feeding arrangements for particular clients as practicable.

Prohibition Against Requiring Documentation for Eligibility

In paragraph (b), we propose a prohibition against requiring documentation for eligibility. Battered immigrants face unique challenges accessing services and often face conflicting eligibility requirements in FVPSA-funded programs as noted at *http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html.* Pursuant to HHS guidance originally published in 2001 and updated in August, 2012, recipients of Federal financial assistance must ensure that their programs and activities normally provided in English are accessible to Limited English Proficient persons and do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964 (see also § 1370.3, Executive Order 13166). Battered immigrant victims and survivors of domestic violence must not face additional burdens to accessing FVPSA-funded services when they often lack knowledge of, or receive misinformation, of U.S. laws. They also are often isolated from family and community and face significant employment and economic challenges. Programs must ensure that battered immigrants, for example, are not required to provide documentation because FVPSA has no immigration restrictions and its services do not qualify as a Federal public benefit pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' Public Law 104–193 (August 22, 1996), as amended by the ''Illegal Immigration Reform and Immigrant Responsibility Act of 1996,'' Public Law 104–208 (September 30, 1996).

Other FVPSA Programmatic Accessibility Guidance

Human trafficking often simultaneously occurs in the context of intimate relationships between perpetrators of trafficking/domestic/intimate partner violence and those who are victimized by such crimes. In the spirit of the *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013–2017*, FVPSA-funded programs are strongly encouraged to safely screen for and identify victims of human trafficking who are also victims or survivors of intimate partner/domestic violence and provide services that support their unique needs. FVPSA services can also support trafficked victims who are not experiencing domestic or intimate partner violence as long as victims and survivors of domestic/intimate partner violence are prioritized first by FVPSA grantees.

Additionally, covered entities should be aware of additional non-discrimination grant conditions that may be applicable under the Violence Against Women Reauthorization Act of 2013. For more information on these requirements, please see the Department of Justice's April 2014 document, ''Frequently Asked Questions: Nondiscrimination Grant Conditions in the Violence Against Women Reauthorization Act of 2013,''April 2014, available at: *http://*

www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf.

Voluntary Services

This new section also contains proposed language in paragraph (c) from FVPSA (section 308(d)) prohibiting grantees or subgrantees either from imposing any conditions on the receipt of emergency shelter, or from requiring the acceptance of supportive services. All such services must be voluntarily accepted by program participants. The prohibition on imposing ''conditions'' is intended to prohibit shelters from applying inappropriate screening mechanisms, such as criminal background checks or sobriety requirements. Similarly, the receipt of shelter should not be conditioned on participation in other services, such as counseling, parenting classes, or life-skills classes. We do not intend these provisions to preempt State law, in any case where a State may impose some legal requirement to protect the safety and welfare of all shelter residents. In the case of an apparent conflict with State or Federal laws, case-by-case determinations will be made. In general, when two or more laws apply, a grantee must meet the highest standard in any of those laws. Nor are these provisions intended to deny a shelter the ability to manage its services and secure the safety of all shelter residents should, for example, a client become violent or abusive to other clients. We welcome comments on this provision.

Enforcement

OCR is charged with enforcing the prohibitions against discrimination on the basis of sex and religion in FVSPA. We note that under Federal civil rights laws administered by the Department, OCR uses a variety of techniques, including conducting investigations, negotiating agreements with covered entities, and issuing violation letters of findings where warranted, to enforce applicable civil rights laws, with the aim of achieving voluntary compliance. We would expect that similar practices will be used for investigating any complaints made under these proposed requirements.

For situations that fall outside of the authority of OCR, we intend to handle exceptional situations, in cases where service providers cannot directly and easily solve the problem, through informal guidance and, as appropriate, case-specific advice. FVPSA does provide, however, for more severe remedies including withholding FVPSA grant awards until the problem is resolved or denying future Federal funding. We also would expect to use National/Special Issue Resource Centers and Culturally-Specific Special Issue Resource Centers, State Domestic Violence Coalitions, and Training and Technical Assistance Grants to provide advice to service providers on dealing with any patterns of problems that may emerge. We welcome comments on these proposals.

Section 1370.6 What requirements for reports and evaluations apply to these programs?

We propose to add to new Subpart A a new section (§ 1370.6) explicitly requiring any recipient of grants or contracts under the FVPSA to provide performance reports to the Secretary. Such reports are already required and the proposed regulatory text merely confirms the important role they play in evaluating grantee performance. In order to clarify requirements that have been questioned in the past, we propose to require that American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands follow all reporting requirements applicable to the States and Tribes, Puerto Rico, and the District of Columbia and to provide required reports directly to the Division of Family Violence Prevention and Services within FYSB, unless otherwise communicated to the grantees. These requirements supplement, and do not replace the Territorial reporting requirements of the ACF Office of Community Services in its administration of Consolidated Block Grants as part of the Social Services Block Grants program.

Subpart B—State and Indian Tribal Grants

Section 1370.10 What additional requirements apply to State and Indian Tribal grants?

The existing rule at § 1370.2 contains a brief paragraph stating that State and Tribal grantees ''must meet the statutory requirements of the Act and all applicable regulations.'' We propose to add a new Subpart B addressing the formula grants awarded to States and Tribes. Under Subpart B, we propose to add § 1370.10 which would include the most important requirements applicable to these formula grants. These proposals track the statute. However, they do not contain all of the specific detail of FVPSA, but simply describe the basic purposes, procedures, and activities that are expected for State and Tribal grantees, respectively. They also describe the information expected in grant applications. Because there are important differences between State and Tribal grants, we have described them separately.

Importantly, these proposed provisions focus on planning, consultation, and coordinating activities that we expect of these grantees and which are statutory priorities in FVPSA Sections 10407, 10408, and 10409. They focus on protection, and require documentation of the law or procedures (typically restraining orders or orders of protection) by which the State or Tribe has implemented for the eviction of an abusive spouse or intimate partner from a shared household. In addition to the FVPSA requirement we propose to require that such procedures must include not only family violence, but also domestic or dating violence, an expansion of scope met by most but not all existing State statutes. In order to allow States time to modify existing statutes, we propose that the effective date for this provision be two legislative sessions after these proposed rules are made final (all other provisions would be effective sixty days after issuance of the final rule.) As currently indicated in the Funding Opportunity Announcements we also propose to specifically require documentation of policies and procedures to ensure the confidentiality of client records. Finally, these provisions provide for the use of the Funding Opportunity Announcements and other program guidance to provide additional details and procedures that apply to these grants. We welcome comments on these proposed provisions.

In paragraph (a), consistent with FVPSA, we propose requiring that States consult with and provide for the participation of Coalitions in the planning and monitoring of the distribution and administration of subgrant programs and projects; active Coalition participation is envisioned in these processes. States and Coalitions have complementary roles within the FVPSA framework because States use FVPSA funds to support programs and projects often carried out by a significant portion of the memberships of Coalitions. Coalitions' FVPSA-mandated roles include training and technical assistance that frequently mirror the support needed to effectively manage FVPSA-funded programs and services as found in FVPSA Section 10408. States, by virtue of their roles as funders, must both ensure that subgrantees comply with Federal laws, regulations and guidance as well as promote programming that effectively supports the safety, security and social and emotional well-being of victims and their dependents; Funding Opportunity Announcements have for several years

identified these requirements. To support the requirements in FVPSA Section 10407(a)(2)(D) Coalitions are critical to supporting States' roles as funders and must effectively participate in subgrantee award processes and States' planning processes to fully understand States' expectations and subgrantee requirements. At a minimum to further FVPSA requirements, we expect that States and Coalitions will work together to determine grant priorities based upon jointly identified needs; to identify strategies to address needs; to define mutual expectations regarding programmatic performance and monitoring; and to implement an annual collaboration plan that incorporates concrete steps for accomplishing these tasks. All of these requirements are either found in the Funding Opportunity Announcements dating back to FVPSA reauthorization in 2010 or have been discussed in grantee meetings and other informal communications via FYSB listservs. We welcome comments on these requirements.

The FVPSA includes Tribes in these proposed processes but this rule is not intended to encroach upon Tribal sovereignty. We, however, envision similar processes for Tribes, States, and Coalitions that support coordination and collaboration when feasible and appropriate. We especially welcome comments from Tribes and Coalitions about this provision.

Pursuant to FVPSA Section 10411, one role of Coalitions is to identify statewide gaps in services and the most effective way to meet identified gaps and other problems is by conducting needs assessments. We propose that States and Coalitions must work closely to undertake joint planning so that funding is leveraged successfully to implement FVPSA requirements in Sections 10407 and 10411. We also propose that Tribal and other underserved populations are invited and encouraged to participate in State planning and Coalition needs assessments. It is essential that the full spectrum of domestic violence service providers, including Tribes, Tribal organizations and other culturally-specific, community-based organizations have significant input into decision-making processes that support State planning and Coalition needs assessments as found in FVPSA Sections 10407, 10408, and 10411. So that States are continually aware of subgrantees' training and technical assistance needs as well as intersecting systems challenges impacting service provision, they must involve Coalitions in program planning and subgrantee monitoring. We expect that States and Coalitions will meet regularly to coordinate training and technical assistance; to address ongoing programmatic challenges; and to implement best practices in victim services. We encourage pre- and post-award meetings to substantively address and respond to States' identified priorities; to assess systems and programmatic impacts as a result of States' priorities and funding decisions; and to assess subgrantee performance. We propose these additional requirements to complement those in FVPSA. We invite public comment on these areas.

FVPSA also requires that States and Tribes involve community-based organizations that primarily serve culturally-specific, underserved communities and determine how such organizations can assist the States and Tribes in serving the needs of all communities. To fulfill these obligations, we expect and propose that States and Tribes will encourage the participation of underserved communities, including older individuals and those with disabilities, in planning. If States and Tribes use special councils, committees or other mechanisms to accomplish planning, we also propose that they identify and invite underserved, culturally specific organizations and/or community representatives to participate in these bodies to fully embrace both specific FVPSA-requirements (sections 10407, 10408, and 10409) and the spirit of the law. Emphasis also should be placed on building the capacity of culturally specific organizations to assist in both providing services and in identifying the needs of underserved populations. We envision that States will involve Coalitions in this planning as they routinely engage in community organizing and partner with organizations that support both the identification and leadership of underserved communities. We invite Tribes to partner with Coalitions to help in this capacity as well. We encourage public comment and advice on what mechanisms States and Tribes might use to accomplish these purposes, to describe any successful models they have identified to achieve these purposes, and to advise us on how best accomplish these goals. We particularly seek input from Tribes on how best to address underserved communities within the Tribe, and what types of processes would be helpful. Tribes are themselves considered underserved, culturally specific communities, and we do not interpret FVPSA as infringing upon Tribal sovereignty or as intending to create burdensome or meaningless requirements on the Tribes.

Additionally, in paragraph (a), to complement FVPSA requirements to build capacity in culturally-specific organizations, we expect that specialized services will be available to support the specific needs of their communities. While traditional/mainstream FVPSA-funded programs are generally accessible to all people in compliance with Federal, State, and local law, unique expertise regarding the needs of underserved and historically marginalized populations lies within those communities. We propose to require States, in their funding processes, to address the needs of underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services. These requirements have both been addressed in the Funding Opportunity Announcements as well as grantee meetings within the last 5 years. Jointly using multiple Federal and State funding streams may accomplish these purposes and we expect that States will make significant efforts to create awareness of FVPSA funding for culturally-specific communities and Tribes, including training and technical assistance that supports organizations serving those communities in the FVPSA application and grant award processes. FVPSA funding is not intended to just support traditionally-funded organizations. However, it is intended to support core shelter and supportive services (see FVPSA section 10401). It is not the intent of these regulations to change this important priority. The needs of culturally specific organizations and communities, including Tribes, are not, however, mutually exclusive from the need for core services; they are complementary. Moreover, providing truly accessible services to culturally-specific communities often means that the leadership, management and staff of FVPSA funded, subgrantee programs should reflect the diversity of the populations seeking services, including people with disabilities and their families, and other underserved populations. We therefore propose, pursuant to FVPSA Sections 10407 and 10408, that States take steps to address these priorities and specifically describe them in their annual applications. Partnering with Coalitions and culturally-specific community based

organizations in these areas is especially critical. Public comment is welcome on these issues.

State Applications

Requirements for applications made by States are outlined under proposed 1370.10 section (b). As required in FVPSA Section 10407(a)(1), a State application must be submitted by the Chief Executive of the State and signed by the Chief Executive Officer or the Chief Program Official designated as responsible for the administration of FVPSA.

Under paragraph (b)(1), and as indicated in the Funding Opportunity Announcements as well as to fulfill FVPSA requirements, we propose that the State application include the name of the State agency, the name and contact information for the Chief Program Official designated as responsible for the administration of funds under FVPSA and coordination of related programs within the State, and the name and contact information for a contact person if different from the Chief Program Official.

Under proposed paragraph (b)(2), pursuant to the Funding Opportunity Announcements and to fulfill FVPSA requirements, the State application must include a plan describing in detail how the needs of underserved populations will be met. This includes, under proposed paragraph (b)(2)(i), identification of which populations in the State are underserved, a description of those that are being targeted for outreach and services, and a brief explanation of why those populations were selected to receive outreach and services. As States undertake the process of identifying underserved, culturally-specific communities in their respective State, we expect that they will consult data generated from Federal and State census counts as well as other demographic information. Information on specific details will be provided in FOAs and other guidance. In addition, this paragraph includes a requirement regarding how often the State revisits the identification and selection of the populations to be served with FVPSA funding (not to exceed three years). For example, we propose that at least every three years States must identify population shifts or changes to assist in meaningful delivery of culturally-specific services and the involvement of potential new planning partners or explain why these steps are unnecessary. State applications must document this process. We strongly encourage that State plans be reassessed on a triennial basis or that an explanation be included in the State's application regarding why reassessment is unnecessary. These requirements are proposed to fulfill FVPSA and the Funding Opportunity Announcements to support the provision of services to underserved populations. We welcome comments on these provisions.

Under proposed paragraph (b)(2)(ii), we also propose in order to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements that the State application's plan describing how the needs of underserved populations will be met include a description of the outreach plan, including the domestic violence training to be provided, the means for providing technical assistance and support, and the leadership role played by those representing and serving the underserved populations in question.

Under proposed paragraph (b)(2)(iii), we also include a requirement for a description of the specific services to be provided or enhanced, such as new shelters or services, improved access to shelters or services, or new services for underserved populations, as defined in this NPRM Section 1370.2, such as victims from communities of color, immigrant victims, victims with disabilities, or older individuals. This proposed requirement is intended to fulfill FVPSA requirements and reflect provisions in the Funding Opportunity Announcements.

Finally, under proposed paragraph (b)(2)(iv) to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements, we propose that the State application's plan describing how the needs of underserved populations will be met include a description of the public information component of the State's outreach program, including the elements of the program that are used to explain domestic violence, the most effective and safe ways to seek help, and tools to identify available resources.

In subsection 1370.10(b)(3), we propose to fulfill FVPSA requirements and the provisions in the Funding Opportunity Announcements that each State application contain a description of the process and procedures used to involve the State Domestic Violence Coalition, knowledgeable individuals, and interested organizations, including those serving or representing underserved communities in the State planning process.

In paragraph (4) of this subsection, we propose to fulfill FVPSA requirements and those found in the Funding Opportunity Announcements by requiring that each State application contain documentation of planning, consultation with and participation of the State Domestic Violence Coalition in the administration and distribution of FVPSA programs, projects, and grant funds awarded to the State.

In paragraph (5) pursuant to FVPSA Section 10407(a)(2)(c) we propose that a description of the procedures used to assure an equitable distribution of grants and grant funds within the State and between urban and rural areas, as defined by the Census Bureau, within the State. The U.S. Census Bureau (USCB) defines (and FYSB defers to and incorporates this definition) two types of ''urban'' areas: (1) Urbanized areas of 50,000 or more people; and (2) ''urban clusters'' of at least 2,500 and less than 50,000 people. The USCB explains that ''rural'' encompasses all population, housing, and territory not included within an ''urban'' area as ''rural''. The plan should describe how funding allocations will address the needs of underserved communities. Other Federal, State, local, and private funds may be considered in determining compliance. We also propose to require States, in their funding processes, to address the needs of underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services.

In paragraph (6) we propose in order to fulfill FVPSA requirements that a State's application include: A description of how the State plans to use the grant funds including a State plan developed in consultation with State and Tribal Domestic Violence Coalitions and representatives of underserved and culturally specific communities; a description of the target populations; of the number of shelters to be funded; of the number of non-residential programs to be funded; of the services the State will provide; and of the expected results from the use of the grant funds. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring.

In paragraph (7) we propose pursuant to FVPSA Section 10407(a)(2)(H) to require that State applications include a copy of the law or procedures, such as a process for obtaining an order of protection that the State has implemented for the eviction of an abusive spouse or other intimate,

domestic, or dating partner from a shared household or residence.

In paragraph (8) we propose pursuant to FVPSA Section 10408(b)(2) to require that State applications include an assurance that not less than 70 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, and that not less than 25 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the purpose of providing supportive services and prevention services (these percentages may overlap with respect to supportive services but are not included in the 5 percent cap applicable to State administrative costs). No grant shall be made under this section to an entity other than a State unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than $1 for every $5 of Federal funds provided under the grant. The non-Federal contributions required under this paragraph may be in cash or in kind.

In paragraph (9) pursuant to FVPSA Section 10406(c)(5) we propose requiring that State applications include documentation of policies, procedures and protocols that ensure individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring, that the confidentiality of records pertaining to any individual provided family violence prevention or intervention services by any program or entity supported under the FVPSA will be strictly maintained, and the address or location of any shelter supported under the FVPSA will not be made public without the written authorization of the person or persons responsible for the operation of such shelter.

Our final proposed requirement, in paragraph (10), would require that State applications include additional agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

State Coalitions and Tribal Coalitions are specifically designated statutory participants pursuant to FVPSA Section10407(b)(3) in determining whether State grantees and subgrantees are fulfilling the goals and activities in their respective State applications/plans and complying with FVPSA grant conditions. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring. Public comment is invited on the best way to fulfill these statutory requirements.

Tribal Applications

Finally, we note that there are some proposed regulatory provisions that are specific to Tribes and we have outlined these in proposed § 1370.10(c). In paragraph (c), we propose that that the application from a Tribe or Tribal Organization be signed by a Tribally Designated Official, such as the Tribal Chairperson or Chief Executive Officer, as required in FVPSA Section 10410 and applicable Funding Opportunity Announcements. We also propose in paragraph (c)(1) to require that applications from Tribal Consortia or other joint Tribal applications include a copy of a current Tribal resolution or an equivalent document that verifies Tribal approval of the application being submitted as also required in the Funding Opportunity Announcements. We propose that the resolution or other document should state that the designated organization or agency has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded pursuant to the FVPSA. We also propose that the resolution or equivalent document must specify the name(s) of each Tribe and, if Tribal resolutions are the vehicles to support applications from Tribal Consortia or other joint Tribal applications, that a representative of each Tribe signs the resolution. We also propose to require that the service areas proposed by Tribes in their applications, be specifically delineated.

In proposed paragraph (c)(2) we propose as indicated in the Funding Opportunity Announcements requiring that each Tribal application also contain a description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the FVPSA. For example, knowledgeable individuals and interested organizations may include Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of Tribal or State Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

Proposed paragraph (c)(3) requires that Tribal applications pursuant to the current Funding Opportunity Announcement also include a description of the applicant's operation of and/or capacity to carry out a family violence prevention and services program. Ways this information can be demonstrated include evidence of: (i) The current operation of a shelter, safe house, or domestic violence prevention program; (ii) the establishment of joint or collaborative service agreements with a local public agency or a private, non-profit agency for the operation of family violence prevention and intervention activities or services; or (iii) the operation of social services programs as evidenced by receipt of grants or contracts awarded under Indian Child Welfare grants from the Bureau of Indian Affairs; Child Welfare Services grants under Title IV–B of the Social Security Act; or Family Preservation and Family Support grants under Title IV–B of the Social Security Act.

Proposed paragraph (c)(4), pursuant to the current Funding Opportunity Announcement, would require Tribal applications to include a description of the services to be provided, how the applicant organizations plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services.

Proposed paragraph (c)(5) pursuant to FVPSA Section 10407(a)(2)(H) would require Tribal applications to include documentation of the law or procedure which has been implemented for the eviction of an abusing spouse or other intimate, domestic, or dating partner from a shared household or residence.

Proposed paragraph (c)(6) pursuant to FVPSA Section 10406(c)(5) would require Tribal applications to include documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring and that the confidentiality of records pertaining to any individual provided domestic violence prevention or intervention services by any FVPSA-supported program will be strictly maintained. If a FVPSA grantee or subgrantee fails to comply with these requirements, additional programmatic support and technical assistance will be provided by the FYSB program staff and FVPSA-

funded technical assistance providers to avoid an interruption or defunding. As identified in section 1370.4, Tribes often have significant confidentiality challenges due to geographic isolation and, therefore, we welcome comments from Tribes on this section.

The final requirement for Tribal applications, proposed paragraph (c)(7), would require such applications to include agreements, assurances, and information, in such form, and submitted in such manner, as the Funding Opportunity Announcement and related program guidance prescribe.

We do not believe that these provisions impose any additional burden on Tribes, but welcome comments.

Subpart C—State Domestic Violence Coalition Grants

Section 1370.20 What additional requirements apply to State Domestic Violence Coalitions?

The current rule, in § 1370.3, contains provisions for Coalition Grants. Each State and Territory has a domestic violence Coalition that receives FVPSA funding as the HHS-designated statewide domestic violence Coalition. These Coalitions provide an essential role in the domestic violence field, and only one per State can be funded under the FVPSA. We propose to add § 1370.20 under new Subpart C. Our proposed provisions focus in more detail than the current rule on the planning, consultation, and coordinating activities than the statute now expects of these grantees. In particular, in paragraph (b)(1), pursuant to FVPSA we propose to require that membership include representatives of a majority of the primary-purpose domestic violence service providers operating within the State or Territory (see the proposed definition of primary-purpose discussed earlier in this preamble). In paragraph (b)(2) we propose that Coalitions' Boards of Directors also must be representative of the membership comprised of the primary-purpose domestic violence service providers in their respective States and Territories and also may include community members. Boards of Directors composed of member representatives and community members are highly encouraged so that Coalition boards have the cross-sector expertise to ensure Coalitions have strong organizational infrastructures, including Boards of Directors that support the long-term programmatic and financial sustainability of Coalitions. Financial sustainability of Coalitions, as independent, autonomous non-profit organizations, also must be supported by their membership comprised of the primary-purpose domestic violence service providers in the respective States and Territories, including those member representatives on the Coalitions' Boards of Directors. Coalitions' financial sustainability also is critical to the programmatic and fiscal success of their members and these priorities should not be interpreted to conflict with the same or complimentary priorities of their domestic violence service provider member constituents.

State and Territorial Domestic Violence Coalitions play a unique role in assisting Federal, State and local governments, victim service providers, including Tribes and Tribal organizations, and the private sector in coordinating and developing policies and procedures, conducting outreach and public awareness, and providing training and technical assistance. We, therefore, propose in section (c) that Coalitions demonstrate in the annual application their competencies in provision of programming and other functions necessary under FVPSA (42 U.S.C. 10402(11) and 10411). Coalitions also would be required to collaborate with Indian Tribes and Tribal organizations (and corresponding Alaska Native and Native Hawaiian groups or communities) to address the needs of American Indian, Alaska Native, and Native Hawaiian victims of family violence, domestic violence, or dating violence, if such Tribes and organizations exist within a given State and are willing to work with the Coalition. It is, therefore, especially important that Coalitions include Tribes and Tribal organizations in their membership structures where possible.

As outlined in proposed (c)(1)(i)–(viii), Coalitions also are required to have demonstrated capacity to coordinate with multiple systems to encourage appropriate and comprehensive responses that promote the support and safety needs of adult and youth victims of family, domestic, or dating violence. Demonstrated capacity may include but is not limited to: Identifying successful efforts that support child welfare agencies' identification and support of victims during intake processes; creation of membership standards that enhance victim safety and fully require training and technical assistance for compliance with federal housing, disability, and sex discrimination laws and regulations; and, training judicial personnel on trauma-informed courtroom practice. Such systems include but are not limited to: Public and mental health; law enforcement; courts/judiciary; child protective services, to include custody and visitation issues impacting victims within child welfare systems; protection and advocacy systems; housing; social welfare; private enterprise; and, aging and disability systems to develop appropriate responses for older individuals and individuals with disabilities. Under proposed paragraph (c)(1), Coalitions also must, in the annual applications for funding, have documented experience in administering Federal grants supporting these programmatic areas or have a documented history of active participation in the respective statutory program areas enunciated in 42 U.S.C. 10411(c)(1) and (2)(A) and (B). If a Coalition receives VAWA STOP (Services, Training, Officers, Prosecutors grant program—42 U.S.C. 3796gg(c)(1)) funding for Coalitions and utilizes that funding for programming and activities to address domestic violence and law enforcement, the courts/judiciary, and/or child protective services, including child custody and visitation in child welfare cases, it does not have to spend FVPSA funds on these activities. Instead, in its annual application, it must provide an annual assurance that such activities are conducted with VAWA STOP Coalition funding and such activities must be described in the application.

Under proposed paragraph (d), we outline that nothing in this section limits the ability of a Coalition to use non-Federal or other Federal funding sources to conduct required functions, provided that if the Coalition uses funds received under section 2001(c)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 to perform the functions described in subsections (2)(iv) and (v) in lieu of funds provided under the FVPSA, it shall provide an annual assurance to the Secretary that it is using such funds, and that it is coordinating the activities conducted under this section with those of the State's activities under Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Coalition Designation

In paragraph (e) we propose that in cases in which two or more organizations seek designation, the designation of each State's and Territory's individual Coalition is within the exclusive discretion of HHS. The Department will determine which applicant best fits statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that

serve racial and ethnic minority populations and underserved populations (including but not limited to those representing older individuals and people with disabilities, LGBTQ populations, and the Limited English Proficient), coordination and collaboration with the State or Territorial government, and capacity to accomplish the FVPSA mandated role of a Coalition. As of the publication of this rule, Coalitions for all 56 State and Territorial Coalitions have been HHS designated.

In paragraph (f), we propose that if a Coalition becomes financially insolvent, ceases to represent the majority of primary purpose programs, is disbarred from receiving Federal funding, or can no longer meet the statutory requirements of the FVPSA despite technical assistance provided, the Department may reopen the application process for that State's Coalition designation. Because Coalitions are intended to effectively represent diverse victims and service providers in their States, HHS would engage with domestic violence service providers and State leaders to inform their decision about which alternative organizations could be considered eligible.

As described in Subpart B, we propose that Coalitions be required to identify gaps in services and the most effective ways to meet identified gaps and other problems. We also propose that Coalitions participate in planning and monitoring of the distribution of subgrants within the States and in the administration of grant programs and projects. In conducting needs assessments, we propose to require that Coalitions and States work in partnership on the statutorily required FVPSA State planning process to involve representatives from underserved and racial and ethnic minority populations to plan, assess, and voice the needs of the communities they represent. Coalitions are expected to assist States in identifying underrepresented communities and culturally-specific community based organizations in State planning and to work with States to unify planning and needs assessment efforts so that comprehensive and culturally-specific services are provided. We also propose through the inclusion of the populations targeted to place emphasis on building the capacity of culturally-specific services and programs.

Subpart D—Discretionary Grants and Contracts

The existing rule contains brief paragraphs on two types of discretionary grants (information and technical assistance and public information campaign grants), in § 1370.4, and § 1370.5. We propose to add a new Subpart D covering all discretionary grants and contracts. This new subpart would address separately National Resource Centers and Training and Technical Assistance Grants (§ 1370.30), grants for State resource centers to reduce disparities in domestic violence in States with high proportions of American Indian (including Alaska Native) or Native Hawaiian population (§ 1370.30), grants for specialized services for abused parents and their children (§ 1370.31), and the National Domestic Violence Hotline (§ 1370.32). These new sections primarily reflect statutory requirements, the evolution of the program and the focus of FVPSA.

These proposed provisions also focus on the unique planning, consultation, and coordinating activities that we expect of each type of grantee. Finally, these provisions provide for the use of the Funding Opportunity Announcements and other program guidance to provide additional details and procedures that apply to these grants. We welcome comments on these provisions.

We propose adding a new heading to be titled ''Subpart D—Discretionary Grants and Contracts''.

Section 1370.30 What National Resource Centers and Training and Technical Assistance grant programs are available and what requirements apply?

We propose to add § 1370.30 to Subpart D. National Resource Centers and Training and Technical Assistance Center grants, pursuant to FVPSA Section 10410, are to provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services. They fund national, special issue, and culturally-specific resource centers addressing key areas of domestic violence intervention and prevention, and may include State resource centers to reduce disparities in domestic violence in States with high proportions of Native American (including Alaska Native or Native Hawaiian) populations and to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating expertise in these areas. Grants may be made for five specific grants.

The first is the National Resource Center on Domestic Violence which offers a comprehensive array of technical assistance and training resources to Federal, State, and local governmental agencies, domestic violence service providers, community-based organizations, and other professionals and interested parties, related to domestic violence service programs and research, including programs and research related to victims and their children who are exposed to domestic violence as well as older individuals and those with disabilities. The grantee also will maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics related to the incidence and prevention of family violence and domestic violence; and the provision of shelter, supportive services, and prevention services to adult and youth victims of domestic violence, including older individuals and those with disabilities (including services to prevent repeated incidents of violence).

The second grant is for a National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women which offers a comprehensive array of technical assistance and training resources to Indian Tribes and Tribal organizations, specifically designed to enhance the capacity of the Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women. The grantee also will enhance the intervention and prevention efforts of Indian Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women, and coordinate activities with other Federal agencies, offices, and grantees that address the needs of American Indians, Alaska Natives, and Native Hawaiians that experience domestic violence.

The third grant is for special issue resource centers to provide national information, training, and technical assistance to State and local domestic violence service providers. Each special issue resource center shall focus on enhancing domestic violence intervention and prevention efforts in at least one of the following areas: (1) Response of the criminal and civil justice systems to domestic violence victims, which may include the response to the use of the self-defense plea by domestic violence victims and the issuance and use of protective orders; (2) response of child protective service agencies to victims of domestic violence and their dependents and child custody issues in domestic violence cases; (3) response of the

interdisciplinary health care system to victims of domestic violence and access to health care resources for victims of domestic violence; (4) response of mental health systems, domestic violence service programs, and other related systems and programs to victims of domestic violence and to their children who are exposed to domestic violence.

The fourth grant is for Culturally-Specific Special Issue Resource Centers that enhance domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic minority groups; and will enhance the cultural and linguistic relevancy of service delivery, resource utilization, policy, research, technical assistance, community education, and prevention initiatives.

The fifth grant is for State resource centers to provide statewide information, training, and technical assistance to Indian Tribes, Tribal organizations, and local domestic violence service organizations serving Native Americans (including Alaska Natives and Native Hawaiians) in a culturally sensitive and relevant manner. These centers shall: (1) Offer a comprehensive array of technical assistance and training resources to Indian Tribes, Tribal organizations, and providers of services to Native Americans (including Alaska Natives and Native Hawaiians) specifically designed to enhance the capacity of the Tribes, organizations, and providers to respond to domestic violence; (2) coordinate all projects and activities with the National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women, including projects and activities that involve working with State and local governments to enhance their capacity to understand the unique needs of Native Americans (including Alaska Natives and Native Hawaiians); and (3) provide comprehensive community education and domestic violence prevention initiatives in a culturally sensitive and relevant manner. Eligibility for the State resource center grant program is contingent upon being located in a State with high proportions of Indian or Native Hawaiian populations. Eligible entities shall be located in a State in which the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 10 percent of the total population of the State; or, be an Indian Tribe, Tribal organization or a Native Hawaiian organization that focuses primarily on issues of domestic violence among Indians or Native Hawaiians; or, be an institution of higher education; and, demonstrate the ability to serve all regions of the State, including underdeveloped areas and areas that are geographically distant from population centers. Additionally, eligible entities shall offer training and technical assistance and capacity-building resources in States where the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 2.5 percent of the total population of the State.

Under section (f), we propose that other discretionary grants may be awarded to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating related experience.

Under section (g) we propose that, to receive a grant under any part of this section, an entity shall submit an application that shall meet such eligibility standards as are prescribed in the FVPSA and contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

Under section (h), we propose that all grant recipients should create a plan to ensure effective communication and meaningful access to domestic violence program services for victims of domestic violence with Limited English Proficiency (LEP), which should include: How to respond to individuals with LEP, and how to use appropriate interpretation and translation services, including best practices for using taglines. Taglines are short statements in non-English languages informing persons with LEP how to access language assistance services; how to respond to individuals with communication-related disabilities and how to provide appropriate auxiliary aids and services, including qualified interpreters and information in alternate formats, to people with disabilities. The use of the term ''Limited English Proficient'' is not meant to be interpreted as a substitution for the statutory language ''non-English'' speaking individuals but rather to be consistent with HHS Office for Civil Rights guidance applicable to all HHS-funded programs. Please see *http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/index.html.*

Section 1370.31 What additional requirements apply to grants for specialized services for abused parents and their children?

We propose to add new § 1370.31 to Subpart D. Consistent with 42 U.S.C. 10412, grants provided for specialized services for abused parents and their children are intended to expand the capacity of family violence, domestic violence, and dating violence service programs and community-based programs to prevent future domestic violence by addressing, in an appropriate manner, the needs of children exposed to family violence, domestic violence, or dating violence. To be eligible an entity must be a local agency, a nonprofit private organization (including faith-based and charitable organizations, community-based organizations, and voluntary associations), or a Tribal organization, with a demonstrated record of serving victims of family violence, domestic violence, or dating violence and their children.

Consistent with 42 U.S.C. 10412(c), in paragraph (b)(1) we propose that, in order to be eligible to receive a grant under this section, an entity shall submit an application that includes a complete description of the applicant's plan for providing specialized services for abused parents and their children. This should include descriptions of how the entity will prioritize the safety of, and confidentiality of information about victims of family violence, victims of domestic violence, and victims of dating violence and their children. It also should address how the entity will provide developmentally appropriate and age-appropriate services, and culturally and linguistically appropriate services, to the victims and children. Finally, it should describe how the entity will ensure that professionals working with the children receive the training and technical assistance appropriate and relevant to the unique needs of children exposed to family violence, domestic violence, or dating violence.

Consistent with 42 U.S.C. 10412(d), in paragraph (b)(2), we propose that the application should demonstrate that the applicant has the ability to provide direct counseling, appropriate services, and advocacy on behalf of victims of family violence, domestic violence, or dating violence and their children, including coordination with services provided by the child welfare system.

In paragraph (b)(3), we propose that the application also should demonstrate that the applicant can effectively provide services for non-abusing parents

to support those parents' roles as caregivers and their roles in responding to the social, emotional, and developmental needs of their children.

Consistent with 42 U.S.C. 10412(d)(2), in paragraph (c) we propose that eligible applicants may use funds under a grant pursuant to this section that: (1) Demonstrates a capacity to provide early childhood development and mental health services; (2) shows the ability to coordinate activities with and provide technical assistance to community-based organizations serving victims of family violence, domestic violence, or dating violence or children exposed to family violence, domestic violence, or dating violence; and (3) shows the capacity to provide additional services and referrals to services for children, including child care, transportation, educational support, respite care, supervised visitation, or other necessary services.

Finally, in paragraph (c)(4), we propose that the application must contain such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

If Congressional appropriations in any fiscal year for the entirety of programs covered by this proposed rule (exclusive of the National Domestic Violence Hotline which receives a separate appropriation) exceed $130 million, not less than 25 percent of such excess funds shall be made available to carry out this grant program. If appropriations reach this threshold, HHS will specify funding levels in future Funding Opportunity Announcements.

Section 1370.32 What additional requirements apply to National Domestic Violence Hotline grants?

We propose to add new § 1370.32 to Subpart D. Consistent with 42 U.S.C. 10413, the National Domestic Hotline grants are for one or more private entities to provide for the ongoing operation of a 24-hour, national, toll-free telephone hotline to provide information and assistance to adult and youth victims of family violence, domestic violence, or dating violence, family and household members of such victims, and persons affected by the victimization.

We propose to add a definition of ''telephone'' as used in the context of ''telephone hotline'' so that the term appropriately reflects evolving technological advances impacting telephone usage and the multiple ways in which telephone hotlines operate and are most responsive to hotline callers or users. According to the Pew Research Internet and American Life Project ''some 83% of American adults own cell phones and three-quarters of them (73%) send and receive text messages. Young adults are the most avid texters by a wide margin. Cell owners between the ages of 18 and 24 exchange an average of 109.5 messages on a normal day—that works out to more than 3,200 texts per month—and the typical or median cell owner in this age group sends or receives 50 messages per day (or 1500 messages per month).'' We therefore propose to add a definition of ''telephone'' as used in the context of ''telephone hotline'' so that the term appropriately reflects evolving technological advances impacting telephone usage and the multiple ways in which telephone hotlines operate and are most responsive to hotline callers or users. We propose ''telephone'' to be defined as a communications device that permits two or more callers or users to engage in transmitted analog, digital, short message service (SMS), cellular/wireless, laser, cable/broadband, internet, voice-over internet protocol (IP) or other communications, including telephone, smartphone, chat, text, voice recognition, or other technological means which connects callers or users together. The traditional analog telephone may soon become outdated technology that does not provide appropriate and safe services for callers or users, nor does it reflect that users may not be ''calling'' telephone hotlines as traditionally understood. As a result, current FVPSA language may prevent grantees responsible for operating emerging or changing technologies that serve victims of family, domestic, and dating violence from incorporating cutting-edge software and hardware that simultaneously advance with technology trends and user interfaces.

Under proposed paragraph (c), to be consistent with 42 U.S.C. 10413(d), we propose that in order to be eligible to receive a grant under this section, an entity shall submit an application that includes a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of:

(1) The training program for hotline personnel, including technology training to ensure that all persons affiliated with the hotline are able to effectively operate any technological systems used by the hotline, and are familiar with effective communication and meaningful access requirements, to ensure access for all, including people who are Limited English Proficient and people with disabilities;

(2) the hiring criteria and qualifications for hotline personnel;

(3) the methods for the creation, maintenance, and updating of a resource database;

(4) a plan for publicizing the availability of the hotline;

(5) a plan for providing service to Limited English Proficient callers, including service through hotline personnel who are qualified to interpret for Limited English Proficient individuals;

(6) a plan for facilitating access to the hotline by persons with disabilities, including persons with hearing impairments; and

(7) a plan for providing assistance and referrals to youth victims of domestic violence and for victims of dating violence who are minors, which may be carried out through a national teen dating violence hotline.

The application also must demonstrate:

(1) That the applicant has recognized expertise in the area of family violence, domestic violence, or dating violence and a record of high quality service to victims of family violence, domestic violence, or dating violence, including a demonstration of support from advocacy groups and State Domestic Violence Coalitions;

(2) that the applicant has the capacity and the expertise to maintain a domestic violence hotline and a comprehensive database of service providers;

(3) the applicants' ability to provide information and referrals for callers, directly connect callers to service providers, and employ crisis interventions meeting the standards of family violence, domestic violence, and dating violence providers;

(4) that the applicant has a commitment to diversity and to the provision of services to underserved populations, including to ethnic, racial, and Limited English Proficient individuals, in addition to older individuals and individuals with disabilities;

(5) that the applicant follows comprehensive quality assurance practices.

Finally, the application must contain such agreements, information, and assurances, including nondisclosure of confidential or personally identifiable information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

In accordance with 42 U.S.C. 10413(f), under section (d) we propose that the entity receiving a grant under this section shall submit a performance report to the Secretary at such time as reasonably required by the Secretary that shall describe the activities that

have been carried out with grant funds, contain an evaluation of the effectiveness of such activities, and provide additional information as the Secretary may reasonably require.

VIII. Impact Analysis

Paperwork Reduction Act

This proposed rule contains no new information collection requirements. There is an existing requirement for grantees to provide performance progress reports under Office of Management and Budget approval number 0970–0280. Grantees are also required to submit an application and annual financial status report. Nothing in this proposed rule would require changes in the current requirements, all of which have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed rule will not result in a significant economic impact on a substantial number of small entities. We have not proposed any new requirements that would have such an effect. Our proposed standards would almost entirely conform to the existing statutory requirements and existing practices in the program. In particular, we have proposed imposing only a few new processes, procedural, or documentation requirements that are not encompassed within the existing rule, existing Funding Opportunity Announcements, or existing information collection requirements. None of these would impose consequential burdens on grantees. Accordingly, an Initial Regulatory Flexibility Analysis is not required.

Regulatory Impact Analysis

Executive Order 12866 and 13563 require that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in these Executive Orders, including imposing the least burden on society, written in plain language and easy to understand, and seeking to improve the actual results of regulatory requirements. The Department has determined that this proposed rule is consistent with these priorities and principles. The Executive Orders require a Regulatory Impact Analysis for proposed or final rules with an annual economic impact of $100 million or more. Nothing in this proposed rule approaches effects of this magnitude. Nor does this proposed rule meet any of the other criteria for significance under these Executive Orders. This proposed rule has been reviewed by the Office of Management and Budget.

Congressional Review

This proposed rule is not a major rule (economic effects of $100 million or more) as defined in the Congressional Review Act.

Federalism Review

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local government officials in the development of regulatory policies with Federalism implications. This proposed rule will not have substantial direct impact on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with the Executive Order we have determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement.

Family Impact Review

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any new or adverse impact on the autonomy or integrity of the family as an institution. Like the existing rule and existing program practices, it directly supports family well-being. Since we propose no changes that would affect this policy priority, we have concluded that it is not necessary to prepare a Family Policymaking Assessment.

List of Subjects in 45 CFR 1370

Administrative practice and procedure, Domestic violence, Grant Programs—Social Programs, Reporting and recordkeeping requirements, Technical assistance.

(Catalog of Federal Domestic Assistance Program Numbers 93.671 Family Violence Prevention and Services/Battered Women's Shelters—Grants to States and Indian Tribes and 93.591 Family Violence Prevention and Services/Battered Women's Shelters—Grants to State Domestic Violence Coalitions)

Dated: March 24, 2015.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

Approved: March 26, 2015.

Sylvia M. Burwell,

Secretary.

Editorial note: This document was received for publication by the Office of the Federal Register on October 5, 2015.

For the reasons set forth in the preamble, title 45 CFR part 1370 is proposed to be amended as follows:

PART 1370—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

■ 1. The authority citation for part 1370 continues to read as follows:

■ 2. Revise §§ 1370.1 through 1370.5 and add § 1370.6 under a new subpart A to read as follows:

Subpart A—General Provisions

Sec.

1370.1 What are the purposes of Family Violence Prevention and Services Act Programs?
1370.2 What definitions apply to these programs?
1370.3 What Government-wide and HHS-wide regulations apply to these programs?
1370.4 What confidentiality requirements apply to these programs?
1370.5 What additional non-discrimination requirements apply to these programs?
1370.6 What requirements for reports and evaluations apply to these programs?

§ 1370.1 What are the purposes of the Family Violence Prevention and Services Act Programs?

This part addresses sections 301 through 313 of the Family Violence Prevention and Services Act (FVPSA), as amended, and codified at 42 U.S.C. 10401 *et seq*. FVPSA authorizes the Secretary to implement programs for the purposes of increasing public awareness about and preventing family violence, domestic violence, and dating violence; providing immediate shelter and supportive services for victims of family violence, domestic violence, and dating violence and their dependents; providing for technical assistance and training relating to family violence, domestic violence, and dating violence programs; providing for State Domestic Violence Coalitions; providing specialized services for abused parents and their children; and operating a national domestic violence hotline. FVPSA emphasizes both primary, and secondary, prevention of violence.

§ 1370.2 What definitions apply to these programs?

For the purposes of this part:

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. This definition reflects the definition also found in Section 40002(a) of VAWA (as amended), as required by FVPSA. Additionally, dating violence may include violence against older individuals and those with disabilities when the violence meets the applicable definition.

Domestic violence means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. This definition also reflects the statutory definition of ''domestic violence'' found in Section 40002(a) of VAWA (as amended). Older individuals and those with disabilities who otherwise meet the criteria herein are also included within this term's definition. This definition will also include but will not be limited to acts or acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, harassment, tormenting behavior, disturbing or alarming behavior, and additional acts recognized in other Federal, State, local and tribal laws as well as acts in other Federal regulatory or sub-regulatory guidance. This definition is not intended to be interpreted more restrictively than FVPSA and VAWA but rather to be inclusive of other, more expansive definitions.

Family violence means any act or threatened act of violence, including any forceful detention of an individual, that results or threatens to result in physical injury and is committed by a person against another individual (including an older individual), to or with whom such person is related by blood or marriage, or is or was otherwise legally related, or is or was lawfully residing. All FVPSA-funded grantees and contractors are required to serve program recipients regardless of whether an individual may be married to a person of the opposite or same sex. Please note that this guidance is not a change in previous grantee guidance as survivors of intimate partner violence, regardless of marital status, have always been eligible for FVPSA-funded services and programming.

Personally identifying information is:

(1) Individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including:

(i) A first and last name;

(ii) A home or other physical address;

(iii) Contact information (including a postal, email or Internet protocol address, or telephone or facsimile number);

(iv) A social security number, driver license number, passport number, or student identification number; and

(v) Any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

(2) Note that information remains personally identifying even if physically protected through locked filing cabinets or electronically protected through encryption.

Primary prevention means strategies, policies, and programs to stop both first-time perpetration and first-time victimization. Primary prevention is stopping intimate partner violence before it occurs.

Primary-purpose domestic violence provider means a provider that operates a project of demonstrated effectiveness carried out by a nonprofit, nongovernmental, private entity, Tribe or Tribal organization that has as its project's primary-purpose the operation of shelters and supportive services for victims of domestic violence and their dependents; or provides counseling, advocacy, or self-help services to victims of domestic violence. Territorial Domestic Violence Coalitions may include government-operated domestic violence projects as ''primary-purpose'' providers for complying with the membership requirement, provided that Territorial Coalitions can document providing training, technical assistance, and capacity-building of community-based and privately operated projects to provide shelter and supportive services to victims of family, domestic, or dating violence, with the intention of recruiting such projects as members once they are sustainable as primary-purpose domestic violence service providers.

Secondary prevention means identifying risk factors or problems that may lead to future family violence, domestic violence, or dating violence, and taking the necessary actions to eliminate the risk factors and the potential problem.

Shelter means the provision of temporary refuge and supportive services in compliance with applicable State law or regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents. This definition also includes emergency shelter and immediate shelter, which may include scattered-site housing, which is defined as property with multiple locations around a local jurisdiction or state. Temporary refuge includes a residential service, including shelter and off-site services such as hotel or motel vouchers, which is not transitional or permanent housing. Should other jurisdictional laws conflict with this definition of temporary refuge, the definition which provides more expansive housing accessibility governs.

State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided in statute, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

State Domestic Violence Coalition means a statewide, non-governmental, nonprofit 501(c)(3) organization whose membership includes a majority of the primary-purpose domestic violence providers in the State; whose board membership is representative of these primary-purpose domestic violence service providers and which may include representatives of the communities in which the services are being provided in the State; that provides education, support, and technical assistance to such providers; and that serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the State and supports the development of policies, protocols, and procedures to enhance domestic violence intervention and prevention in the State.

Supportive services means services for adult and youth victims of family

violence, domestic violence, or dating violence, and their dependents, that are designed to meet the needs of such victims and their dependents for short-term, transitional, or long-term safety and recovery. Supportive services includes those services identified in FVPSA Section 10408(b)(1)(G), but is not limited to: Direct and/or referral-based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, childcare services, health, behavioral health and preventive health services, culturally appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. Supportive services may be directly provided by grantees and/or by providing advocacy or referrals to assist victims in accessing such services.

Underserved populations means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, and populations underserved because of special needs including language barriers, disabilities, immigration status, and age. Individuals with criminal histories due to victimization and individuals with substance abuse and mental health issues are also included in this definition. This definition also includes other population categories determined by the Secretary or the Secretary's designee to be underserved.

§ 1370.3 What Government-wide and HHS-wide regulations apply to these programs?

(a) A number of government-wide and HHS regulations apply or potentially apply to all grantees. These include but are not limited to:

(1) 2 CFR part 182—Government-wide Requirements for Drug Free Workplaces;

(2) 2 CFR part 376—Nonprocurement Debarment and Suspension;

(3) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board;

(4) 45 CFR part 30—Claims Collection;

(5) 45 CFR part 46—Protection of Human Subjects;

(6) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards;

(7) 45 CFR part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964;

(8) 45 CFR part 81—Practice and Procedure for Hearings under part 80;

(9) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance;

(10) 45 CFR part 86—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

(11) 45 CFR part 87—Equal Treatment for Faith-Based Organizations;

(12) 45 CFR part 91—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance for HHS; and

(13) 45 CFR part 93—New Restrictions on Lobbying.

(b) A number of government-wide and HHS regulations apply to all contractors. These include but are not limited to:

(1) 48 CFR Chapter 1—Federal Acquisition Regulations; and

(2) 48 CFR Chapter 3—Federal Acquisition Regulations—Department of Health and Human Services.

§ 1370.4 What confidentiality requirements apply to these programs?

(a) In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families. Subject to paragraphs (c), (d), and (e) of this section, grantees and subgrantees shall not—

(1) Disclose any personally identifying information (as defined in § 1370.2) collected in connection with services requested (including services utilized or denied) through grantees' and subgrantees' programs; or

(2) Reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program.

(b) Consent shall be given by the person, except in the case of an unemancipated minor it shall be given by both the minor and the minor's parent or guardian; or in the case of an individual with a guardian it shall be given by the individual's guardian. A parent or guardian may not give consent if: He or she is the abuser or suspected abuser of the minor or individual with a guardian; or, the abuser or suspected abuser of the other parent of the minor. Reasonable accommodation shall also be made to those who may be unable, due to disability or other functional limitation, to provide consent in writing.

(c) If the release of information described in paragraphs (a) and (b) of this section is compelled by statutory or court mandate:

(1) Grantees and sub-grantees shall make reasonable attempts to provide notice to victims affected by the release of the information; and

(2) Grantees and sub-grantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(d) Grantees and sub-grantees may share:

(1) Nonpersonally identifying information, in the aggregate, regarding services to their clients and demographic non-personally identifying information in order to comply with Federal, State, or Tribal reporting, evaluation, or data collection requirements;

(2) Court-generated information and law enforcement-generated information contained in secure, governmental registries for protective order enforcement purposes; and

(3) Law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

(e) Nothing in this section prohibits a grantee or subgrantee from reporting abuse and neglect, as those terms are defined by law, where mandated or expressly permitted by the State or Indian Tribe involved.

(f) Nothing in this section shall be construed to supersede any provision of any Federal, State, Tribal, or local law that provides greater protection than this section for victims of family violence, domestic violence, or dating violence.

(g) The address or location of any shelter facility assisted that maintains a confidential location shall, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

§ 1370.5 What additional non-discrimination requirements apply to these programs?

(a) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part through FVPSA. FVPSA grantees must provide comparable services to victims regardless of sex or gender. This includes not only providing access to services for male victims of family, domestic, and dating violence, but also making sure not to limit services for victims with adolescent sons (up to the

age of majority). Victims and their adolescent sons must be sheltered or housed together unless requested otherwise or unless the factors or considerations identified in the paragraph directly below require an exception to this general rule.

(b) However, no such program or activity is required to include an individual in such program or activity without taking into consideration that individual's sex in those certain instances where sex is a *bona fide* occupational qualification or a programmatic factor reasonably necessary to the essential or safe operation of that particular program or activity. If a shelter can reasonably separate the sexes in a manner which allows for single sex bedrooms and bathrooms and the essential and safe operation of the particular program is not substantially compromised, it is reasonable to provide such separation. If the essential or safe operation of the program or activity would be substantially compromised, alternative, equivalent shelter and services should be offered as practicable. Adult male victims should be offered hotel placements and provided supportive services at the shelter if shelter space is not available or if it is otherwise determined that the operation of the program or activity would be substantially compromised. Victims' adolescent male sons, as previously discussed must be housed with the abused parent seeking shelter or services unless otherwise requested, or unless there are specific, individual factors or circumstances, that by placing a victim in shelter with their son substantially compromise the essential or safe operations of the program.

(c) LGBTQ individuals must have access to FVPSA-funded shelter and nonresidential programs. Programmatic accessibility for LGBTQ survivors must be afforded to meet individual needs like those provided to all other survivors. For the purpose of assigning a beneficiary to sex-segregated or sex-specific services, the recipient should ask a transgender beneficiary which group or services the beneficiary wishes to join. The recipient may not, however, ask questions about the beneficiary's anatomy or medical history or make demands for identity documents. ACF requires that a FVPSA grantee, subgrantee, contractor, or vendor that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities will place a potential victim (or current victim/client seeking a new assignment) in a shelter or other appropriate placement that corresponds to the gender with which the person identifies, taking health and safety concerns into consideration. A victim's/client's or potential victim's/client's own views with respect to personal health and safety must be given serious consideration in making the placement. For instance, if the potential victim/client requests to be placed based on his or her sex assigned at birth, ACF requires that the provider will place the individual in accordance with that request, consistent with health, safety, and privacy concerns. ACF also requires that a provider will not make an assignment or re-assignment based on complaints of another person when the sole stated basis of the complaint is a victim/client or potential victim/client's non-conformance with gender stereotypes.

(d) With respect to religion, religious beliefs or religious practices shall not be imposed on program recipients. Dietary practices dictated by particular religious beliefs may require some reasonable accommodation in cooking or feeding arrangements for particular clients as practicable. Finally, human trafficking victims may receive FVPSA-funded services as long as victims of domestic and intimate partner violence are prioritized first by FVPSA grantees.

(e) State and Tribal Formula grant-funded services must be provided without requiring documentation for eligibility given the multiple access barriers faced by battered immigrants.

(f) All requirements in this section shall not be construed as affecting any legal remedy provided under any other provision of law. The Secretary shall enforce the provisions of all requirements in this section in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2) shall apply with respect to any action taken by the Secretary to enforce this section.

(g) No condition may be imposed by grantees or subgrantees for the receipt of emergency shelter, unless a State imposes a legal requirement to protect the safety and welfare of all shelter residents, and receipt of all supportive services shall be voluntary. Nothing in this requirement prohibits shelter operators from preventing violence or abuse or securing the safety of all shelter residents. In the case of an apparent conflict with State or Federal laws, case-by-case determinations will be made.

§ 1370.6 What requirements for reports and evaluations apply to these programs?

Each entity receiving a grant or contract under these programs shall submit a performance report to the Secretary at such time as required by the Secretary. Such performance report shall describe the activities that have been carried out, contain an evaluation of the effectiveness of such activities, and provide such additional information as the Secretary may require. American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands are required to report directly to the Division of Family Violence Prevention and Services within FYSB and follow all reporting requirements applicable to States, Puerto Rico, and the District of Columbia, unless otherwise communicated to grantees. These requirements supplement, and do not replace the Territorial reporting requirements of the ACF Office of Community Services in its administration of the Consolidated Block Grants as part of the Social Services Block Grant program.

■ 3. Add subpart B, consisting of § 1370.10, to read as follows:

Subpart B—State and Indian Tribal Grants

§ 1370.10 What additional requirements apply to State and Indian Tribal grants?

(a) These grants assist States and Tribes to support the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence, domestic violence, and dating violence; to provide immediate shelter, supportive services, and access to community-based programs for victims of family violence, domestic violence, or dating violence, and their dependents; and to provide specialized services for children exposed to family violence, domestic violence, or dating violence, under-served populations, and victims who are members of racial and ethnic minority populations. States must consult with and provide for the participation of State and Tribal Domestic Violence Coalitions in the planning and monitoring of the distribution and administration of subgrant programs and projects. Tribes should be involved in these processes where appropriate but this rule is not intended to encroach upon Tribal sovereignty. States and Tribes must involve community-based organizations that primarily serve culturally specific, underserved communities and to determine how such organizations can assist the States and Tribes in serving the unmet needs of the underserved community. States also must consult with and provide for the participation of State and Tribal Domestic Violence Coalitions in State planning and coordinate such planning

with needs assessments to identify service gaps or problems and develop appropriate responsive plans and programs. Similar processes for Tribes and Coalitions that support coordination and collaboration are expected when feasible and appropriate with deference to Tribal sovereignty as previously indicated.

(b) A State application must be submitted by the Chief Executive of the State and signed by the Chief Executive Officer or the Chief Program Official designated as responsible for the administration of FVPSA. Each application must contain the following information or documentation:

(1) The name of the State agency, the name and contact information for the Chief Program Official designated as responsible for the administration of funds under FVPSA and coordination of related programs within the State, and the name and contact information for a contact person if different from the Chief Program Official.

(2) A plan describing in detail how the needs of underserved populations will be met, including:

(i) Identification of which populations in the State are underserved, a description of those that are being targeted for outreach and services, and a brief explanation of why those populations were selected to receive outreach and services, including how often the State revisits the identification and selection of the populations to be served with FVPSA funding. States must review their State demographics at least every three years or explain why this process in unnecessary;

(ii) A description of the outreach plan, including the domestic violence training to be provided, the means for providing technical assistance and support, and the leadership role played by those representing and serving the underserved populations in question;

(iii) A description of the specific services to be provided or enhanced, such as new shelters or services, improved access to shelters or services, or new services for underserved populations such as victims from communities of color, immigrant victims, victims with disabilities, or older individuals; and

(iv) A description of the public information component of the State's outreach program, including the elements of the program that are used to explain domestic violence, the most effective and safe ways to seek help, and tools to identify available resources.

(3) A description of the process and procedures used to involve the State Domestic Violence Coalition, knowledgeable individuals, and interested organizations, including those serving or representing underserved communities in the State planning process.

(4) Documentation of planning, consultation with and participation of the State Domestic Violence Coalition in the administration and distribution of FVPSA programs, projects, and grant funds awarded to the State.

(5) A description of the procedures used to assure an equitable distribution of grants and grant funds within the State and between urban and rural areas, as defined by the Census Bureau, within the State. The plan should describe how funding processes and allocations will address the needs of the underserved, racial and ethnic minorities including Tribal populations, and people with disabilities and their families, with an emphasis on funding organizations that can meet unique needs including culturally relevant and linguistically appropriate services. Other Federal, State, local, and private funds may be considered in determining compliance.

(6) A description of how the State plans to use the grant funds including a State plan developed in consultation with State and Tribal Domestic Violence Coalitions and representatives of underserved and culturally specific communities; a description of the target populations; of the number of shelters to be funded; of the number of non-residential programs to be funded; of the services the State will provide; and of the expected results from the use of the grant funds. To fulfill these requirements, it is critically important that States work with Coalitions and Tribes to solicit their feedback on program effectiveness which may include recommendations such as establishing program standards and participating in program monitoring.

(7) A copy of the law or procedures, such as a process for obtaining an order of protection that the State has implemented for the eviction of an abusive spouse or other intimate, domestic, or dating partner from a shared household or residence. This requirement includes family violence, domestic violence, and dating violence.

(8) An assurance that not less than 70 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, and that not less than 25 percent of the funds distributed by a State to sub-recipients shall be distributed to entities for the purpose of providing supportive services and prevention services (these percentages may overlap with respect to supportive services but are not included in the 5 percent cap applicable to State administrative costs). No grant shall be made under this section to an entity other than a State unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than $1 for every $5 of Federal funds provided under the grant. The non-Federal contributions required under this paragraph may be in cash or in kind.

(9) Documentation of policies, procedures and protocols that ensure individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring, that the confidentiality of records pertaining to any individual provided family violence prevention or intervention services by any program or entity supported under the FVPSA will be strictly maintained, and the address or location of any shelter supported under the FVPSA will not be made public without the written authorization of the person or persons responsible for the operation of such shelter; and

(10) Such additional agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(c) An application from a Tribe or Tribal Organization must be submitted by the Chief Executive Officer or Tribal Chairperson of the applicant organization. Each application must contain the following information or documentation:

(1) A copy of a current Tribal resolution or an equivalent document that verifies Tribal approval of the application being submitted. The resolution or other document should state that the designated organization or agency has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded pursuant to the FVPSA. The resolution or equivalent document must specify the name(s) of the Tribe(s) represented and the service area for the intended grant services. If Tribal resolutions are the vehicles to support applications from Tribal Consortia or other joint Tribal

applications, a representative from each Tribe must sign the application.

(2) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the FVPSA. For example, knowledgeable individuals and interested organizations may include Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of Tribal or State Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

(3) A description of the applicant's operation of and/or capacity to carry out a family violence prevention and services program. This might be demonstrated in ways such as:

(i) The current operation of a shelter, safe house, or domestic violence prevention program;

(ii) The establishment of joint or collaborative service agreements with a local public agency or a private, non-profit agency for the operation of family violence prevention and intervention activities or services; or

(iii) The operation of social services programs as evidenced by receipt of grants or contracts awarded under Indian Child Welfare grants from the Bureau of Indian Affairs; Child Welfare Services grants under Title IV–B of the Social Security Act; or Family Preservation and Family Support grants under Title IV–B of the Social Security Act.

(4) A description of the services to be provided, how the applicant organization plans to use the grant funds to provide the direct services, to whom the services will be provided, and the expected results of the services.

(5) Documentation of the law or procedure which has been implemented for the eviction of an abusing spouse or other intimate, domestic, or dating partner from a shared household or residence.

(6) Documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that individual identifiers of client records will not be used when providing statistical data on program activities and program services or in the course of grant monitoring and that the confidentiality of records pertaining to any individual provided domestic violence prevention or intervention services by any FVPSA-supported program will be strictly maintained.

(7) Such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

■ 4. Add subpart C, consisting of § 1370.20, to read as follows:

Subpart C—State Domestic Violence Coalition Grants

§ 1370.20 What additional requirements apply to State Domestic Violence Coalitions?

(a) State Domestic Violence Coalitions reflect a Federal commitment to reducing domestic violence; to urge States, localities, cities, and the private sector to become involved in State and local planning towards an integrated service delivery approach that meets the needs of all victims, including those in underserved communities; to provide for technical assistance and training relating to domestic violence programs; and to increase public awareness about and prevention of domestic violence and increase the quality and availability of shelter and supportive services for victims of domestic violence and their dependents.

(b) To be eligible to receive a grant under this section, an organization shall be a statewide, non-governmental, non-profit 501(c)(3) domestic violence Coalition, designated as such by the Department. To obtain this designation the organization must meet the following criteria:

(1) The membership must include representatives from a majority of the primary-purpose programs for victims of domestic violence operating within the State (a Coalition also may include representatives of Indian Tribes and Tribal organizations as defined in the Indian Self-Determination and Education Assistance Act);

(2) The Board membership of the Coalition must be representative, though not exclusively composed, of such programs, and may include representatives of communities in which the services are being provided in the State;

(3) Financial sustainability of Coalitions, as independent, autonomous non-profit organizations, also must be supported by their membership, including those member representatives on the Coalitions' Boards of Directors;

(4) The purpose of the Coalition must be to provide services, community education, and technical assistance to domestic violence programs in order to establish and maintain shelter and supportive services for victims of domestic violence and their children.

(c) To apply for a grant under this section, an organization shall submit an annual application that:

(1) Includes a complete description of the applicant's plan for the operation of a State Domestic Violence Coalition, including documentation that the Coalition's work will demonstrate the ability to conduct appropriately all activities described in this section. Demonstrated ability or capacity may include but is not limited to: Identifying successful efforts that support child welfare agencies' identification and support of victims during intake processes; creation of membership standards that enhance victim safety and fully require training and technical assistance for compliance with federal housing, disability, and sex discrimination laws and regulations; and, training judicial personnel on trauma-informed courtroom practice. Coalitions must also have documented experience in administering Federal grants to conduct the activities of a Coalition or a documented history of active participation in:

(i) Working with local family violence, domestic violence, and dating violence service programs and providers of direct services to encourage appropriate and comprehensive responses to family violence, domestic violence, and dating violence against adults or youth within the State involved, including providing training and technical assistance and conducting State needs assessments and participate in planning and monitoring of the distribution of subgrants within the States and in the administration of grant programs and projects;

(ii) In conducting needs assessments, Coalitions and States must work in partnership on the statutorily required FVPSA State planning process to involve representatives from underserved and racial and ethnic minority populations to plan, assess and voice the needs of the communities they represent. Coalitions will assist States in identifying underrepresented communities and culturally-specific community based organizations in State planning and to work with States to unify planning and needs assessment efforts so that comprehensive and culturally-specific services are provided. The inclusion of the populations targeted will emphasize building the capacity of culturally-specific services and programs.

(iii) Working in collaboration with service providers and community-based organizations to address the needs of family violence, domestic violence, and dating violence victims, and their dependents, who are members of racial and ethnic minority populations and underserved populations;

(iv) Collaborating with and providing information to entities in such fields as housing, health care, mental health,

social welfare, or business to support the development and implementation of effective policies, protocols, and programs that address the safety and support needs of adult and youth victims of family violence, domestic violence, or dating violence;

(v) Encouraging appropriate responses to cases of family violence, domestic violence, or dating violence against adults or youth, including by working with judicial and law enforcement agencies;

(vi) Working with family law judges, criminal court judges, child protective service agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in cases of child exposure to family violence, domestic violence, or dating violence and in cases in which family violence, domestic violence, or dating violence is present and child abuse is present;

(vii) Working with protection and advocacy systems, and aging and disability systems to develop appropriate responses for older individuals and individuals with disabilities;

(viii) Providing information to the public about prevention of family violence, domestic violence, and dating violence, including information targeted to underserved populations; and

(ix) Collaborating with Indian Tribes and Tribal organizations (and corresponding Native Hawaiian groups or communities) to address the needs of Indian (including Alaska Native) and Native Hawaiian victims of family violence, domestic violence, or dating violence, as applicable in the State;

(2) Contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) Nothing in this section limits the ability of a Coalition to use non-Federal or other Federal funding sources to conduct required functions, provided that if the Coalition uses funds received under section 2001(c)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 to perform the functions described in FVPSA section 311(e) in lieu of funds provided under the FVPSA, it shall provide an annual assurance to the Secretary that it is using such funds, and that it is coordinating the activities conducted under this section with those of the State's activities under Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(e) In cases in which two or more organizations seek designation, the designation of each State's individual Coalition is within the exclusive discretion of HHS. HHS will determine which applicant best fits statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that serve racial and ethnic minority populations and underserved populations, coordination and collaboration with the State government, and capacity to accomplish the FVPSA mandated role of a Coalition.

(f) Regarding FVPSA funding, in cases where a Coalition financially or otherwise dissolves, the designation of a new Coalition is within the exclusive discretion of HHS. HHS will work with domestic violence service providers, community stakeholders, State leaders, and representatives of underserved and culturally specific communities to identify an existing organization that can serve as the Coalition or to develop a new organization. The new Coalition must reapply for designation and funding following steps determined by the Secretary. HHS will determine whether the applicant fits the statutory criteria, with particular attention paid to the applicant's documented history of effective work, support of primary-purpose programs and programs that serve racial and ethnic minority populations and undeserved communities, coordination and collaboration with the State government, and capacity to accomplish the FVPSA mandated role of a Coalition.

■ 5. Add Subpart D to read as follows:

Subpart D—Discretionary Grants and Contracts

Sec.

1370.30 What National Resource Centers and Training and Technical Assistance grant programs are available and what requirements apply?
1370.31 What additional requirements apply to specialized services for abused parents and their children?
1370.32 What additional requirements apply to National Domestic Violence Hotline grants?

§ 1370.30 What National Resource Center and Training and Technical Assistance grant programs are available and what additional requirements apply?

(a) These grants are to provide resource information, training, and technical assistance to improve the capacity of individuals, organizations, governmental entities, and communities to prevent family violence, domestic violence, and dating violence and to provide effective intervention services. They fund national, special issue, and culturally-specific resource centers addressing key areas of domestic violence intervention and prevention, and may include State resource centers to reduce disparities in domestic violence in States with high proportions of Native American (including Alaska Native or Native Hawaiian) populations and to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating expertise in these areas. Grants may be made for:

(1) A National Resource Center on Domestic Violence which will conduct the following activities:

(i) Offer a comprehensive array of technical assistance and training resources to Federal, State, and local governmental agencies, domestic violence service providers, community-based organizations, and other professionals and interested parties, related to domestic violence service programs and research, including programs and research related to victims and their children who are exposed to domestic violence as well as older individuals and those with disabilities; and

(ii) Maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics related to the incidence and prevention of family violence and domestic violence; and the provision of shelter, supportive services, and prevention services to adult and youth victims of domestic violence (including services to prevent repeated incidents of violence).

(2) A National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women which will conduct the following activities:

(i) Offer a comprehensive array of technical assistance and training resources to Indian Tribes and Tribal organizations, specifically designed to enhance the capacity of the Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women; and

(ii) Enhance the intervention and prevention efforts of Indian Tribes and Tribal organizations to respond to domestic violence and increase the safety of Indian women, and

(iii) To coordinate activities with other Federal agencies, offices, and grantees that address the needs of American Indians, Alaska Natives, and Native Hawaiians that experience domestic violence.

(3) Special issue resource centers to provide national information, training, and technical assistance to State and local domestic violence service providers. Each special issue resource center shall focus on enhancing domestic violence intervention and

prevention efforts in at least one of the following areas:

(i) Response of the criminal and civil justice systems to domestic violence victims, which may include the response to the use of the self-defense plea by domestic violence victims and the issuance and use of protective orders;

(ii) Response of child protective service agencies to victims of domestic violence and their dependents and child custody issues in domestic violence cases;

(iii) Response of the interdisciplinary health care system to victims of domestic violence and access to health care resources for victims of domestic violence;

(iv) Response of mental health systems, domestic violence service programs, and other related systems and programs to victims of domestic violence and to their children who are exposed to domestic violence.

(4) Culturally-Specific Special Issue Resource Centers enhance domestic violence intervention and prevention efforts for victims of domestic violence who are members of racial and ethnic minority groups, to enhance the cultural and linguistic relevancy of service delivery, resource utilization, policy, research, technical assistance, community education, and prevention initiatives.

(5) State resource centers to provide statewide information, training, and technical assistance to Indian Tribes, Tribal organizations, and local domestic violence service organizations serving Native Americans (including Alaska Natives and Native Hawaiians) in a culturally sensitive and relevant manner. These centers shall:

(i) Offer a comprehensive array of technical assistance and training resources to Indian Tribes, Tribal organizations, and providers of services to Native Americans (including Alaska Natives and Native Hawaiians) specifically designed to enhance the capacity of the Tribes, organizations, and providers to respond to domestic violence;

(ii) Coordinate all projects and activities with the National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women, including projects and activities that involve working with State and local governments to enhance their capacity to understand the unique needs of Native Americans (including Alaska Natives and Native Hawaiians); and

(iii) Provide comprehensive community education and domestic violence prevention initiatives in a culturally sensitive and relevant manner.

(iv) Be located in a State with high proportions of Indian or Native Hawaiian populations. Eligible entities shall be located in a State in which the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 10 percent of the total population of the State; or, be an Indian tribe, Tribal organization or a Native Hawaiian organization that focuses primarily on issues of domestic violence among Indians or Native Hawaiians; or, be an institution of higher education; and, demonstrate the ability to serve all regions of the State, including underdeveloped areas and areas that are geographically distant from population centers. Additionally, eligible entities shall offer training and technical assistance and capacity-building resources in States where the population of Indians (including Alaska Natives) and Native Hawaiians exceeds 2.5 percent of the total population of the State.

(6) Other discretionary purposes to support training and technical assistance that address emerging issues related to family violence, domestic violence, or dating violence, to entities demonstrating related experience.

(b) To receive a grant under any part of this section, an entity shall submit an application that shall meet such eligibility standards as are prescribed in the FVPSA and contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(c) Grant recipients are required to comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. To effectuate such compliance, grant recipients should create a plan to ensure effective communication and meaningful access, including:

(1) How to respond to individuals with Limited English Proficiency, and how to use appropriate interpretation and translation services, including best practices for using taglines. Taglines are short statements in non-English languages informing persons who are Limited English Proficient on how to access language assistance services.

(2) How to respond to individuals with communication-related disabilities and how to provide appropriate auxiliary aids and services, including qualified interpreters and information in alternate formats, to people with disabilities.

§ 1370.31 What additional requirements apply to grants for specialized services for abused parents and their children?

(a) These grants serve to expand the capacity of family violence, domestic violence, and dating violence service programs and community-based programs to prevent future domestic violence by addressing, in an appropriate manner, the needs of children exposed to family violence, domestic violence, or dating violence. To be eligible an entity must be a local agency, a nonprofit private organization (including faith-based and charitable organizations, community-based organizations, and voluntary associations), or a Tribal organization, with a demonstrated record of serving victims of family violence, domestic violence, or dating violence and their children.

(b) To be eligible to receive a grant under this section, an entity shall submit an application that:

(1) Includes a complete description of the applicant's plan for providing specialized services for abused parents and their children, including descriptions of:

(i) How the entity will prioritize the safety of, and confidentiality of information about victims of family violence, victims of domestic violence, and victims of dating violence and their children;

(ii) How the entity will provide developmentally appropriate and age-appropriate services, and culturally and linguistically appropriate services, to the victims and children; and

(iii) How the entity will ensure that professionals working with the children receive the training and technical assistance appropriate and relevant to the unique needs of children exposed to family violence, domestic violence, or dating violence.

(2) Demonstrates that the applicant has the ability to provide direct counseling, appropriate service, and advocacy on behalf of victims of family violence, domestic violence, or dating violence and their children, including coordination with services provided by the child welfare system;

(3) Demonstrates that the applicant can effectively provide services for nonabusing parents to support those parents' roles as caregivers and their roles in responding to the social, emotional, and developmental needs of their children;

(c) Eligible applicants may use funds under a grant pursuant to this section that:

(1) Demonstrates a capacity to provide early childhood development and mental health services;

(2) Shows the ability to coordinate activities with and provide technical assistance to community-based organizations serving victims of family violence, domestic violence, or dating violence or children exposed to family violence, domestic violence, or dating violence; and

(3) Shows the capacity to provide additional services and referrals to services for children, including child care, transportation, educational support, respite care, supervised visitation, or other necessary services; and

(4) Contains such agreements, assurances, and information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) If Congressional appropriations in any fiscal year for the entirety of programs covered in this part (exclusive of the National Domestic Violence Hotline which receives a separate appropriation) exceed $130 million, not less than 25 percent of such excess funds shall be made available to carry out this grant program. If appropriations reach this threshold, HHS will specify funding levels in future Funding Opportunity Announcements.

§ 1370.32 What additional requirements apply to National Domestic Violence Hotline grants?

(a) These grants are for one or more private entities to provide for the ongoing operation of a 24-hour, national, toll-free telephone hotline to provide information and assistance to adult and youth victims of family violence, domestic violence, or dating violence, family and household members of such victims, and persons affected by the victimization.

(b) Telephone is defined as a communications device that permits two or more callers or users to engage in transmitted analog, digital, short message service (SMS), cellular/wireless, laser, cable/broadband, internet, voice-over internet protocol (IP) or other communications, including telephone, smartphone, chat, text, voice recognition, or other technological means which connects callers or users together.

(c) To be eligible to receive a grant under this section, an entity shall submit an application that:

(1) Includes a complete description of the applicant's plan for the operation of a national domestic violence telephone hotline, including descriptions of:

(i) The training program for hotline personnel, including technology training to ensure that all persons affiliated with the hotline are able to effectively operate any technological systems used by the hotline, and are familiar with effective communication and meaningful access requirements, to ensure access for all, including people who are Limited English Proficient and people with disabilities;

(ii) The hiring criteria and qualifications for hotline personnel;

(iii) The methods for the creation, maintenance, and updating of a resource database;

(iv) A plan for publicizing the availability of the hotline;

(v) A plan for providing service to Limited English Proficient callers, including service through hotline personnel who are qualified to interpret in non-English languages;

(vi) A plan for facilitating access to the hotline by persons with disabilities, including persons with hearing impairments; and

(vii) A plan for providing assistance and referrals to youth victims of domestic violence and for victims of dating violence who are minors, which may be carried out through a national teen dating violence hotline.

(2) Demonstrates that the applicant has recognized expertise in the area of family violence, domestic violence, or dating violence and a record of high quality service to victims of family violence, domestic violence, or dating violence, including a demonstration of support from advocacy groups and State Domestic Violence Coalitions;

(3) Demonstrates that the applicant has the capacity and the expertise to maintain a domestic violence hotline and a comprehensive database of service providers;

(4) Demonstrates the ability to provide information and referrals for callers, directly connect callers to service providers, and employ crisis interventions meeting the standards of family violence, domestic violence, and dating violence providers;

(5) Demonstrates that the applicant has a commitment to diversity and to the provision of services to underserved populations, including to ethnic, racial, and Limited English Proficient individuals, in addition to older individuals and individuals with disabilities;

(6) Demonstrates that the applicant follows comprehensive quality assurance practices; and

(7) Contains such agreements, information, and assurances, including nondisclosure of confidential or private information, in such form, and submitted in such manner as the Funding Opportunity Announcement and related program guidance prescribe.

(d) The entity receiving a grant under this section shall submit a performance report to the Secretary at such time as reasonably required by the Secretary that shall describe the activities that have been carried out with grant funds, contain an evaluation of the effectiveness of such activities, and provide additional information as the Secretary may reasonably require.

[FR Doc. 2015–25726 Filed 10–9–15; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,
No. 198 October 14, 2015

Part III

Federal Communications Commission

47 CFR Part 20
Broadcast Incentive Auction Scheduled To Begin on March 29, 2016; Procedures for Competitive Bidding in Auction 1000; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[GN Docket No. 12–268, MB Docket No. 15–146, WT Docket Nos. 14–252, 12–269; FCC 15–78]

Broadcast Incentive Auction Scheduled To Begin on March 29, 2016; Procedures for Competitive Bidding in Auction 1000

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission establishes final bidding procedures and qualifications for participation in Auction 1000, the Incentive Auction, including the forward and reverse auctions, 1001 and 1002 respectively. This document is intended to familiarize prospective applicants with the procedures and other requirements for participation in the Incentive Auction.

DATES: Effective October 14, 2015.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* for general auction questions: Linda Sanderson at (717) 338–2868; for reverse auction legal questions: Erin Griffith at (202) 418–0660; for forward legal questions: Kathryn Hinton at (202) 418–0660. Lisa Stover at (717) 338–2868. *Media Bureau, Video Division:* for broadcaster questions: Dorann Bunkin at (202) 418–1636.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, *Auction 1000 BIA Bidding Procedures Public Notice,* GN Docket No. 12–268, WT Docket Nos. 14–252 and 12–269, MB Docket No. 15–146, FCC 15–78, adopted on August 6, 2015 and released on August 11, 2015. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text is available on the Commission's Web site at *http://wireless.fcc.gov,* or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Supplemental Final Regulatory Flexibility Analysis (SFRFA) of the possible significant economic impact on small entities by the procedures and policies contained in the *Auction 1000 Bidding Procedures Public Notice.*

Report to Small Business Administration

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Auction 1000 Bidding Procedures Public Notice,* including this SFRFA, to the Chief Counsel for Advocacy of the SBA (SBA).

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

Congressional Review Act

The Commission will send a copy of the *Auction 1000 Bidding Procedures Public Notice,* including the SFRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the *Auction 1000 Bidding Procedures Public Notice* and SFRFA (or summaries thereof) will also be published in the **Federal Register**.

I. Introduction and Executive Summary

1. The *Auction 1000 Bidding Procedures Public Notice* the Commission determined the procedures necessary to carry out the incentive auction, and resolves issues it raised in the *Auction 1000 Comment Public Notice* (*Auction 1000 Comment PN*), 80 FR 4816, January 29, 2015. In particular, the Commission establishes final procedures for setting the initial spectrum clearing target, qualifying to bid, and bidding in the reverse and forward auctions. The *Auction 1000 Bidding Procedures Public Notice* is organized from the perspective of potential bidders, with separate sections for the reverse and forward auctions, each ordered consistent with the overall sequence of procedures in the incentive auction. Bidding in the auction will begin on March 29, 2016, which will be the deadline for reverse auction applicants to commit to an initial bid option.

2. The incentive auction is composed of a reverse auction (Auction 1001) in which broadcasters will offer to voluntarily relinquish some or all of their spectrum usage rights and a forward auction (Auction 1002) of new, flexible-use licenses suitable for providing mobile broadband services. Forward auction proceeds will be used to pay broadcasters that relinquish rights in the reverse auction. As part of the auction process, the broadcast television bands will be reorganized or ''repacked'' so that the television stations that remain on the air after the incentive auction occupy a smaller portion of the ultra-high frequency (UHF) band, thereby clearing contiguous spectrum that will be repurposed as the 600 MHz Band. The Commission's decisions implement its central objective for the incentive auction: to allow market forces to determine the highest and best use of spectrum. In response to the robust public record in this proceeding, its key decisions include the following: (a) *Initial Clearing Target Determination Procedure.* The procedure the Commission adopts for selecting the initial clearing target will allow market forces to determine the highest and best use of spectrum on a near-nationwide basis, while permitting a limited amount of impairments in the repurposed 600 MHz Band to avoid the ''least common denominator problem'': limiting the amount of spectrum available in most markets to the quantity that is available in the most constrained markets. To limit impairments, the Commission modifies its proposal in the *Auction 1000 Comment PN* by adopting a scaled standard with a cap that will allow significantly less than the proposed 20 percent at higher clearing targets, consistent with the consensus that impairments must be minimized, particularly at higher clearing targets. The Commission's decisions to allow the optimization software to assign television stations within the 600 MHz Band so as to minimize impaired weighted-pops, and not to ''discount'' impairments located in the uplink portion of the Band, also will help the auction to repurpose as much near-nationwide spectrum as possible while minimizing impairments; (b) *Opening Prices.* The Commission adopts its proposal for calculating opening price offers for each eligible broadcaster based on a television station's interference and population characteristics. This methodology, which will yield opening price offers in the reverse auction of up to $900 million, should attract robust participation in all areas without undermining other goals of the auction. Opening prices in the reverse auction will be announced at least 60 days in

advance of the deadline to file an application to participate in the reverse auction; (c) For the forward auction, the Commission adopts its proposal to assign a specific number of bidding units to each spectrum block that will be available in a Partial Economic Area (PEA) based on the number of weighted-pops in the PEA, and to use the bidding units to calculate minimum opening bids, upfront payments, and bidder eligibility, as well as to measure bidding activity. To facilitate bidding across license categories, each block available in a PEA will have the same number of bidding units. The minimum opening bid for each spectrum block will be equal to the number of bidding units assigned to the block times $5,000, and upfront payments will be one-half that amount. Upfront payments will be due after the initial clearing target has been selected; (d) *Reverse Auction Bidding.* Having considered the comments the Commission received on its proposal for a Dynamic Reserve Price (DRP) mechanism, it has decided not to adopt DRP. This decision will encourage voluntary participation in the reverse auction by removing uncertainty among broadcasters, and maximize forward auction spectrum value by eliminating the possibility of additional impairments in the 600 MHz Band due to the operation of the DRP mechanism. In order to make bidding as simple as possible for reverse auction bidders, bidders will not be able to submit ''intra-round'' bids. The Commission adopts its proposal to establish a simple proxy bid mechanism to make it easier for bidders to participate in the auction; (e) The Commission also adopts several measures to improve transparency for reverse auction bidders. First, the auction system will inform them, for each station on which they are bidding, of their bidding status and the new price offers for available bid options. Second, bidders also will be provided with ''vacancy'' information regarding the availability of channels in bands relevant to each of their stations given its bid options. Vacancy information may help reverse auction bidders assess the likelihood that the price offers for a bid option will continue to decrease, as well as how likely any bid option to move to another band is to be available through the current round. Once reverse auction bidding stops in any stage, the total dollar amount of provisionally winning reverse auction bids will be announced publicly; (f) *Forward Auction Bidding.* The Commission adopts its proposal to offer two categories of generic spectrum blocks for bidding in the clock phase of the forward auction: ''Category 1'' blocks with potential impairments that affect zero to 15 percent of the weighted population of a PEA; and ''Category 2'' blocks with potential impairments that affect between greater than 15 percent and up to 50 percent. Prices for frequency-specific licenses will be adjusted downward at the end of the assignment phase of the forward auction by one percent of the final clock phase price for each one percent of impairment to the license; (g) The Commission adopts several measures to improve transparency for forward auction bidders. First, the auction system will provide them in advance of bidding with specific information regarding impairments, including the actual source and location of the impairment. Second, during the clock phase, aggregate price information that reflects the progress of the forward auction towards satisfying the final stage rule, as well as price and aggregate demand information for blocks in each PEA that reflects progress towards completion of bidding in the clock phase, will be publicly available; (h) To implement the Commission's decision in the *Mobile Spectrum Holdings Report and Order* (*Mobile Spectrum Holdings R&O*), 79 FR 39977, July 11, 2014, to incorporate a market-based spectrum reserve in the forward auction, the Commission adopts its proposals to base the maximum number of reserved spectrum blocks in a given PEA on the total number of Category 1 and 2 blocks offered in that PEA; to limit the actual number to demand for Category 1 blocks by reserve-eligible bidders when the auction reaches the spectrum reserve trigger; to reserve only Category 1 blocks; and to limit the number of reserved blocks in a PEA to two if, when the trigger is reached, only one reserve-eligible bidder demands such blocks. The Commission also affirms its decision that the spectrum reserve will be triggered by satisfaction of the final stage rule; (i) To implement the final stage rule established in the *Incentive Auction Report and Order* (*Incentive Auction R&O*), 79 FR 48441, August 15, 2014, the Commission adopts the proposed average price and spectrum benchmarks of $1.25 and 70 megahertz of licensed spectrum, respectively. The benchmarks will help to ensure that winning bids for the licenses in the forward auction reflect competitive prices and return a portion of the value of the spectrum to taxpayers without reducing the amount of spectrum repurposed for new, flexible-use licenses. The Commission also adopts its proposals for triggering an ''extended round'' to give bidders the opportunity to meet the final stage rule without moving to another stage, except that an extended round will not be triggered if the shortfall is greater than 20 percent; (j) *Assignment Round.* The Commission adopts the assignment round bidding procedures proposed in the *Auction 1000 Comment PN,* with a modification: in addition to limiting PEA grouping to PEAs with the same mix of clock-phase winners and winnings, as proposed, the Commission will limit PEA grouping to unimpaired PEAs. Winning clock-phase bidders will have the opportunity to bid for their preferred combinations of licenses, consistent with their clock-phase winnings, in a series of single sealed-bid rounds conducted by PEA or, in some cases, PEA group; (k) The auction system will incorporate certain intra-market contiguity objectives in determining the frequency-specific license assignments available in the assignment round. To assist forward auction bidders in determining whether, and how much, to bid in each PEA during the assignment phase, all clock-phase winning bidders across all PEAs will be informed of the extent to which contiguous blocks feasibly may be assigned to winning bidders from the clock phase within each PEA. In addition, the auction system will provide each bidder with bidding options that satisfy the feasible contiguity objectives for each PEA in which the bidder may bid; (l) *Final TV Channel Assignments.* The Commission will use optimization techniques to determine a final TV channel assignment plan that satisfies the constraints adopted in the *Incentive Auction R&O* and strives for the additional policy goals of maximizing the number of stations that stay on their pre-auction channels, minimizing aggregate new interference to individual stations, and avoiding channel reassignments for stations with high anticipated costs. These goals, in turn, will help to ensure that the total reimbursement costs associated with the repacking process remain below the $1.75 billion in the TV Broadcaster Relocation Fund that Congress made available, speed the post-auction transition process and minimize disruption for stations and viewers alike.

3. Consistent with its decision in the *Incentive Auction R&O* affirming the Wireless Telecommunications Bureau's (WTB's) delegated authority regarding auction procedure matters that it typically handles, at least 60 days before the deadline to file auction applications WTB will release a separate public

notice which will address the pre-auction application process, including detailed instructions and deadlines, as well as post-auction procedures (*Auction 1000 Application Procedures Public Notice* or *Application Procedures PN*). The *Application Procedures PN* will announce the filing window for applications to participate in the reverse and forward auctions, as well as upfront payments and minimum opening bids for the forward auction. In addition, the *Application Procedures PN* will include technical formulas implementing final decisions regarding the initial clearing target determination procedure, the final television channel assignment plan, and the assignment of frequency-specific licenses to forward auction clock-phase winning bidders, as well as algorithms for bid processing. The *Auction 1000 BIA Procedures Public Notice,* together with the *Application Procedures PN,* will provide prospective bidders with a complete guide to participating in the incentive auction.

II. Background of Proceeding

4. The Commission will conduct Auction 1000 (including Auctions 1001 and 1002) pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), which authorized incentive auctions to help meet the Nation's accelerating spectrum needs and required the Commission to conduct a broadcast television spectrum incentive auction. Since enactment of the Spectrum Act, the Commission has released a number of decisions in which it has adopted rules and policies that provide the necessary framework for implementing the incentive auction. Prospective applicants must be familiar with additional specific details from these decisions as well as with the Commission's general competitive bidding rules in Part 1, Subpart Q of the Code of Federal Regulations and with the procedures, terms, and conditions contained in the *Auction 1000 BIA Bidding Procedures Public Notice,* and all other public notices related to Auction 1000, including Auctions 1001 and 1002.

5. In the *Incentive Auction R&O,* the Commission adopted a ''600 MHz Band Plan'' consisting of an uplink band that will begin at channel 51 (698 MHz), followed by a duplex gap, and then a downlink band. Consistent with the *Incentive Auction R&O,* the Commission refers throughout the *Auctions 1000 BIA Bidding Procedures Public Notice* to the UHF band spectrum that is repurposed through the incentive auction as ''the 600 MHz Band,'' and to the band plan scenarios adopted in the *Incentive Auction R&O* as ''the 600 MHz Band Plan.'' Because the Commission will not know the exact number of licenses or their frequencies when the incentive auction begins, the 600 MHz Band Plan includes different band plan scenarios associated with different spectrum clearing targets.

6. Additionally, in the *Incentive Auction R&O,* the Commission recognized the importance of finalizing *TVStudy,* the computer software that will be used in the repacking process, well in advance of the auction. On June 30, 2015, the Office of Engineering and Technology (OET) finalized *TVStudy* and released a detailed summary of baseline coverage area and population served by each station to be protected in the repacking process, based on then-current information in its databases regarding the stations' facilities. The Commission directs OET to release final baseline coverage area and population served data no later than 60 days before the deadline for auction applications.

III. Initial Clearing Target Determination Procedure

7. The Commission adopts the procedure for selecting an initial spectrum clearing target for the incentive auction. Examination of the record reflects consensus on several basic principles: that the goal should be to allow market forces to determine how much spectrum is repurposed; that flexibility to allow some degree of impairment is critical to achieving that goal; and that forward auction licenses should be as free from impairments as possible. Consistent with these principles, the procedure the Commission adopts is modified in important respects from that proposed in the *Auction 1000 Comment PN.* In particular, the Commission adopts a one-block-equivalent standard with a cap for limiting impairments that will allow significantly less than the proposed 20 percent nationwide impairment level at higher clearing targets.

8. The following provides a high-level overview of the procedure and then addresses in detail the elements of the procedure related to handling impairments. In Appendix A to the *Auction 1000 Bidding Procedures Public Notice,* the Commission provides a description of how its computer software will apply the procedure the Commission adopts on a step-by-step basis. An updated version of Appendix C to the *Auction 1000 Comment PN* setting forth the technical details and formulas associated with the procedure that the Commission adopts will be included with the appendices to the *Application Procedures PN.*

A. Overview

9. Based on the array of stations that apply to participate in the reverse auction and the bidding options to which they initially commit, the procedure the Commission adopts will use mathematical optimization techniques to determine a provisional television channel assignment plan for every possible spectrum clearing target. For each clearing target, the plan must include a feasible channel assignment in its pre-auction band for every eligible station that does not participate in the reverse auction and in the VHF band for every applicant designated to move to a VHF relinquishment option. Consistent with the constraints adopted in the *Incentive Auction R&O* to make all reasonable efforts to preserve each eligible station's coverage area and population served, ''[a] feasible assignment is one in which: (1) All stations are given a channel assignment, either to a channel or to go off the air; (2) a station can only be assigned to one of its allowable channels as defined in the domain.csv file; (3) stations' channel assignments must not violate adjacent and co-channel pairwise interference restrictions as defined in the interference_paired.csv file; (4) all non-participating stations and stations that have dropped out of bidding in the reverse auction are assigned a channel in their pre-auction band; and (5) all participating stations in the reverse auction must be assigned to a valid relinquishment option, that is, an option consistent with the relinquishment options the bidder selected during the application process and with the bidding rules of the reverse auction.'' Stations currently assigned to channels 50 or 51 will be provisionally assigned to different UHF channels. Each applicant station must be designated to a relinquishment option consistent with its initial bid commitment. If a station initially commits to move to a High- or Low-VHF channel as its preferred relinquishment option, and the auction system is unable to accommodate that option, the system must either designate that station to a fallback relinquishment option selected by the applicant or, if the system is unable do so, to a feasible channel in the station's pre-auction band. The optimization procedure can always accommodate an initial bid commitment to go off-air, including a commitment to go off-air in order to channel share. Due to the limited availability of channels in the VHF band and the technical constraints on repacking established in the *Incentive*

Auction R&O, the procedure may not be able to accommodate every station that commits to move to the Low- or High-VHF band. The procedure will try to accommodate initial bid commitments according to the priorities proposed in the *Auction 1000 Comment PN.* If a station's initial commitment(s) is not accommodated by the auction system, the applicant will be informed prior to the start of the clock phase of the reverse auction that the station will be assigned to a feasible channel in its pre-auction band. In the event that the procedure determines that relinquishment of a station's spectrum usage rights will be unnecessary to achieve a clearing target under any circumstances, the station will be assigned a feasible channel in its pre-auction band, and the applicant will be informed prior to the start of the clock rounds of the reverse auction.

10. Depending on broadcaster participation levels, there may not be a feasible channel available in the remaining UHF portion of the TV band for all non-participating UHF stations and all UHF applicant stations that are not assigned to their initial commitment or fallback option(s). In such circumstances, as a last resort, the procedure will assign stations to channels in the 600 MHz Band according to the primary objective of minimizing the sum of ''weighted-pops''—population weighted by an index of area-specific prices based on prior Commission spectrum auctions—impaired for all licenses by the assignments, and according to the additional objectives. The location of impairing stations in the 600 MHz Band will not be limited for purposes of applying the clearing target objectives; impairing stations may be assigned to the uplink, downlink, and duplex gap portions of the Band in order to minimize impairments. In addition to the primary objective of minimizing impairments, the procedure will apply the secondary objective of maximizing the weighted number of ''Category 1'' licenses (those licenses with zero to 15 percent impairment) nationwide. In order to avoid any increase in impairment levels, the secondary objective will be constrained by the primary objective. Thus, the secondary objective seeks an assignment plan that satisfies the primary objective, and contains the highest weighted number of Category 1 licenses nationwide.

11. Having determined the provisional TV channel assignment plan for all clearing targets that best satisfies the objectives, the clearing target determination procedure, using the 2x2 cell calculations, will apply the near-nationwide standard for limiting impairments in order to select the highest possible clearing target that meets the standard. Under that standard, the amount of impaired weighted-pops on a percentage basis will be less than the equivalent of the weighted-pops of one paired 5+5 megahertz spectrum block. For example, if the provisional TV channel assignment plan is for a 126 megahertz spectrum clearing target, then the forward auction licenses in the associated 600 MHz Band Plan (120 megahertz, or 10 paired license blocks) could only be subject to overall impairments on a near-nationwide basis of up to but not including 10 percent, or less than one out of 10 blocks. The procedure then will select the highest possible clearing target that satisfies the standard and the provisional TV channel assignment plan for that clearing target will be selected for the initial stage of the auction, along with the associated 600 MHz Band Plan. Application of this procedure will be subject to the international agreements the Commission reaches with Canada and Mexico. Although the Commission acknowledges it could miss the opportunity to clear more spectrum by skipping a clearing target, it may be necessary to skip the 144, 138, and/or 108 MHz clearing targets to better harmonize its band plan with Canada or Mexico. The Commission expects that this issue will be addressed in its negotiations with those countries. The Commission expects to reach timely arrangements with Canada and Mexico that will enable it to carry out the repacking process in a manner fully consistent with the requirements of the statute and its goals for the auction.

B. Objectives in Determining a Provisional TV Channel Assignment Plan

1. Primary Objective: Minimizing Impaired Weighted-Pops

12. The primary objective of minimizing impaired weighted-pops nationwide is consistent with the consensus among both broadcasters and wireless providers for limiting the impact of impairments overall. In addition, by using weighted-pops, the optimization tool will disfavor assigning impairing TV stations in major markets where they would have the greatest impact on forward auction spectrum prices, consistent with commenters' concerns. Weighting will discourage assignment of impairing TV stations to 600 MHz Band frequencies in or near major markets by increasing the cost of such assignments in the optimization. Its decisions to allow the optimization software to assign television stations within the 600 MHz Band so as to minimize impaired weighted-pops in applying the primary objective, and not to ''discount'' impairments located in the uplink portion of the Band, also will promote its goal of allowing market forces to determine the highest and best use of spectrum.

a. Calculation of Weighted-Pops

13. ''Weighted-pops'' will be calculated using the same price index measure the Commission adopts to calculate forward auction bidding units. Specifically, to calculate weighted-pops, the index of area-specific prices from prior auctions is used to weight the population in each license area based on the relative price of each Economic Area (EA) and Cellular Market Area (CMA) license (for paired spectrum) in Auctions 66 (AWS–1), 73 (700 MHz), and 97 (AWS–3). The price per MHz-pop of each license is divided into the average price per MHz-pop of the corresponding spectrum block to produce an index value of the license relative to the spectrum block. For example, if the price per MHz-pop of the winning bid for an EA license equaled the average price per MHz-pop for that spectrum block, then the index value for that license would be 1; if the price per MHz-pop was half the average, then the index value would be 0.5; if the price per MHz-pop was twice the average, then the index value would be 2; etc. Because the past prices are for EA and CMA licenses, the index value for each EA and CMA license area is broken down to the county level and averaged; the resulting county-level index values are aggregated to PEAs. The index values are aggregated to the PEA level by multiplying the county's index value by the percentage of the PEA's population within the county, and then summing those results for all of the counties in a PEA. In the *Auction 1000 Comment PN,* the Commission stated its intention to update the price index the Commission provided in Appendix F to the *Auction 1000 Comment PN* following Auction 97 to account for current values. Those results are now being incorporated into the price index to calculate weighted-pops for the incentive auction. An appendix providing the final index consistent with these decisions will be released with the *Application Procedures PN.* The explanation the Commission provides here together with the *Application Procedures PN* appendix responds to interested parties' requests for additional information on how weighted-pops is calculated and how it

will be used during the incentive auction in relation to impairments and to bidding.

14. Some commenters express concerns with the use of weighted-pops. The Commission disagrees with AT&T that its approach using weighted-pops is imprecise and will tend to understate impairment levels because it ignores major highways, railways and airports where population levels may be low but spectrum values are high. Indeed, by incorporating spectrum values from past auctions into the determination of where to locate impairments, the optimization tool will be able to account for those areas where spectrum values are high for reasons not directly related to population, including transportation hubs, and will avoid locating impairments in those areas, consistent with its goal of maximizing spectrum value. AT&T's criticism appears to concern how the ISIX methodology calculates impairments more than the use of weighted-pops. The former issue should have been raised in the ISIX proceeding. Moreover, the detailed information the auction system will provide to forward auction bidders on the locations where it places impairments will enable bidders to evaluate precisely their potential impact. The Commission also disagrees with NAB, which argues that the weighted-pops concept is confusing and overly complex. Although this is the first time the Commission will apply this measure for purposes of impairments, it has used weighted-pops in prior auctions to calculate bidding units. The Commission disagrees that use of weighted-pops adds undue complexity; rather, it agrees with those commenters that suggest that using weighted-pops will simplify the auction and avoid locating impairments where they will unduly harm spectrum values. By evaluating impairments based on weighted-pops rather than population alone, the procedure the Commission adopts can better account for the costs associated with impairing specific areas in order to identify a provisional TV channel assignment plan that minimizes impairments.

b. Measuring Potential Impairments

15. The Commission adopts its proposed procedure for determining the extent of potential impairments, with several modifications. The technical formulas for implementing the modified procedure the Commission adopts will be set forth in the *Application Procedures PN*. Under the measurement procedure the Commission adopts, the impairment level—the population subject to impairment—of each license that will be available in the forward auction under each spectrum clearing target will be pre-calculated for each station on each channel for each clearing target. More specifically, the ISIX methodology first will be used to predict potential inter-service interference between TV and wireless services. The ISIX methodology, which the Commission adopted for purposes of the incentive auction, predicts potential inter-service interference based on deployment of a hypothetical wireless network. The raw data the ISIX methodology produces at a two-by-two kilometer cell level will be aggregated into county-level data sets for the uplink and downlink portions of the 600 MHz Band and mapped to specific forward auction licenses. The ISIX methodology defines each two-by-two kilometer cell as ''impaired'' or ''unimpaired'' depending on whether it is subject to any inter-service interference. The percentage of the population of each county subject to inter-service interference then will be calculated for each potential channel assignment of a TV station to a location in the 600 MHz Band. The procedure will avoid double-counting the population of a county that is subject to potential inter-service interference from more than one TV station through the use of overlap tables. For any such assignment in which this percentage is more than 10 percent in either the uplink or downlink portion, the entire population of the county will be considered impaired for the license if the station is assigned to the channel. For a given TV channel assignment plan, the impairment percentage of a license is determined by dividing the sum of the populations of impaired counties by the population of the PEA.

16. The Commission adopts a 10 percent limit on the amount of impairment allowed in a county before the entire population of the county is considered impaired for the purposes of the measurement procedure. The Commission sought comment on setting this threshold between 10 and 20 percent. In order to avoid under-predicting potential interference, the Commission chooses a more conservative threshold at the low end of the proposed range. The Commission emphasized that the optimization procedure will use the county measurement only to determine the provisional TV channel assignment plans; the selection of a specific clearing target will use the more granular 2x2 cell data to determine the near-nationwide impairments. The Commission notes that because the initial clearing target is ultimately chosen based on the 2x2 grid cell data, using a 10 percent county threshold to aggregate the ISIX data up to the county level has very little impact on the overall result.

17. Rather than ''discounting'' the population for impairments located in the uplink portion of the 600 MHz Band, as proposed, the procedure the Commission adopts will consider uplink and downlink impairments to have equal weight. The Commission proposed to consider a county that is impaired in the downlink portion of the 600 MHz Band to also be impaired in the uplink portion, but not the reverse. Thus, only 50 percent of the population of a county with uplink impairments above the threshold would be considered impaired (*i.e.,* the portion of the population representing the uplink block); 100 percent of the population of a county with downlink impairments above the threshold would be considered impaired (*i.e.,* the population representing both the downlink and uplink blocks). Commenters generally oppose the proposal, arguing that it would tend to understate impairment levels. The Commission agrees and concludes that adopting it would be inconsistent with the strong record support for minimizing impairments. Therefore, the percentage of population attributed to uplink impairments will not be discounted: if the percentage of population with predicted impairment in the uplink exceeds 10, the optimization will consider the county wholly impaired, just as it will for impairments in the downlink portion of the block. The effect of this approach is that the optimization will not favor impairing the uplink over impairing the downlink but will focus instead on minimizing impaired weighted-pops in the 600 MHz Band overall. Further, the result of this approach is that any population that is not considered impaired will be usable for two-way communication (*i.e.,* both its uplink and downlink blocks will be unimpaired).

18. The measurement procedure will be used in applying the additional objectives as well as the primary objective. In creating the provisional TV channel assignment plan for each clearing target, data must be aggregated to the county level, and a percentage threshold must be applied to determine whether a county is impaired, in order to reduce the volume of data inputs to a quantity that reasonably can be utilized. Given all of the possible TV station and channel combinations under every clearing target, the ISIX methodology produces a quantity of data that exceeds the current

capabilities of optimization techniques. When aggregated to a county level, the ISIX methodology produces approximately 3.7 billion separate records of data for the roughly 3,000 counties in the United States. Use of data at the next possible level of granularity—the Census tract—would result in a 20-fold increase in the number of data records, and use of data at the cell level would result in a 650-fold increase. As it stands at the county level, the measurement procedure the Commission adopts must consider more than 100,000 decision variables and over two million constraints. At a more granular level than the county, the number of decision variables and constraints that must be considered would increase to an unsolvable number. For purposes of applying the near-nationwide standard to determine whether a plan satisfies the impairment limit, however, more granular, cell-level data will be used.

19. Likewise, forward auction licenses will be categorized as Category 1 (zero to 15 percent impaired) or Category 2 (greater than 15 percent and up to 50 percent impaired) based on cell-level impairment data, and forward auction bidders will be provided with cell-level data to inform their bidding strategies. Specifically, ISIX data will be used to identify the impaired population in both the uplink and downlink portion in the license. This data will show in which cells a potential licensee either will be restricted from operating due to harmful interference to an impairing TV station or may have its operations infringed upon by harmful interference from a TV station. The population of impaired cells across the license—whether the impairment results in the uplink or downlink—will be added together and divided by the total population of the PEA to calculate the impairment percentage. If the total population of the impaired cells within a block is less than or equal to 15 percent of the total population of the block, the block will be offered as a Category 1 block. If the total population of the impaired cells is more that 15 percent but less than or equal to 50 percent, the block will be offered as a Category 2 block. The location of an impairment in the 600 MHz Band will not be determinative for the purposes of calculating the impairment percentage; the population of a cell will be considered impaired even if the impairment only affects the uplink or downlink portion of the paired 5+5 megahertz spectrum block. This conservative approach avoids both the weighting proposed in the *Auction 1000 Comment PN* and double counting. For example, assume a PEA with a population of 100,000 has impairments that affect 10,000 people in the downlink portion of the A block and 5,000 of the same people in the uplink portion of the A block. The A block would be considered 10 percent impaired (10,000 impaired pops divided by 100,000 total pops in the PEA). Though the impairment affects a population of 5,000 in both the uplink and the downlink portion of the A block, 5,000 is not added to the total impaired pops because that would result in double counting—the population of 5,000 was already included when tallying the downlink impairments. The effect of this approach is that any population that is not considered impaired will be fully usable for two-way communication (*i.e.,* both its uplink and downlink blocks will be unimpaired), consistent with its prioritization of paired spectrum.

c. Assigning TV Stations to the 600 MHz Band To Accommodate Market Variation

20. The Commission adopts its proposal to allow the optimization tool to assign television stations within the 600 MHz Band where necessary to accommodate market variation in a manner that best fulfills the clearing target objectives, and not to restrict it to assignments in specific portions of the 600 MHz Band—downlink, uplink, or duplex gap. Restricting the optimization tool to certain portions of the 600 MHz Band would undermine its efficacy in carrying out the primary objective, likely resulting in more impairment of forward auction licenses and the selection of a lower spectrum clearing target. Such an outcome is not justified by the competing policies that some commenters advocate in support of restrictions.

21. Commenters express conflicting views on where to assign impairing television stations, arguing for various reasons that impairments should be restricted to the uplink, downlink, and/or the duplex gap portion of the 600 MHz Band and identifying problems with every possible location within the 600 MHz Band. For example, CCA, C Spire, and T-Mobile assert that stations should be assigned to the uplink because consumer demand is driving the need for more unimpaired downlink spectrum than uplink spectrum. T-Mobile and Verizon also suggest that assigning stations to the uplink is preferable because carriers can employ mitigation methods, such as base station filters, to guard against inter-service interference. On the other hand, Sprint supports assigning TV stations on contiguous channels starting at the bottom end of the downlink band to facilitate filter design in devices, reduce the number of filters needed for base stations, and maximize two-way spectrum. Sennheiser supports assigning stations to channels in the downlink portion of the band in order to provide greater certainty for unlicensed users in the duplex gap. In contrast, AT&T and Verizon oppose assigning TV stations to the downlink band because of complications to mobile device filter design. Several commenters caution against assigning stations to channels in the duplex gap. Conversely, AT&T, CCA, Sprint and T-Mobile support assigning stations to the duplex gap. AT&T states that it would likely be less harmful as a technical matter, and therefore preferable to assignment elsewhere in the 600 MHz Band, and T-Mobile argues that it ''will allow for more extensive, higher performance 600 MHz broadband transmissions in the affected geographic area license(s) than would be possible if the broadcast impairment were co-channel with broadband operations.'' Sprint states ''in the event of less robust broadcaster participation, in which fewer blocks of competitively critical low-band spectrum can be repurposed, repacking television stations in the duplex gap may be the only way to conduct an auction with a modestly successful amount of auctioned spectrum.'' CCA cautions that protecting the duplex gap will ''reduce the amount of spectrum available in the forward auction.'' Henry A. Waxman advocates for an alternative approach in which the assignment of TV stations to the duplex gap is dependent upon whether the clearing target exceeds 84 megahertz. Some commenters oppose repacking TV stations anywhere in the 600 MHz Band.

22. As an initial matter, the Commission emphasized that the optimization tool will assign television stations anywhere in the 600 MHz Band ''only where absolutely necessary.'' As the Commission determined in the *Incentive Auction R&O,* however, and as many commenters acknowledge, flexibility to accommodate some level of market variation—thus requiring some level of impairment to 600 MHz Band licenses—is critical to avoiding the least common denominator problem. The procedure the Commission adopts always will favor assigning television stations to channels in the remaining TV bands if possible, and, will select a clearing target selection that reflects an appropriate trade-off between the amount of spectrum cleared and the overall impairment level. Further, the

Commission disagrees with AT&T that assigning TV stations to the 600 MHz Band will create problems similar to those in the 700 MHz Lower A Block caused by TV stations in channel 51. The Commission developed the ISIX methodology to address this issue specifically by creating a methodology to predict where inter-service interference is likely to occur and proposing to restrict licensees' service in these areas where ''impairments'' are created. Moreover, wireless licensees will be aware of these impairments in advance: The Commission will provide bidders with detailed information about impairments in the blocks offered prior to the start of the forward auction, including the facility causing the impairment, and the resulting areas where they will be restricted from operating or not be required to operate due to inter-service interference. As a result, bidders can use the facility information about the impairing station to determine how their wireless networks could be deployed around the impairment, or whether they should not bid on impaired licenses (that is, a license to operate in a geographic area that is subject to inter-service interference) in that area.

23. The Commission declines to restrict the optimization procedure from assigning TV stations to the uplink, downlink and/or duplex gap portions of the 600 MHz Band in order to carry out the clearing target objectives. The Commission is not persuaded that any of the technical issues identified by commenters justify restricting the optimization procedure to create more license impairments and/or a lower initial clearing target. Despite the lack of consensus on where to locate impairments, most commenters agree with the principles that impairments should be minimized to the greatest extent possible, and that the goal of the auction should be to repurpose as much spectrum as market forces allow. The procedure the Commission adopts is consistent with this view because it provides the fullest possible scope for implementing the primary objective of minimizing the impact of impairments on 600 MHz licenses.

24. In particular, the Commission disagrees with AT&T and Verizon that technical issues justify restricting the optimization procedure from assigning stations to the downlink portion of the 600 MHz Band. AT&T argues that the Commission underestimates the ''real world'' impact of placing a TV station in the downlink portion of the 600 MHz Band because the ISIX methodology only measures potential interference within 5 MHz of a channel's edge and thus does not adequately predict the effect of placing a TV station in the downlink; and because wireless user equipment (*i.e.,* mobile and portable devices) cannot prevent interference into any frequency within the same filter or ''duplexer.'' Duplexers are pairs of filters, one transmit and one receive, that function together to reduce the potential for interference between a transmitter and a receiver in the same piece of equipment. AT&T's criticism of the ISIX methodology is unfounded. The ISIX methodology is consistent with its rules, which do not offer interference protection beyond the first adjacent channel. Moreover, AT&T ignores the fact that wireless user equipment is capable of attenuating interfering signals at frequencies separated beyond the first adjacent channel, as required by 3GPP standards. AT&T's criticism of the ISIX methodology also is untimely. AT&T failed to seek reconsideration of the final order adopting the ISIX methodology, or to raise its criticisms of the ISIX methodology before the Commission adopted that order.

25. AT&T's filter concerns also lack merit. With regard to blocks co-channel with or first adjacent channel to an impairing TV station, its approach recognizes that filters may be ineffective in impaired areas by not requiring wireless user equipment to operate in such areas. In addition, wireless user equipment is prohibited from operating where such equipment could interfere with digital television receivers. Beyond the first adjacent channel, the signal attenuation required by 3GPP standards will limit interference regardless of duplexer performance. The likely use of two or more duplexers also makes it less likely that a TV station assigned to a portion of the downlink will render the entire downlink unusable by wireless user equipment. To the extent that an impairing TV station is located in the non-overlapping part of one duplexer, the non-affected duplexer will be able to filter out the interfering signals, a fact that even AT&T appears to concede. For example, for an 84 megahertz clearing target (encompassing blocks A–G), if a TV station is co-channel with the A block, using two duplexers (one covering blocks A–D; the other covering blocks D–G), the duplexer covering blocks D–G at the opposite end of the downlink band will be able to filter out the interfering TV signal. Consequently, wireless user equipment operating in those blocks should not experience harmful interference from the impairing TV station. Because the optimization tool will prefer TV station assignments that overlap with the guard bands where possible in order to minimize the impaired weighted-pops pursuant to the primary objective the Commission adopts herein, TV stations are more likely to be assigned to the non-overlapping part of one duplexer than to the central part of the downlink where the duplexers overlap. Furthermore, technical solutions and enhanced filter technologies can mitigate the potential for interference once the 600 MHz Band Plan is finalized following the auction. As Sprint suggests, enhanced filter technologies will make it possible to use separate filters for separate frequencies in the future, further limiting the impact of a TV station in the downlink portion of the band by the time this band is deployed. The technical details on the 600 MHz duplexers will not be contemplated by 3GPP until the band plan and potential market variations are finalized after the auction. Once they are finalized, technical solutions, such as Sprint's, can mitigate the potential for interference given the actual frequencies affected.

26. Further, the Commission cannot conclude that protecting the duplex gap from any impairment is warranted at the risk of repurposing less spectrum. Its analysis indicates the duplex gap will not be subject to any impairment in most markets even if the optimization procedure tool is not restricted in assigning impairing stations. In scenarios 1, 2, and 3, the maximum number of TV stations assigned to channels that impair the duplex gap are 6, 7, and 2, respectively. Thus the duplex gap will remain free from impairment across most of the country except for in a relatively small number of markets. Conversely, protecting the duplex gap in every market is likely to lead to the selection of a lower clearing target as a result of increased nationwide impairment levels. In simulation scenarios 1 and 2 (40–50 percent and 50–60 percent broadcaster participation in the reverse auction, respectively), protecting the duplex gap from the assignment of TV stations raises the nationwide impairment percentage beyond the standard for limiting impairment, thereby requiring the optimization procedure to drop down to a lower clearing target. Protecting the duplex gap also reduced the number of relatively unimpaired Category 1 licenses in each scenario. By reducing the amount of spectrum available to generate forward auction proceeds, protecting the duplex gap could threaten the overall success of the auction, as well as its competition goals for licensed providers in the 600 MHz

Band. The Commission notes that the Spectrum Act prioritizes license 600 MHz Band services over services operating in the guard bands. By contrast, the Commission's decision to authorize guard band use by wireless microphones and unlicensed devices was wholly within its discretion. Its policy regarding impairments will also affect broadcasters and 600 MHz licenses, wireless microphones, and unlicensed devices in this limited number of markets. In addition, in the limited number of areas where the duplex gap is subject to impairment, it may also not be available to protect against interference between licensed services. In such areas, the methodology proposed in the *ISIX Further Notice,* 79 FR 76282, December 22, 2014, will be used to prevent inter-service interference, rather than the guard band. While commenters have identified a range of issues associated with assigning stations to the duplex gap, the goals of repurposing spectrum for mobile broadband use, minimizing impairments, and ensuring a successful auction militate in favor of flexibility and outweigh the potential benefits of protecting the duplex gap from any impairment.

27. The Commission also rejects arguments that impairing stations should be restricted to the same portion of the 600 MHz Band. For example, Sprint proposes that impairing TV stations should, to the extent possible, be assigned to channels side-by-side in any market in which multiple stations remain and on common frequencies. CCA proposes an alternative ''channel stacking plan,'' which would create a pattern for impairing station assignments specific to the 600 MHz Band Plan associated with the selected clearing target. CTIA also urges consistency in assignment of TV stations to the 600 MHz Band. The potential costs of such restrictions—reducing the optimization procedure's efficacy in minimizing impairments and risking the selection of a lower clearing target—outweigh the potential benefits that these commenters identify. The unrestricted approach the Commission adopts is consistent with the consensus for minimizing impairments and maximizing potential spectrum recovery.

28. Further, the Commission rejects Sinclair's request to impose constraints to ensure that no licensee of multiple television stations is disproportionately affected by channel assignments in the 600 MHz Band. The Commission disagrees with Sinclair's premise that stations assigned to the 600 MHz Band will be disadvantaged in comparison to stations located in the remaining TV bands. Such stations will be entitled to the same robust protections in the repacking process as all other eligible TV stations, including preservation of coverage area and population served pursuant to the constraints established in the *Incentive Auction R&O,* reimbursement for reasonable relocation costs, and protection from inter-service interference. In addition, by requiring the optimization tool to potentially forego channel assignments that minimize impaired weighted-pops in light of station ownership concerns, Sinclair's proposal would risk greater impairments to 600 MHz Band licenses and recovery of less spectrum through the incentive auction. Accordingly, the Commission concludes that the potential benefits of Sinclair's proposal are outweighed by the costs.

29. In determining a provisional TV channel assignment plan, the optimization tool will not assign impairing stations to channels 50 or 51. Many commenters caution against the assignment of stations to channel 51 due to potential interference with Lower 700 MHz A Block operations. Recognizing the existing interference concerns between television stations on channel 51 and the Lower 700 MHz A Block, the Commission took action in the *Incentive Auction R&O* to encourage early, voluntary relocation of channel 51 stations to further mitigate any potential interference. Further, its decision to create a 600 MHz Band Plan in which channels 50 and 51 would be repurposed for the 600 MHz wireless uplink band under every spectrum recovery scenario was intended to improve the interference environment for 700 MHz licensees. Unlike the 700 MHz service, which is already in operation, 600 MHz Band licensees will be able to account for potential loss in the value of their licenses as a result of impairments through the mechanism of the forward auction, and will have full prior knowledge of the areas of operation that may be affected by inter-service interference. Moreover, the proposed ISIX methodology would apply only to licenses in the 600 MHz Band and, therefore, no mechanism is available to prevent interference between impairing TV stations and the 700 MHz service. The decision to exclude both channels 50 and 51 (each totaling six megahertz) will ensure interference protection consistent with its use of technically reasonable guard bands of at least seven megahertz.

2. Additional Objectives

30. The Commission also adopts its proposal to include a secondary objective: Maximizing the weighted number of Category 1 blocks available in the forward auction. To calculate the weighted number of Category 1 blocks, the auction system sums the Category 1 blocks in each PEA, multiplies the result by the value weighted price index for the PEA, and adds those results for all PEAs. Commenters raise concerns that the impact of impairment on the value of spectrum licenses to forward auction bidders cannot be measured strictly in terms of nationwide percentages. The Commission agrees that it should strive to offer as many unimpaired licenses as possible.

31. In order to avoid any increase in impairment levels, the secondary objective will be constrained by the primary objective. Specifically, the secondary objective will be constrained by the nationwide impairment percentage determined by the primary objective, rounded up to the nearest integer. For example, if after applying the primary objective, the nationwide impairment percentage is 4.4, the procedure will maximize the weighted number of Category 1 licenses up to an impairment percentage of five. Thus, the secondary objective will function primarily as a tie-breaker in choosing a provisional TV channel assignment plan: When more than one potential plan exists with the same minimum level of impairment identified through application of the primary objective, the secondary objective will cause the optimization tool to choose the one that maximizes the weighted number of Category 1 licenses. Constraining the secondary objective in this manner is consistent with the consensus in favor of minimizing impairments and maximizing potential spectrum recovery.

32. The provisional TV channel assignment plan determined based on application of the first two objectives may include licenses that cannot be offered in the forward auction because greater than 50 percent of the population is subject to impairment. The optimization procedure will apply a tertiary objective in order to maximize their potential value in a subsequent spectrum auction. More specifically, the tertiary objective will seek to minimize impaired weighted-pops over all licenses, including licenses with greater than 50 percent of the population subject to impairment. The primary and secondary objectives will not take account of any license with greater than 50 percent impaired weighted-pops. The tertiary objective will be constrained by the first two objectives: It will be applied only to the extent that it neither increases the nationwide impairment

percentage resulting from application of the primary objective nor reduces the weighted number of Category 1 licenses resulting from application of the secondary objective. Further, it will not decrease the weighted number of Category 2 licenses existing after the application of the primary and secondary objectives. Solely for clearing targets where the lower guard band is 11 MHz, the Commission adopts a quaternary objective of minimizing the number of stations placed on the lower channel in the lower guard band to the extent it does not increase the total number of stations assigned to the 600 MHz Band or to any channel in that Band. This objective will not affect the results of the other objectives.

C. Standard To Limit Market Variation

33. The Commission adopts a scaled standard that will limit impairments to a level significantly less than the proposed 20 percent nationwide level at clearing targets above 72 megahertz, while ensuring an appropriate tradeoff between spectrum recovery and impairment level. Instead of a percentage-based standard, the standard the Commission adopts is equivalent to the weighted-pops of one paired 5+5 megahertz spectrum block nationwide, which translates into the percentages at each potential clearing target in the 600 MHz Band Plan. At clearing targets below 72 megahertz, the standard is capped at 20 percent.

34. This ''one-block-equivalent'' standard responds to concerns expressed by commenters that the proposed 20 percent standard would allow excessive impairment, particularly at higher clearing targets. It also responds to concerns that repurposing more spectrum may not be justified at the cost of allowing more impairment. Instead, T-Mobile argues, proportionally *less* impairment should be allowed at higher clearing targets, and more at lower clearing targets. Under the standard the Commission adopts, the percentage of impairment that is allowed is scaled to the amount of licensed spectrum that would be repurposed at each clearing target, increasing target by target from approximately eight percent at the highest clearing target to 20 percent at targets of 72 megahertz and lower. Because the impairment percentage is scaled to the amount of licensed spectrum that would be repurposed at each clearing target, the standard the Commission adopts also responds to criticisms that the proposed 20 percent standard was arbitrary and overly complex. The Commission notes that the one-block-equivalent standard is the same number of weighted-pops across all clearing targets and is based on the total nationwide 2010 census population multiplied by the index of area-specific prices from prior auctions based on the relative price of each EA and CMA license (for paired spectrum) in Auctions 66 (AWS–1), 73 (700 MHz), and 97 (AWS–3). The standard is capped at 20 percent at clearing targets below 72 megahertz because otherwise the one-block-equivalent approach would allow more impairment than the proposed 20 percent. Commenters raise concerns that these impairment levels are still too high overall. Even if that proves true in a given stage, however, the auction design includes a self-correcting mechanism: If the blocks offered in a stage are insufficiently valuable to produce the forward auction revenues necessary to meet the final stage rule, the auction would transition to a new stage with a lower clearing target and a lower level of aggregate impairment. Thus, the auction system relies on market forces to determine whether blocks offered in the forward auction are too impaired, even within the limits the Commission adopts. This market-based approach avoids unduly constraining the flexibility to set reasonable clearing targets that reflect the level of broadcaster participation.

35. The standard the Commission adopts also accounts for the tradeoff between the benefits of repurposing spectrum and the costs of allowing impairments at different clearing targets. For example, a 126 megahertz clearing target would repurpose 100 megahertz of licensed spectrum, or 10 paired blocks, so the impairment limit at that clearing target is the nationwide equivalent of one of the ten blocks. If aggregate impairments equal or exceed the equivalent of the population of one spectrum block nationwide at that target, the optimization procedure will move to the next lower clearing target. An 84 megahertz clearing target would repurpose 70 megahertz of licensed spectrum, or seven paired blocks, so the standard will tolerate a higher proportion of impairment—up to the equivalent of one out of seven blocks nationwide, or approximately 14 percent—but the optimization procedure likewise will move to the next lower clearing target if aggregate impairments equal or exceed that amount. Thus, the standard has the effect of moving to a lower clearing target with one less spectrum block to offer if impairments equal or exceed the equivalent of one block nationwide. The standard tolerates a higher proportion of impairment at lower clearing targets because the tradeoff is different: The record reflects that more flexibility to accommodate market variation is appropriate at lower clearing targets in order to ensure the auction's overall success. While commenters agree that minimizing impairments should be a high priority, many commenters also urge the Commission to balance this goal against the goal of ensuring that sufficient spectrum is made available in the forward auction. The Commission agrees with T-Mobile that at higher clearing targets the balance favors achieving greater uniformity across the band plan (by tolerating a lower percentage of impairment) and at lower clearing targets the balance favors repurposing spectrum by tolerating a greater percentage of impairment.

36. The Commission emphasized that the population in most PEAs will not be subject to any impairment under the standard it adopts, which will be applied on a nationwide, aggregate basis. In fact, the Commission expects that the vast majority of PEAs will have no impaired blocks, although there may be some PEAs with more than one impaired block. For example, in the *Clearing Target Simulations Public Notice* (*CTS PN*)*, 80 FR 30021, May 26, 2015,* the simulation resulting in the 84 megahertz initial clearing target shows that in 406 PEAs, all but 62 have only Category 1 licenses. The same is true for all but 53 in the 114 megahertz scenario and all but 47 in the 126 megahertz scenario. In its analysis, AT&T similarly found that in an 84 megahertz initial clearing target all but 64 PEAs will have only Category 1 licenses. AT&T acknowledges that its results ''align closely with the published FCC results for the top 20 markets'' and that differences may be attributed to the power and geography differences of stations assigned to the 600 MHz Band. Staff simulations project that at a range of clearing targets, the overwhelming majority of spectrum blocks would be unimpaired or nearly unimpaired. In each of the simulations in the *CTS PN,* at least 93.4 percent of licenses are Category 1 licenses, and Category 2 licenses comprise at most 1.3 percent of total possible licenses.

37. To promote transparency and provide information about the potential results of the clearing target determination procedure, Commission staff released a public notice in May 2015 showing the results of simulations of the procedure based on certain assumptions regarding broadcaster participation levels and impairments along the borders. These simulations project that the procedure, including the ''one-block-equivalent'' standard, would

result in the selection of a high initial clearing target with the vast majority of licenses available in Category 1. The Commission notes that for purposes of the *CTS PN* impairment analysis, the total number of licenses analyzed at each clearing target level included only those licenses that could be offered in the continental United States (*i.e.,* in 406 out of the 416 PEAs). When calculating impairments for the incentive auction, the procedure will include all 416 PEAs. In particular, these simulations result in an initial clearing target of 84 megahertz assuming 40 to 50 percent of broadcasters participate in the reverse auction (Scenario 1); an initial clearing target of 114 megahertz assuming 50 to 60 percent participate (Scenario 2); and an initial clearing target of 126 megahertz assuming 60 to 70 percent participate (Scenario 3). In Scenario 1, of the 2842 possible licenses, only 46 are Category 2 licenses. In Scenario 2, of the 3654 possible licenses, only 50 are Category 2 licenses. And in Scenario 3, of the 4060 possible licenses, only 48 are Category 2 licenses. In all three scenarios, 88 to 93 percent of the licenses in the high-demand markets (*i.e.,* PEAs 1–40) are Category 1 licenses and 84 to 88 percent of PEAs contain *only* Category 1 licenses. Under Scenario 1, of the 2654 Category 1 licenses, 2535 are entirely free of impairments (*i.e.,* zero percent of the weighted-pops in the PEA are impaired). In Scenario 2, of the 3469 Category 1 licenses, 3334 are entirely free of impairments; and in Scenario 3, of the 3886 Category 1 licenses, 3753 are entirely free of impairments.

38. While commenters generally support the release of the simulations to provide greater transparency, some question the staff's assumptions, request release of all of the underlying data or request additional simulations based on different assumptions. The Commission concluded that additional simulations are not necessary. On July 10, 2015 the Incentive Auction Task Force provided additional data for each of the six scenarios released in the CTS PN, including the assumptions regarding broadcaster participation, the specific DMAs with impairing TV stations and with stations in the duplex gap, and the channel to which each impairing station was assigned. The *CTS PN* provided information regarding a range of illustrative participation scenarios and clearing targets that afforded the public ample opportunity to understand and comment on the clearing target determination procedure that the Commission adopts, which procedure is identical to the one used in the *CTS PN.* The Commission also declines to release all of the data underlying the simulations: The *CTS PN* identified the critical information necessary to evaluate its clearing target determination procedure, and it is persuaded that the release of more data is warranted. With regard to broadcaster participation, rather than attempt to predict whether thousands of individual stations will choose to participate based on subjective factors, for purposes of the simulations certain categories of stations were assumed not to participate based on objective factors (*e.g.,* major network affiliates, the major PBS station in an area, etc.). Because the simulations require some assumptions regarding participation, it was reasonable to base those assumptions on such objective factors rather than merely a randomized array of stations. In any event, the purpose of the scenarios described in the *CTS PN* was to test the results of the clearing target determination procedure against a range of potential broadcast stations in the reverse auction.

39. With regard to impairments along the borders, some commenters question why the simulations did not include assumptions based on information about interference from Mexican television stations that AT&T has placed in the record of this proceeding. Reliable information about potential interference from Mexican TV stations is not publicly available at present, and AT&T's filing does not reflect Mexico's plans to change its television service in the near future. Instead, Commission staff chose to use the information reflecting current treaty agreements with Mexico—that is, to protect all Mexican allotments—but not to consider interference from Mexican stations into the U.S. Thus, the only potential impairments excluded from the simulations are areas in which 600 MHz licensees could operate but might experience interference from Mexican TV stations that may or may not exist. While that approach may under-predict such interference to a limited extent, the Commission cannot conclude that it was unreasonable. The Commission assures forward auction bidders that this information will be made available before the forward auction to allow bidders to evaluate all types of potential impairments caused by international TV stations, in addition to domestic ones. The Commission also does not want to over-predict Mexican interference into the U.S. given Mexico's suggestions that it will try to keep all radio and television broadcast below channel 37. The Commission notes that the Instituto Federal de Telecomunicaciones (IFT) and the FCC are working on a joint repurposing of the 600 MHz Band that places Mexican TV stations below channel 37 while providing additional channels for U.S. stations to use in the reorganized TV band.

40. The Commission rejects arguments by AT&T, Verizon, and others for a standard that allows no impairment except in border areas. In its May 1, 2015 *Ex Parte Letter,* AT&T acknowledges that ''an approach that permits the Commission absolutely no flexibility'' except in border areas ''is probably too stringent'' and instead suggests allowing up to three percent impairment outside border areas plus eight to nine percent in border areas. The resulting 11–12 percent standard is similar to the standard the Commission adopts at a number of clearing targets and indeed, more stringent than what it adopts for higher clearing targets. Subsequently, in its July 1, 2015 *Ex Parte Letter,* AT&T proposed that the Commission allow impairments at the border, without a set maximum percentage, and a three percent on non-border-related impairments. Such an approach would not provide the flexibility that is necessary to account for the unique challenges the incentive auction presents. Market variation may be caused by a variety of factors, including varying levels of spectrum congestion and broadcaster participation in different areas, as well as border-related constraints. Although AT&T argues that 84 megahertz or more of spectrum could be repurposed under an approach allowing for impairments only in border markets, its analysis relies on optimistic assumptions about reverse auction participation by broadcasters. The Commission fully expects high levels of participation by broadcasters; indeed, achieving such participation is a chief goal of its decision. At the same time, the purpose of the nationwide aggregate approach the Commission adopts is to provide flexibility in the event of non-participation by broadcasters in certain areas or other factors that it cannot fully predict in advance.

41. The Commission also rejects EOBC's proposal to base the selection of an initial clearing target on the degree of impairment in Los Angeles or New York in the interest of simplicity. Like AT&T's proposal, EOBC's simply does not provide sufficient flexibility to accommodate market variation. Indeed, depending on levels of broadcaster participation, EOBC's approach could defeat the purpose of its decision to accommodate market variation in the first place by constraining the choice of

an initial clearing target to the two markets with the most highly congested broadcast spectrum in the nation. Further, EOBC's simulations showing that the Commission can reallocate at least 126 MHz in New York and Los Angeles are simply not possible. Even under the most optimistic assumptions regarding broadcaster participation, the simulations analyzed in the Clearing Target Simulations PN, did not result in 10 unimpaired pairs in both New York and Los Angeles. EOBC's approach also would sacrifice the precision of the optimization-based approach the Commission adopts, focusing exclusively on two important markets, but which are not necessarily proxies for the rest of the nation. Accordingly, the Commission concludes that EOBC's approach would risk its goal of allowing market forces to determine the highest and best use of spectrum. For example, in Scenario 1 of the simulations run for the *CTS PN,* the initial clearing target would have to be lowered from 84 megahertz to 78 megahertz because there are only six unimpaired blocks available in the New York PEA. For the same reason, the Commission also rejects AT&T's proposal to allow for only three percent of the population nationwide to be affected by non-border related impairments. Given that the top two PEAs each comprise well over three percent of the U.S. population and the next two PEAs each comprise approximately three percent, to adopts EOBC's or AT&T's approach would also undermine the purpose of adopting market variation in the first place: To prevent the lack of spectrum in one or two markets from lowering the clearing target. EOBC's and AT&T's approaches also fail to reflect that different tradeoffs are appropriate between spectrum recovery and impairment level at different clearing target levels in order to ensure the auction's overall success.

42. Finally, the Commission declines to establish a separate standard to limit impairment levels in major markets. The procedure the Commission adopts protects major markets from impairment by weighting the population in such markets more heavily. The Commission rejects arguments that the procedure it adopts might disproportionately impair top markets. These commenters express concern that the optimization procedure will impair top markets to allow for fewer impaired markets nationwide. On the contrary, the procedure will seek to avoid impairing high-demand markets due to the added cost of such impairments in the mathematical optimization. The one-block-equivalent standard strictly limits impairment levels on a nationwide, aggregate basis. Accordingly, and based on staff simulations reflecting the number of Category 1 licenses that the Commission projects would be available in major markets under the procedure it adopts, the Commission is not persuaded that a separate standard to limit impairment levels in major markets is necessary, particularly at the cost of added complexity and less flexibility in accommodating market variation.

IV. Qualifying To Bid

A. Qualifying To Bid in the Reverse Auction

43. In order to qualify to bid in the clock phase of Auction 1001, the reverse auction, an eligible broadcast television licensee interested in voluntarily relinquishing spectrum usage rights in exchange for an incentive payment must submit an application in which it identifies, for each station that it wishes to enter in the clock phase of the reverse auction, every relinquishment option for which it would consider bidding for that station. If the broadcaster's application is timely filed and deemed complete, it must then commit to at least one relinquishment option per station at the opening price for that option for that station. Administrative details regarding the application and initial bid commitment procedures, including the application deadline, will be addressed in the *Application Procedures PN.* The Commission adopts its proposal with respect to an additional certification by applicants in the reverse auction regarding their exercise of due diligence. In the *Auction 1000 Comment PN,* the Commission sought comment on requiring all applicants in the reverse auction to certify to the truth of the following statement: ''The applicant acknowledges and agrees that any information provided by the Commission's outside contractors who are advising and assisting it with education and outreach in connection with the reverse auction is for informational purposes only and that neither the Commission nor any of its outside contractors makes any representations or warranties with respect to any such information and shall have no liability to the applicant in connection therewith.'' The Commission noted that this certification will help assure that each applicant accepts responsibility for its bids and will not attempt to place responsibility for its bids on either the Commission or the information provided by third parties as part of its outreach. The Commission received no comments in response. The additional certification serves the intended purpose and the Commission therefore will require all applicants in the reverse auction to make the certification. The Commission describes the available bid options, adopts procedures for setting the opening prices, and adopts the process by which applicants that are willing to accept the opening price for one or more relinquishment options will commit to that option and a fallback option(s), if they so choose, in order to become qualified to bid in the clock phase of the reverse auction.

1. Options for Relinquishing Spectrum Usage Rights

44. Reverse auction applicants will be able to select from three possible bid options to relinquish their spectrum usage rights on their auction applications. An applicant's ability to select options on its application will be limited by its pre-auction band and the hierarchy of relinquishment options. These options correspond to the bid options that will be available to bidders in the clock phase of the reverse auction. The three bid options are a bid to go off-air (available to all stations), a bid to move to a Low-VHF channel (available to UHF or High-VHF stations), and a bid to move to a High-VHF channel (available only to UHF stations). A participant that intends to share a channel with another station post-auction will bid to go off-air. The auction system will treat the intention to relinquish spectrum usage rights in order to channel share the same as a bid to go off-air because ''from the perspective of the auction system, a channel sharing bid is identical to a license relinquishment bid.'' No parties filed comments directly addressing the proposed bid types. The Commission concludes that offering these three bid options is appropriate to implement the relinquishment options that the Commission adopted in the *Incentive Auction R&O* and is consistent with its goal of making reverse auction participation straightforward for broadcasters.

45. *Option Hierarchy.* The auction system will treat the three possible bid options as a one-way hierarchy during the clock phase of reverse auction bidding. The hierarchy reflects the relative value of the relinquishment options to the auction system's ability to recover spectrum and simplifies the bidding process. Of greatest value in the hierarchy is a bid to go off-air, which is a bid to relinquish all spectrum usage rights to a particular channel. This option is followed in order of value by a bid to move to the Low-VHF band, then a bid to move to the High-VHF

band. For each station, the final option in the hierarchy is always to exit the auction in order to remain on the air in its pre-auction band. The option to which a bidder is designated pursuant to its initial commitment will represent the most spectrum rights it will be able to bid to relinquish in the auction. If the bidder subsequently decides to switch its bid option in accordance with the reverse auction bidding procedures, the only bid option(s) available to the bidder will be options that relinquish less spectrum usage rights. The one-directional nature of the bid options is important for bidders to consider when filling out their auction applications and committing to an initial relinquishment option.

46. Some broadcasters support the one-way option hierarchy because it will ''facilitate the orderly conduct of the reverse auction,'' while others advocate for flexibility to switch between bid options without restriction. Contrary to concerns that its design will discourage participation or complicate decision-making, the Commission concludes that limiting the direction in which bidders may switch bid options—from greater to lesser relinquishments—will make bidding easier because it will establish a simple framework for evaluating options and will improve price predictability. A bidder that wishes to preserve flexibility to bid for all the options may do so by selecting all of its options on its auction application and committing to go-off-air as its preferred initial relinquishment option. Furthermore, allowing bidders to ''move freely between any relinquishment options'' as Joint Broadcasters suggest would create a significant risk of harmful strategic bidding. Allowing bidders to switch bids unrestricted by the hierarchy would create opportunities for them to manipulate prices in the auction by moving back and forth between off-air and VHF options. Creating such strategic opportunities would actually make bidding more complicated for broadcasters because they would have to consider a broader range of strategies prior to and during the bidding.

47. Joint Broadcasters posit that the one-way hierarchy will create inefficiencies since a bidder might be willing to bid to go off-air once the price to move to VHF falls too low, but such a bidder would be precluded from doing so by the one-way-hierarchy. The Commission disagrees. The one-way hierarchy, together with the reverse auction bid processing system the Commission adopts, will provide for a more efficient repacking than if broadcasters were able to shift among the options without restriction. Based on the available vacancy in the VHF band, the reverse auction bid processing system will reduce the price differential between the off-air and VHF prices, in order to encourage bidders that can be accommodated in the VHF band to bid to move to VHF rather than to go off-air. Substantial movement back and forth between options could reduce the overall efficiency of repacking in the VHF bands. Additionally, bidders that move to VHF are unlikely to want to switch to off-air bids, as Joint Broadcasters posit, because generally the price to go off-air will decline more rapidly than the price to move to High- or Low-VHF. Accordingly, the Commission is unconvinced that the one-way hierarchy design will unduly restrict bidders. The benefits of the one-way hierarchy in terms of added simplicity, preventing harmful strategic bidding, and repacking efficiency outweigh any costs in terms of lost bidder flexibility.

2. Opening Price Offers

48. The Commission adopts its proposal for calculating opening price offers for each station using two factors: (i) A base clock price of $900, which represents the full per-unit of volume value to the auction of clearing a channel in the UHF band; and (ii) a station-specific ''volume'' factor that equally weights a station's interference-free population and the number of constraints that it imposes on the auction system's ability to repack other stations. The Commission will calculate opening price offers for UHF stations to go off-air by multiplying the base clock price of $900 by their station-specific volumes. Opening price offers for bid options other than a UHF station bidding for off-air relinquishment will be calculated by multiplying fractional portions of the nationwide uniform $900 base clock price by a station's volume. The Commission will publicly announce opening price offers for each bid option available to each station eligible to participate in the reverse auction at least 60 days in advance of the deadline to file an application to participate in the reverse auction.

a. Base Clock Price and VHF Clock Prices

49. The Commission adopts a slightly modified version of its proposal to set a nationwide uniform base clock price, representing the full per-volume value to the auction of clearing a channel in the UHF band, from which it will calculate the opening clock prices for each bid option for stations in each band. The Commission will set the base clock price at $900 per unit of volume so that the maximum opening price offer to any particular station is $900 million. The Commission will calculate a volume for each eligible station based on its interference and population characteristics. The Commission will then re-scale this volume calculation so that the highest volume for a UHF station is one million, in order to yield the maximum opening price for a UHF station to go off-air of $900 million. If any VHF stations have a higher calculated volume than the highest volume UHF station, such stations may have their volume re-scaled to greater than one million. However, because the opening clock prices for VHF stations are calculated as fractional portions of the base clock price, the Commission expects that the opening price offers for VHF stations will always be lower than $900 million. By scaling based upon the highest volume UHF station, the Commission can ensure that one station will be offered an opening price of exactly $900 million. Although the Commission proposed to scale the volume of other stations based on the highest volume station, regardless of its pre-auction band, the Commission concludes that using the highest volume UHF station is more appropriate because that station's off-air price will reflect the greatest value to the auction.

50. The Commission concludes that a $900 base clock price strikes the correct balance between attracting robust broadcaster participation across multiple markets and conducting an efficient—and ultimately, successful—auction. The Commission disagrees with broadcasters who argue that the base clock price should be increased to reflect the results of Auction 97 (AWS–3). Raising the base clock price would, according to these commenters, motivate greater broadcaster participation because stations would be offered higher opening prices, and this increased participation would ultimately result in more cleared spectrum. There is no basis to believe, beyond broadcasters' assertions, that opening prices of up to $900 million will be insufficient to encourage reverse auction participation. On the other hand, increasing the base clock price as suggested would raise the cost of repurposing spectrum and likely reduce the amount of repurposed spectrum. Increasing the base clock price would raise clearing costs for a given clearing target, increasing the likelihood of not meeting the final stage rule, necessitating additional stages at lower spectrum clearing targets. These risks would be compounded by the absence

of a dynamic reserve pricing (DRP) mechanism, because the auction system will not have a mechanism to mitigate the risk that a station will receive its opening price. Thus, increasing the opening prices in actuality would likely result in fewer stations having the opportunity to become winners in the auction. In addition, increasing the base clock price would risk increasing the length of the auction, making participation more difficult and costly for both forward and reverse auction bidders. Accordingly, the Commission adopts the $900 base clock price to ensure robust broadcaster participation without undermining its other auction goals.

51. While opening price offers for a UHF station to go off-air will always equal the base clock price multiplied by the station's volume, opening price offers for other bid options—for a UHF station to move to VHF or for VHF stations to move to a lower band or to go off-air—will equal the station's volume multiplied by a portion of the base clock price. Because the value to the auction of a cleared channel in the UHF band is the same whether a UHF station relinquishes its spectrum by going off-air or the channel is cleared through a series of intermediate moves involving VHF bids, the Commission will calculate the per-volume opening prices for intermediate moves to add up to the per-volume opening price for a UHF station to go off-air. Thus, the per-volume opening prices for a UHF station to move to High-VHF, a High-VHF station to move to Low-VHF, and a Low-VHF station to go off-air will add up to equal the base clock price, since these three moves are equivalent to a UHF station going off-air in terms of value to the auction. Likewise, the per-volume opening prices for other intermediate moves will add to the opening price for an equivalent direct move. Thus, in per-volume terms, the opening price offer for a direct move from High-VHF to off-air will equal the sum of the opening price for a move from High-VHF to Low-VHF and the opening price for a move from Low-VHF to off-air. During the clock rounds, however, the portion of the base clock price attributable to each intermediate move will vary from round-to-round, since price offers to stations during the clock rounds will also depend upon the availability of channels in the VHF bands in the station's area. For example, while the per-volume opening price for a High-VHF station to go off-air will be 40 percent of the opening base clock price, this percentage will vary in subsequent clock rounds depending upon congestion in the VHF bands.

52. More specifically, the Commission will apportion the base clock price for a station to move from the UHF band to off-air among the equivalent series of intermediate moves using the midpoint of the ranges the Commission proposed in the *Auction 1000 Comment PN.* The per-volume opening price for a UHF station to move to Low-VHF will be 75 percent of the base clock price (or $675), and the per-volume opening price to move from UHF to High-VHF will be 40 percent of the base clock price (or $360). The ranges that the Commission proposed represent the relative value of each band and its related relinquishment options to the auction, and reflect the scarcity of channels and different technical characteristics of each VHF band. In response to commenters that urge the Commission to increase the opening prices for VHF options, it is persuaded that it should not choose opening prices at the bottom of the proposed ranges in order to avoid discouraging broadcasters from choosing these options. At the same time, choosing opening prices at the top of the ranges proposed would run the risk of under-incentivizing the option to go off-air or to consider channel sharing. The Commission concludes that the values it choose strike the right balance between conducting an efficient auction and encouraging bidders to consider all bid options, include the VHF options.

53. Because the opening price for a UHF station to move to Low-VHF will be 75 percent of the base clock price, the opening price for a move from Low-VHF to off-air must be 25 percent of the base clock price for these two intermediate moves to add up to the base clock price (*i.e.,* 100 percent). Similarly, because the opening price for a UHF station to move to High-VHF will be 40 percent of the base clock price, the opening price for a move from High-VHF to off-air must be 60 percent of the base clock price. Lastly, since the opening price for a UHF station to move to High-VHF is 40 percent and for a Low-VHF station to go off-air is 25 percent, the opening price for a move from High-VHF to Low-VHF must be 35 percent of the base clock for these intermediate moves to sum and equal the base clock price. Given a per-volume opening base clock price of $900, the per-volume opening price for a Low-VHF station to go off-air will therefore be $225 (25 percent of $900), for a High-VHF station to go off-air will be $540 (60 percent of $900), and for a High-VHF station to move to Low-VHF will be $315 (35 percent of $900).

54. Several broadcasters oppose offering opening prices for the bid options to move to VHF that are lower than the bid option to go off-air. As an initial matter, the Commission rejects NAB's unsupported claim that it lack the statutory authority under the Spectrum Act to offer different prices for VHF options. Although the statute does not expressly authorize different price offers for VHF options, it does not follow that the Commission lacks authority to offer different prices: Such authority is inherent in its mandate to conduct a reverse auction—which requires establishing opening price offers—and nothing in the Spectrum Act's statutory language, context, or legislative history suggests that in doing so the Commission cannot distinguish between relinquishment options. The Commission also rejects PBS's argument that discounting UHF to VHF bid options ''is inconsistent with the basic purpose of the auction'' to discover prices through market-based means. Setting opening price offers for bid options that are proportional to the value of the relinquishment to the auction will send the appropriate price signals to bidders regarding the relative value of the options to the auction system and encourage bidders to initially commit to go off-air, recognizing that as price offers are reduced, they may request to switch to one of the VHF options. Moreover, price offers for VHF options and VHF stations in subsequent rounds will be determined by the actual demand for VHF options and the availability of channels in the VHF bands. As a result, the relative values for the various bid options will not remain fixed at the opening bid offer amounts, and the ultimate prices paid to winning bidders will reflect market demand for the options in the auction.

55. The Commission disagrees with NAB and the Joint Broadcasters that the auction system should be indifferent between the relinquishment options available to UHF stations because each option will result in clearing a channel in the UHF band. In order to clear a UHF channel by paying a UHF station to move to the VHF band, the auction system may first have to pay one or more stations to relinquish spectrum usage rights in the VHF band. A bid to go off-air also is of greater value than a bid to change bands because it provides the auction system with more repacking flexibility: Accepting an off-air bid by a UHF station clears a UHF channel without first requiring the system to find a feasible channel in another band. Conversely, a UHF station that agrees to

move to one of the VHF bands is less valuable because it must be assigned a feasible channel in that band, limiting the auction's ability to assign another station to VHF, and significantly increasing the complexity of the repacking process. A station that agrees to move to Low-VHF is of greater value to the auction than one that agrees to move to High-VHF due to the greater availability of channels in the Low-VHF band and the greater number of stations for which that bid option will be available, both of which make repacking easier. Consequently, of least value to the auction is a station that agrees to move to High-VHF, since in many markets few channels are available, and only UHF stations may bid on this option.

56. The Commission also disagrees with NAB that offering the same price for all three bid options would better serve the public interest by encouraging stations to move to the VHF band and continue to provide broadcast television service. NAB's premise is flawed, because a UHF station moving to VHF may necessitate a VHF station going off-air first. In any event, in keeping with its goal of allowing market forces to determine the use of spectrum, the public interest will be best served by pricing bid options according to their value to the auction and the repacking process, rather than based on separate broadcast-related policy goals. The Commission also rejects PBS's suggestion that if the Commission discounts price offers for VHF options, it should provide a bidding credit for noncommercial educational (NCE) stations that successfully bid to move to VHF in order to help pay for their relocation expenses. Unlike in the traditional auction context, where bidding credits are intended to help small or disadvantaged businesses that may lack the financial resources to effectively compete for licenses with larger ones, winning bidders in the reverse auction will receive—and not make—payments, and can factor their relocation expenses into their consideration of whether to accept a price offer.

57. The Commission disagrees with the Joint Broadcasters that its opening price offers for VHF bid options will fail to account for the ''substantial technical inferiority of VHF channels'' and to ''provide the proper incentives for broadcasters to accept these limitations.'' Contrary to Joint Broadcasters' argument, its approach does provide an incentive to accept the less favorable propagation characteristics and other technical properties of VHF channels—this is precisely the point of offering higher opening prices to UHF stations to move to Low-VHF than to move to High-VHF. Nor are the Commission persuaded that requiring stations moving to VHF to pay relocation expenses will ''greatly reduc[e] the desirability of a UHF-to-VHF move.'' Bidders can—and, the Commission expects, will—factor their relocation expenses into their consideration of whether to accept a price offer. The value inherent in a station retaining the exclusive right to use a full six megahertz channel will encourage stations to seriously consider bidding for VHF options.

58. The Commission also disagrees with the Joint Broadcasters' argument that offering lower opening prices for VHF options will hinder the efficient use of spectrum by encouraging channel sharing over moving to VHF, thereby reducing its flexibility to repurpose additional UHF spectrum in the future. First, the Spectrum Act authorizes only one broadcast television spectrum incentive auction. Its goal, therefore, is to ensure the success of this auction. Second, contrary to the Joint Broadcasters' assumption, the two options are not mutually exclusive: Two UHF stations may agree to share a channel in VHF (with one agreeing to go off-air, and the other bidding to move to a VHF channel which both stations would share) in order to receive greater compensation than if only one station participated in the auction.

b. Station-Specific Volume

59. The auction system will calculate each participating station's volume using the following formula: Station Volume = (Interference)0.5 * (Population)0.5. The Commission will set the interference component to equal the number of co- and adjacent channel constraints a station would impose on repacking on a pairwise basis, and the population component to equal the number of people residing within the station's interference-free service area. The Commission's approach to setting the interference component along the borders will be subject to the agreements it reaches with Canada and Mexico. For instance, it may be necessary to adjust the interference component for the purpose of determining station-specific volume. Considering population will ''enable[e] the Commission to clear more spectrum in markets where the forward auction value of relinquished spectrum usage rights is apt to be higher,'' and it concludes that a volume formula that equally balances interference and population components will best achieve the goals of the incentive auction. Once the auction system has calculated a station's volume, its volume metric will be fixed throughout the auction. While AT&T encourages the Commission to consider a dynamic volume adjustment based upon the provisional assignment of stations to channels, the Commission finds that the approach it adopts for calculating price reductions will capture similar efficiencies with less complexity.

60. The Commission rejects arguments by EOBC and other broadcasters against considering population when calculating each station's volume metric. As an initial matter, EOBC's argument that considering population is inconsistent with the policies the Commission adopted in the *Incentive Auction R&O* is without merit. The Commission expressly stated in the *Incentive Auction R&O* that the factors to be used in setting prices could ''include the number of stations that a station would interfere with and block from being assigned channels, the population the station covers, or a combination of such factors.'' EOBC points out that the *Incentive Auction R&O* ''explained that a station's price would account for objective factors 'that affect the availability of channels in the repacking process and, therefore, the value of a station's bid to voluntarily relinquish spectrum usage rights.' '' The Commission's volume formula is wholly consistent with this explanation. Likewise, its formula is consistent with its statement that ''a station with a high potential for interference will be offered a price that is higher than a station with less potential for interference to other stations'': Between two otherwise identical stations, the one with more interference constraints will have a greater volume, and thus higher opening price offers. The Commission did not state that stations with more interference constraints would receive higher offers than those with fewer interference constraints regardless of other factors. Contrary to EOBC's argument that population has nothing to do with a station's impact on the repacking process, ''population served [is] one of the major constraints on the availability of channels in the repacking process'' in light of the Spectrum Act's mandate that during the repacking process the Commission make all reasonable efforts to preserve the population served of eligible stations that will remain on the air.

61. Moreover, considering population alongside interference will allow the auction system to clear more spectrum in markets where the value to the forward auction is likely to be highest.

The purely interference-based approach advocated by EOBC and other broadcasters would result in larger payments to stations that serve small populations and smaller payments to stations that serve particularly large populations—an outcome at odds with both the typical metric by which spectrum is valued in spectrum auctions (*i.e.,* MHz-pops) and with stations' *own assessments:* As WRNN points out, ''[p]opulation is one of the most, if not the most, important elements by which the Commission and other broadcasters value its properties, and distinguish its stations from others. This is critical for the repacking process because participation of many stations with high population counts, especially in the major cities, is essential to meet larger clearing targets.'' The Commission notes that high participation levels by stations that serve small populations in markets adjacent to high-demand markets will not make up for low participation levels by stations in high-demand markets that serve large populations. Participation by both types of stations is required in order to allow the auction to repurpose a significant amount of spectrum. While the Commission affirms its determination in the *Incentive Auction R&O* not to set bid prices based upon a station's enterprise value, population is nevertheless an important metric for assessing *spectrum* value. Ignoring this metric would send the wrong price signals and discourage participation by large stations in major markets, thereby harming its ability to clear spectrum in such markets. For example, in certain border markets, a small Class A station may serve only a small population but there may also be few channels available for repacking stations. In such markets, the value of clearing and selling this spectrum in the forward auction may likewise be low. Ignoring or reducing the weight of population, as proposed by EOBC, could potentially result in the Class A station being offered an opening price significantly higher than a full power station in a major market that serves many more people, regardless of the price at which each station values itself. Furthermore, the value of clearing and selling the spectrum in the forward auction in the larger market is likely to be much higher. Using the balanced volume formula that the Commission adopts will help to avoid these results and will result in higher price offers to stations in markets where the spectrum is particularly valuable. The Commission need not resolve EOBC's argument that it is not required to consider the statutory goals of recovering a portion of the spectrum value for the public and avoiding unjust enrichment in the context of the reverse auction because these statutory provisions apply only to auctions of licenses. Even if EOBC were correct, nothing in the statute precludes the Commission from considering these goals in designing the reverse auction, and the Commission concludes that doing so will serve the public interest. The Commission also rejects Local Media TV's proposal to calculate volume based entirely upon the pairwise interference constraint files.

62. The Commission also disagrees with arguments that, if it retains a population component, it should reduce its weight in its volume formula. In particular, EOBC proposes a formula that would reduce the weight of the population component from 0.5 to 0.25, raising opening prices for almost all stations and de-emphasizing the impact of population in price offers. The Commission is not persuaded by the supposed benefits of this unbalanced weighting. The Commission rejects broadcasters' assertions that it more closely reflects the pricing policy the Commission adopted in the *Incentive Auction R&O,* for much the same reason it rejected EOBC's consistency argument. The Commission has no reason to think, and broadcasters have not established, that its opening price methodology results in prices that are too low to attract robust participation. However, raising opening prices would raise the costs of repurposing spectrum, increase the likelihood of repurposing less spectrum, and could even jeopardize the success of the auction. Absent Dynamic Reserve Prices (DRP), the Commission no longer has any mechanism to reduce prices in markets that are particularly constrained (due to the impact of Canadian or Mexican stations, or non-participants), further increasing opening prices would decrease the likelihood of a successful auction. Reducing the weighting of population would also likely increase clearing costs significantly for the same amount of cleared spectrum, which could drive the auction to lower clearing targets because forward auction revenue is insufficient to close the auction in a given stage. On the other hand, using a balanced weighting where the sum of the exponents equals one will result in appropriate price signals for all stations: If a broadcast station has twice the number of constraints and twice the population of another, under its approach its opening prices will be twice as much. Furthermore, a square-root weighted volume score (*i.e.,* using an exponent of 0.5) can improve the efficiency of algorithms similar to its pricing and bid processing algorithm.

63. EOBC additionally argues that reducing the weight of population would be in the public interest because it would result in less loss in broadcast service, since smaller stations would more often become winning bidders. In keeping with its goal of allowing market forces to determine the highest and best use of spectrum, the public interest will be best served by setting prices according to each station's value to the auction and the repacking process. While encouraging stations that serve smaller populations to go off-air might result in loss of service for fewer over-the-air viewers, it would do so at the risk of discouraging large stations in high-demand markets from participating in the auction. In order to fulfill the goals of the Spectrum Act, it is appropriate to set price signals that encourage broadcasters to relinquish their spectrum usage rights in the reverse auction, not to discourage certain stations from participating so that they will remain on the air. The Commission concludes, therefore, that considering population and interference, in an equal, balanced weighting, will best achieve the goals of the incentive auction.

3. Committing to an Initial Relinquishment Option

64. As the second condition for qualifying to bid in the clock phase of the reverse auction, an applicant that has submitted a timely and complete application must commit to a preferred relinquishment option for each station that it intends to bid for in the reverse auction, and under the circumstances, it may commit to additional ''fallback'' options. An applicant will be able to commit only to relinquishment option(s) that it identified for a particular station when initially submitting its auction application. If an applicant did not identify a particular relinquishment option on its auction application, that option will not be available to the applicant when it logs in to the FCC software to commit to an initial relinquishment option for that station. The commitment(s) will constitute an irrevocable offer by the applicant to relinquish the relevant spectrum usage rights in exchange for the opening price offer for that bid option. A commitment to a fallback relinquishment option is treated as a binding commitment in the alternative to the preferred option. An applicant need only commit to a fallback option in the event that its preferred option is to move either to the Low- or High-VHF band. Therefore, the auction will

commence with the submission of initial bid commitments. An applicant that fails to commit to an initial relinquishment option for a given station by the applicable deadline will not be qualified to bid in the clock phase of the auction for that station.

65. As part of determining an initial clearing target, the auction system will assign or designate each station to a relinquishment option consistent with its initial bid commitment in order of the priority rules proposed in the *Auction 1000 Comment PN* (proposing the following priority order: (1) Minimize the number of participating UHF stations that must be repacked in their pre-auction band; (2) minimize the number of participating VHF stations that must be repacked in their pre-auction band; (3) maximize the number of participating stations that will commence bidding on their preferred option; (4) maximize the number of participating stations that will commence bidding on their alternative bid option to go off-air; and (5) minimize the sum of impaired weighted-pops across all licenses), modified by the additional priority rules the Commission adopts to take account of the secondary and tertiary objectives in the initial clearing target determination procedure. The technical details of the modification to take account of the additional clearing target objectives will be released in an appendix to the *Application Procedures PN.* That relinquishment option will be the starting point for each station to bid in the clock phase of the reverse auction. Due to the limited availability of VHF channels and the technical constraints on repacking, the auction system may not be able to accommodate every station that commits to move to the Low- or High-VHF band. The auction system can always accommodate going off-air as a preferred option because going off-air does not require finding a feasible channel assignment. In order to increase the likelihood that stations will be able to participate in the auction, the Commission established procedures to allow applicants that commit to move to VHF as their preferred option to also commit to a fallback option(s) if they so choose. Applicants that commit to a preferred option may decline to commit to fallback options. In order to qualify to bid in the clock phase of the reverse auction, an applicant that identified only one relinquishment option on its auction application must still affirmatively commit to that option as its preferred option—it will not have any fallback options available to it. The auction system will attempt to designate a station to the preferred option for that station. If the auction system is unable to accommodate a station in its preferred option, the system will attempt to designate the station to its fallback option(s), if the applicant committed to any. If an applicant declines to commit to a fallback for a station and its preferred option for the station cannot be accommodated—or, if neither its preferred nor fallback options can be accommodated— the station will be designated to be repacked in its pre-auction band and will not participate in the reverse auction bidding.

66. As applicants consider which option to commit to as the preferred option for a station, they should be mindful that once the bidding system designates a station to an initial relinquishment option, future bid options for that station will be limited by the one-way hierarchy of relinquishment options. For example, if a UHF bidder identified all three options on its auction application and then committed to go off-air, it may, in a subsequent bidding round, request to switch to Low-VHF or High-VHF. However, if that same bidder instead committed to move to Low-VHF as its preferred option and the auction system were able to accommodate that option, that bidder would begin the auction bidding to move to Low-VHF and would be precluded from ever bidding to go off-air.

4. Final Auction Application Status

67. Once the auction system processes the initial bid commitments and designates each station that can be accommodated to an initial relinquishment option, the Commission will send confidential letters to each reverse auction applicant to inform them of their status with respect to the clock phase of the reverse auction. The letters will notify applicants for each of their stations either that (1) the station is qualified to participate in the clock phase of the reverse auction; (2) the station is not qualified because no initial commitment was made, and therefore, that station will be designated to be repacked in its pre-auction band; (3) the commitment(s) made by the applicant for the station could not be accommodated, and therefore, that station is not qualified and will be designated to be repacked in its pre-auction band, or (4) the auction system determined that the station is not needed, and therefore, the station is not qualified and will be designated to be repacked in its pre-auction band. As part of the process of determining the initial clearing target, the auction system may determine that certain stations will always have a feasible assignment in their pre-auction band at the initial and all subsequent clearing targets. Such stations' spectrum usage rights will never need to be purchased to meet the clearing target and their participation in the clock phase of the reverse auction is not needed. Qualified bidders will begin the first round of the clock phase bidding for each station's designated initial relinquishment option. Each applicant that submits an initial commitment is obligated to relinquish at the relevant opening price the spectrum usage rights associated with its initial relinquishment option if the auction system selects its station to relinquish its rights at the opening bid price.

68. Prior to the deadline to apply to participate in the reverse auction, the Commission intends to provide, in various formats, detailed educational information to would-be participants, including among other things an auction tutorial that will be available on the Auction 1000 Web page for prospective bidders to walk through the auction process and the application and bidding screens. Once applicants have qualified to participate in the clock phase of Auction 1001, registration materials will be distributed. Additionally, all bidders qualified to bid in the clock phase will be able to participate in a mock reverse auction prior to bidding in the clock phase of Auction 1001, which will enable bidders to obtain hands-on experience with the auction system. Further details about the mock auction and the auction tutorial, including relevant dates and how to access these tools, will be announced in the *Application Procedures PN.*

B. Qualifying To Bid in the Forward Auction

69. In order to qualify to bid in Auction 1002, an applicant must timely submit an auction application that is deemed complete and timely make a sufficient upfront payment. The amount of the upfront payment will determine a bidder's initial bidding eligibility in terms of bidding units, *i.e.,* the maximum number of blocks, as measured by their associated bidding units, a bidder may demand in the clock phase of the forward auction. The *Application Procedures PN* will address the process of applying to participate in Auction 1002, including descriptions of the information required to be disclosed, instructions for completing the form, and specific deadlines for submission. The Commission adopts procedures for assigning bidding units to each spectrum block that will be

available in the forward auction. The Commission also adopts a method for calculating the upfront payment each applicant must make to obtain bidding eligibility for forward auction spectrum blocks.

1. Bidding Units

70. The Commission will assign to each spectrum block that will be available in the forward auction a specific number of bidding units and will use the bidding units to calculate minimum opening bids, upfront payments, and bidder eligibility, and for measuring bidding activity. In particular, as the Commission proposed, it will assign bidding units to spectrum blocks in each PEA by using a weighted population method similar to the method it will use for measuring the extent of impairment in a PEA. The only difference is that, in measuring the extent of impairment in a PEA, the Commission will use the index value specific to the PEA—it will not group the price index by deciles and apply the lowest index value in a decile to all of the PEAs in that decile, as it does for calculating bidding units.

71. The *Application Procedures PN* will set forth the updated indices and number of bidding units that will be assigned to spectrum blocks in each PEA under its adopted approach. The Commission notes that some of the bidding unit values that will be announced will differ from those in Appendix F of the *Auction 1000* Comment *PN* because they will incorporate the results of Auction 97. The Commission will derive these values by incorporating auction results from Auction 66, Advanced Wireless Services (AWS–1); Auction 73, 700 MHz Band; and Auction 97, Advanced Wireless Services (AWS–3) into an index of area-specific relative prices from prior auctions. This relative price index is the same index used for measuring the impaired weighted-pops for a license. Consistent with the approach used for Auction 96 (H Block) and Auction 97, the Commission will multiply the population of each PEA by the index value for the PEA. The Commission will incorporate the results from past auctions for spectrum licensed in Economic Areas (EAs) and Cellular Market Areas (CMAs) by breaking the data down to the county level and then aggregating the county-level data up to the PEA level. For the purpose of assigning bidding units to spectrum blocks in each PEA, the Commission will group the relative price index by deciles and apply the lowest index value in each decile to all PEAs in that decile. Next, the Commission will divide the result of the calculation by 1,000 and round it using the Commission's standard rounding procedures for auctions. Specifically, the Commission will round numbers greater than 10,000 to the nearest thousand; numbers less than 10,000 and greater than 1,000 to the nearest hundred; numbers less than 1,000 and more than 10 to the nearest ten; and numbers less than 10 to the nearest one. All PEAs will have at least one bidding unit. As a result, the Commission will calculate bidding units for the spectrum blocks in most PEAs as (pops * index)/1000, rounded. Because not all of the licenses covering U.S. territories and protectorates had winning bids in past auctions, for spectrum blocks in the PEAs for Puerto Rico, Guam-Northern Mariana Islands, U.S. Virgin Islands, and American Samoa, the Commission will divide the results of the weighted population calculation by 2,000 and round the results. Further, the Commission will assign one bidding unit to spectrum blocks in the Gulf of Mexico PEA.

72. Each block available in a PEA will have the same number of bidding units regardless of category. This approach will facilitate bidding across categories by enabling bidders to switch their demand for Category 1 blocks to Category 2 blocks and vice versa without affecting their bidding eligibility. The number of bidding units for the blocks in a given PEA will be fixed and will not change during the auction, regardless of price changes.

73. The Commission disagrees with arguments that it should determine bidding units (and, therefore, upfront payments and minimum opening bids) based solely on population or without regard for the final results from Auction 97. By incorporating past prices, its approach reflects the relative value bidders have assigned to the different markets in the past better than would a calculation based solely on population, and hence, is more likely to reflect the relative prices for markets in this auction. Its approach also helps ensure that bidders' upfront payments are reasonably proportional to the market prices of the spectrum blocks they demand. Further, using a price index rather than a population index ensures that the Commission does not exclude significant past price differences between similarly-sized markets in its calculations. At the same time, using the results of several previous auctions and the decile approach helps to reduce the impact of any unusual price variation from a single auction. Thus, this approach addresses concerns about incorporating auction-specific anomalies from prior auctions.

74. The Commission is not persuaded by CCA's argument that including pricing data from Auction 97 will prejudice smaller bidders. Prices from Auction 97 are useful in that they provide the most recent data on the relative prices bidders were willing to pay for spectrum licenses in various markets. While prices in Auction 97 generally were higher than in previous auctions, the Auction 97 information being incorporated consists of additional data on relative prices across markets and does not reflect overall price levels. The updates will have a varying effect on different markets, but it will not result in a substantial change in the total number of bidding units, upfront payments, and minimum opening bids.

2. Upfront Payment Due After Initial 600 MHz Band Plan Determined

75. The Commission adopts an upfront payment amount of $2,500 per bidding unit—half of the amount of the minimum opening bid for each spectrum block. The upfront payment amounts for generic blocks in every PEA for Auction 1002 will be announced in the *Application Procedures PN.* The Commission will base the upfront payment for each generic block on the number of bidding units associated with the blocks in a specific PEA established. The Commission notes that in the *Auction 1000 Comment PN* it proposed to multiply the number of bidding units of a spectrum block by $2,500 and then round the result of that calculation. The upfront payments the Commission adopts here will use the same calculation, but the result will not be rounded so as to maintain a two to one relationship between minimum opening bids and upfront payments. This approach is consistent with its usual practice and supported by the record. Thus, to become a qualified bidder, a forward auction applicant must make an upfront payment sufficient to obtain bidding eligibility for the quantity of generic blocks in each PEA on which it may wish to bid in any round.

76. Its experience in past spectrum license auctions indicates that requiring upfront payments protects against frivolous or insincere bidding and provides the Commission with a source of funds from which to collect payments owed at the close of the auction. For these reasons, the Commission declines to reduce the upfront payment to $1,000 per bidding unit as suggested by CCA. Contrary to CCA's assertions, the Commission finds that insincere bidding is a real risk in any spectrum

license auction. Moreover, the Commission is not persuaded that setting an upfront payment amount at half of the minimum opening bid price will threaten small carrier participation. Even after applying discounts for license impairments and bidding credits, the final winning bid amount for a license will exceed the ''cost'' (*i.e.,* upfront payment) to obtain enough eligibility to bid for the generic block. Thus, it is reasonable to require that forward auction applicants be willing and able to make upfront payments in the amount of $2,500 per bidding unit.

77. The Commission finds it unnecessary to discount upfront payments for Category 2 licenses. The upfront payment is a refundable deposit meant to help ensure sincere bidding and to establish initial eligibility levels for use with the activity rules. Basing an upfront payment on a spectrum block's potential degree of impairment would not further the purpose of an upfront payment, especially since the number of spectrum blocks in each category and their respective degrees of impairment may change from stage to stage of the auction.

78. Upfront payments will be due after the initial clearing target and associated band plan scenario has been determined. This timing will enable an applicant to take into account the number of spectrum blocks in the band plan scenario associated with the initial clearing target when determining the amount of its upfront payment. In keeping with the Commission's usual practice in spectrum license auctions, all upfront payments must be made by wire transfer in U.S. dollars. Specific instructions for submitting upfront payments, including wiring instructions, will be set forth in the *Application Procedures PN.*

79. An applicant's total upfront payment must be enough to establish eligibility to bid on at least one block in one of the PEAs selected on its auction application for Auction 1002, or else the applicant will not be qualified to bid in the auction. An applicant must select on its auction application one or more PEAs in which it may place bids during the forward auction. An applicant will not be required to identify on its auction application the number of blocks within a PEA it demands because the Commission will not know the maximum number of spectrum blocks that will be offered in the forward auction until the initial spectrum clearing target is determined. Because bidding unit amounts pertain to a single paired 5+5 megahertz block for each PEA, a bidder that wishes to bid on multiple generic blocks within a PEA simultaneously will need to ensure that its upfront payment provides enough eligibility to cover more than one paired 5+5 megahertz generic block in the PEA.

80. An applicant does not have to make an upfront payment to cover blocks in all of the PEAs the applicant selected on its auction application, but it should make an upfront payment that covers the maximum number of bidding units that are associated with the quantity of blocks in the PEAs on which it wishes to place bids in any given round. The total upfront payment does not affect the total dollar amount the bidder may bid for quantities of generic blocks, nor will it be attributed to specific blocks or PEAs. Rather, the bidder may place bids for quantities of blocks in any combination of the PEAs it selects on its auction application, provided that the total number of bidding units associated with those blocks will not exceed its eligibility when it places the bid(s). Bidders will not be able to increase their eligibility during the auction; bidders only will be able to maintain or decrease their eligibility. Thus, in calculating its upfront payment and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid in any single round and submit an upfront payment covering that total number of bidding units.

81. For example, under the approach the Commission adopts, assume there are 27,000 bidding units associated with each block in the New York, New York PEA, and 21,000 bidding units associated with each block in the Los Angeles, California PEA. If a bidder wishes to bid on one block in both PEAs in a round, it must have selected both PEAs on its auction application and purchased at least 48,000 bidding units (27,000 + 21,000) of bidding eligibility. If a bidder only wishes to bid on a block in one of these PEAs, purchasing 27,000 bidding units would allow the bidder to bid on a block in either PEA, but not on a block in both PEAs at the same time. If the bidder purchased only 21,000 bidding units, it would have enough eligibility to bid on a block in Los Angeles, but not on a block in New York. If a bidder wishes to bid on more than one block in a PEA, it must have purchased sufficient eligibility for that number of blocks. Thus, continuing with its example, a bidder interested in bidding on three blocks in Los Angeles must purchase at least 63,000 bidding units (21,000 * 3) of bidding eligibility.

82. The Commission notes that its rules require that any auction applicant that certifies it is a former defaulter—*i.e.,* has been in default on any Commission license or has been delinquent on any non-tax debt owed to any Federal agency—must submit an upfront payment equal to 50 percent more than that set for each spectrum block. Recently in the *Updating Part 1 Competitive Bidding Rules* 80 FR 56764, September 18, 2015 proceeding, the Commission narrowed the scope of the defaults and delinquencies considered for purposes of this rule. Under its amended rules, applicants may exclude from consideration as a former default any cured default on a Commission license or delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) The notice of the final payment deadline or delinquency was received more than seven years before the relevant auction application deadline; (2) the default or delinquency amounted to less than $100,000; (3) the default or delinquency was paid within two quarters (*i.e.,* six months) after receiving the notice of the final payment deadline or delinquency; or (4) the default or delinquency was the subject of a legal or arbitration proceeding that was cured upon resolution of the proceeding. Additional details concerning the application of the Commission's former defaulter rules to forward auction applicants, including any required certifications and the higher upfront payment requirement, will be set forth in the *Application Procedures PN.* After the auction, applicants that are not winning bidders or are winning bidders whose upfront payment exceeded the total net amount of their winning bids may be entitled to a refund of some or all of their upfront payment.

3. Final Auction Application Status

83. Consistent with its normal auction procedures, a public notice will announce all qualified bidders for the forward auction (*Qualified Bidders PN*). Qualified bidders are those applicants with submitted auction applications that are deemed timely-filed and complete, provided that such applicants have timely submitted an upfront payment that is sufficient to qualify them to bid. Since the rule prohibiting certain communications applies to both reverse and forward applicants and the prohibition commences on the auction application deadline, the Commission anticipates setting concurrent application filing deadlines for the reverse and forward applicants.

84. Similar to what will be provided for potential reverse auction participants, the Commission intends to provide, in various formats, detailed educational information regarding the forward auction, including among other

things an auction tutorial that will be available on the Auction 1000 Web page for prospective bidders to walk through the auction process and the application and bidding screens. Registration materials will be distributed to qualified bidders prior to the auction. All qualified bidders will be eligible to participate in a mock auction prior to bidding in Auction 1002, which will enable bidders to obtain hands-on experience with the auction system prior to the auction. Further details about the mock auction and the auction tutorial, including relevant dates and how to access these tools, will be announced in the *Application Procedures PN.*

V. Reverse Auction Bidding

85. The Commission will use a descending clock auction format in the reverse auction, in which participants will bid over a series of rounds by responding to new price offers for one or more relinquishment options. The Commission establishes reverse auction bidding procedures and explain how the auction system will both calculate new price offers during the clock rounds and process bids to determine which bidders will be selected by the auction, and at what price, to relinquish spectrum usage rights.

86. The Commission generally adopts the reverse auction bidding procedures proposed in the *Auction 1000 Comment PN,* except that the Commission will not use dynamic reserve prices (DRP), and the Commission adopts its alternative proposal to simplify the reverse auction bidding process by not providing an intra-round bidding option. Notwithstanding the potential benefits of using DRP, the Commission concludes that not using it will encourage voluntary participation in the reverse auction by removing uncertainty among broadcasters, and is consistent with the record consensus in favor of minimizing the potential for impairments. In addition to the information the Commission proposed to provide, the auction system will provide information to each active bidder regarding the available room for repacking stations at the end of each round of the auction.

A. Availability of Auction-Related Information

87. The Commission will make auction information public as soon as possible, consistent with its rules, policies, and procedures that help protect the competitiveness of the auction, as well as with applicable statutory requirements. As in past Commission auctions, the public will have access to certain auction information, while auction participants will have secure access to additional non-public information. Details of how to access auction information will be provided in the *Application Procedures PN.*

88. The Application Procedures PN also will detail the prohibition on communicating information relating to bids or bidding strategies, such as the non-public information that bidders may access in the auction system, to broadcast licensees eligible to participate in the reverse auction or to forward auction applicants, subject to specified exceptions. The Commission cautions eligible broadcast licensees that communicating non-public information that they receive to others, whether directly or indirectly through third-parties or public disclosure, could violate that prohibition.

89. In response to the numerous commenters that contend that the Commission should make as much information available regarding the reverse auction as possible, either to the public or to the auction participants, more information will be provided to both the public and reverse auction participants than was proposed in the *Auction 1000 Comment PN.* The Commission will make public, before the deadline for filing applications to participate in the reverse auction, the opening prices for all stations whose spectrum usage rights are eligible to be offered in the auction and for each bid option available to each station. The Commission set forth the formula for these prices in the *Auction 1000 Bidding Procedures Public Notice.* Prices for each station and for each bid option for each station may be calculated using this formula and publicly available information. Rather than require each licensee to make these calculations separately, the Commission will make them public. The Commission does so to encourage participation, to further the transparency of the auction, and in response to comments requesting that the Commission do so.

90. Reverse auction bidders will be informed of the initial bidding round schedule when they are informed that they are qualified to bid in the clock phase. The schedule will establish the length of time each round will last. Bidders may respond to price offers for available bid options in each round. Round results will be released to bidders after each bidding round.

91. The Commission will make public the initial spectrum clearing target as soon as possible after completion of the initial clearing target determination procedure. Many commenters support this approach. Some suggest that the Commission announce a clearing target before broadcasters make initial commitments, in order to assist broadcasters in doing so. The initial commitments, however, are an essential component for determining the initial clearing target. The Commission will announce the initial clearing target before any bidding takes place in the clock phase of the reverse auction.

92. Once the bidding in the clock phase of the reverse auction begins, the Commission will make publicly available information about the current stage of the auction and whether or not reverse (or forward) auction bidding is currently open. Information regarding amounts necessary to meet the final stage rule will be public, as well as whether or not the final stage rule has been met. Such information will include the aggregate amount of provisionally winning reverse auction bids to relinquish spectrum usage right, which is part of the second component of the final stage rule. In addition, the auction system will provide each reverse auction bidder with non-public information that it can use in determining how it will bid. More specifically, the auction system will provide to each bidder—but not to the public—each station's bidding status and price offers for all options relevant given the station's status.

93. The auction system also will provide each reverse auction bidder with vacancy index information, indicating the relative availability of channels in each relevant band, as part of each round's bidding results for active stations. Providing this information is consistent with the strong record support for providing reverse auction participants with as much information as possible to help with bidding. A broadcaster can use vacancy information to assess the likelihood of various developments, such as whether a price for a given option may continue to decline. Given that the auction system incorporates such information in price computations, and sophisticated bidders might be able to extract the information in a limited set of cases, the Commission concludes that providing such information to each bidder will promote transparency and information parity among all bidders, and that the auction system can provide such information without unduly complicating participation or compromising the confidentiality of participation in the reverse auction.

94. The auction system calculates vacancy information when setting prices. For a given station, the auction

system will determine the number of channels available in the station's ''neighborhood'' for the relevant band. A station's neighborhood consists of all active stations, *i.e.,* all participating stations that have not exited or become provisional winners including the station itself, that could interfere directly with the station in the relevant band and therefore potentially limit assigning the station to an available channel in that band. The auction system uses each station's volume to weight the number of channels available to it and then averages those weighted results for all stations in the station's neighborhood. The vacancy index information that the auction system will provide to bidders will indicate whether the average of weighted channels available to active stations in the neighborhood falls within one of three ranges, low, medium, or high. The range format should prevent the information from being used to identify the neighboring stations consistent with its obligation to protect the confidentiality of reverse auction participation.

95. More specifically, for each bidder with an active UHF station, the UHF vacancy index will indicate whether the average of weighted UHF channels available to the active stations in the neighborhood is: Less than three (low); greater than or equal to three, but less than or equal to six (medium); or more than six (high). Given the smaller number of channels in the VHF band, the ranges will be narrower. For each bidder with an active VHF station, the vacancy index in the station's pre-auction band will indicate whether the average of weighted channels available to the active stations in the neighborhood for the pre-auction band of the bidder's station is: Less than two (low); greater than or equal to two, but less than or equal to four (medium); or more than four (high). With respect to relevant bands other than a station's pre-auction band (*i.e.,* for UHF stations, High-VHF and Low-VHF, and for High-VHF stations, Low-VHF), the values used to define the three ranges will be determined based on the ratio of the level of vacancy in that band to the level of vacancy in the station's pre-auction band. This ratio is already used in setting prices for moving to the same bands. Consequently, bidders with prices for a station that may move to a new band could infer the information without the vacancy index. The vacancy index puts it to use in an explicit report to the bidder. The auction system will report the values that define the ranges when providing the vacancy index information. The technical formulas for setting the values will be provided in the *Application Procedures PN.*

96. In all cases, a value in the low range for the index will indicate a higher potential for the relevant band to fill soon; a value in the medium range will indicate less likelihood; and a value in the high range will indicate still less likelihood. The Commission emphasizes that this information will be based on the results of the prior round and will provide no certainty with respect to developments in future bidding rounds. Ultimately, the bidding of other reverse auction participants will determine when any available channels are filled. Nevertheless, the vacancy index information based on past round results will help bidders make rough estimates of whether a particular bid option will continue to be available, as well as provide bidders with a sense of the relative likelihood that a station's various bid options will continue to be available. Changes to the vacancy index from round to round also may provide helpful information regarding changes in the status of neighboring stations at current clock prices. The Commission notes, however, that a station's vacancy index may change if a second neighboring station becomes provisionally winning, even though that did not change the number of available channels. For example, if a non-neighboring third station's decision to exit the auction made it infeasible to repack the neighboring second station, the neighboring station would become a provisional winner and therefore would no longer be included in the calculation of the first station's vacancy index. In that circumstance, the first station's index may change even though no available channel in its neighborhood was filled.

97. The Commission declines to adopt EOBC's proposed alternative to the vacancy index, which likewise uses the average of the weighted number of channels available to all stations in a given station's neighborhood, but instead of providing station-specific information on a confidential basis would involve averaging that information across all stations in each Designated Market Area (DMA) and disclosing the information publicly. The vacancy index will confidentially provide each bidder with information targeted to its station(s), which should better predict how soon a price offered that station is likely to freeze. The station-specific information provided by the vacancy index the Commission adopts also will be more uniformly useful to all bidders than EOBC's alternative. EOBC argues that a publicly disclosed metric is fairer as it would provide more uniform information, in particular assuring that the information each bidder possesses is the same regardless of the number of stations it offers in the auction. The Commission disagrees. Some bidders might be able to infer information unavailable to others based on a combination of average DMA vacancy information and station-specific vacancy information, which is used by the auction system to calculate prices. The approach the Commission adopts will provide each bidder with station-specific information without providing an advantage to some bidders. Further, providing vacancy index information for each station will avoid putting participants with fewer stations in the auction at a disadvantage, as bidders will have the same information relative to each of their participating stations.

98. Because the vacancy index the Commission adopts will assist broadcasters seeking to forecast the outcome of the auction, it addresses requests by commenters for information regarding the reverse auction that would enable ''outcome discovery'' by broadcasters. The other information that will be provided satisfies many requests that commenters make for specific information regarding the reverse auction, such as the initial spectrum clearing target and opening prices for all stations. In combination, all of the information will facilitate efforts by broadcasters to forecast prices in the auction. The Commission conclude that providing additional information to reverse auction bidders could unduly complicate participation in the reverse auction or compromise the confidentiality of such participation.

99. In addition to the bidding information, the Commission will use the auction system to make auction announcements regarding any other necessary information to reverse auction participants, such as schedule changes. Providing auction announcements through the auction system has been an effective and efficient way to communicate necessary information to auction participants in past auctions, and the Commission expects that this will be the case for the reverse auction as well.

100. The Commission notes that while reverse auction bidders will have access to far more information than it originally proposed, in order to serve the interests of broadcasters, it is required to make less information public regarding the reverse auction than it does regarding the forward auction. To begin with, the Spectrum Act expressly requires that the Commission take reasonable steps to

keep confidential Commission-held data of licensees with respect to their participation in the reverse auction, including their identities. Commission rules further extend confidential treatment with respect to non-winning bids and bidders for two years after the close of the auction, so that broadcasters may participate in the reverse auction without being compelled to disclose their willingness to relinquish spectrum usage rights for that longer period.

101. Accordingly, the Commission will not disclose the name of the licensee, the channel number, call sign, or facility identification number of its participating station(s), or its network affiliates in connection with the participation of any licensee in the reverse auction. The Commission also will keep confidential any other information that may reasonably be withheld to protect the identity of the licensee as a reverse auction participant, such as information regarding the status of licensees as participants or provisional winners during the auction. To safeguard this confidential information, the Commission will not make public any information relating to applications to participate in the reverse auction until after the auction concludes. Whether similar information was made public in prior spectrum license auctions, or has been provided on a non-public basis by the Commission, does not change whether the rule applies. Unlike in conventional spectrum license auctions, the Commission will not issue public notices with respect to the status of the reverse auction applications that are filed. Instead, the Commission will communicate regarding these applications directly—and confidentially—with the respective applicants. Finally, because information regarding a participant's station is integral to determining the bids offered in the auction, information regarding specific bids during the course of the auction cannot be made public.

B. Determining New Price Offers in Clock Rounds

102. Under the descending clock auction format that the Commission adopted for the reverse auction, in every clock round, the auction system will decrement the per-volume nationwide base clock price. As with opening price offers, a UHF station will be offered a price to go off-air in each clock round that will equal the base clock price multiplied by its station-specific volume factor. The price offer for a UHF station to go off-air is the base clock price times the station's volume. Therefore, if the per-volume base clock price is decremented by five percent, the price offer will decrease by five percent. Unlike opening price offers, however, the new price offers in clock rounds for UHF stations to move to the VHF bands, or for VHF stations to move to a lower band or go off-air, will reflect the relative availability of channels for each station in the VHF bands. Opening prices for intermediate moves will in aggregate be equal to the full base clock price (or, in percentage terms, will sum to 100 percent) for a move from UHF to off-air since in terms of value to the auction intermediate moves, when taken together, are equivalent to a move from UHF to off-air, which is set by the base clock price. The opening prices for intermediate moves will form the starting point for prices for such moves in the clock bidding rounds, but as relative vacancy rates change, these prices will vary. These differences in relative price changes are intended to encourage moves that promote more efficient repacking of the VHF bands. For example, if the High-VHF band is particularly congested in an area, the price offer for a UHF station in that area to move to High-VHF will decrease more quickly than if the High-VHF band were less congested. As a result, a UHF station will have less incentive to request a move to High-VHF than if the High-VHF band were less congested and price offers decrease more slowly. By setting price offers in this way, the auction system will encourage moves that are particularly beneficial to the reverse auction's goal of clearing spectrum in the UHF band.

103. In each round of the reverse auction, the base clock price decrement will be the larger of: (i) Five percent of the current base clock value or (ii) one percent of the $900 opening base clock price. Consistent with the Commission's standard auction procedures and as proposed in the *Auction 1000 Comment PN* (to reduce the base clock price by between three percent and 10 percent per round) the size of the decrement may be adjusted in the reverse auction. Although the Commission does not anticipate that the decrement in the reverse auction will need to be adjusted, if circumstances warrant, the change and the new decrement will be announced at least 24 hours in advance to all bidders. Although several commenters urge the Commission to decrease prices by no more than one percent in each round, a decrement of five percent will better balance its interests in completing the reverse auction bidding within a reasonable amount of time while avoiding significant losses of efficiency or increases in costs. Because the forward and reverse auctions run sequentially within a stage and because there may be multiple stages, it is important to limit the number of reverse auction rounds. The combination of (i) and (ii) ensures that the reverse auction will require no more than 52 rounds in any stage. In subsequent stages, the reverse auction may require even fewer rounds, depending on the level to which the base clock price must be reset after a new stage transition, and how quickly newly-active stations either drop out or become provisionally winning. Using a decrement of one percent would require considerably more bidding rounds. For example, using just part (ii) of the Commission's price decrement rule—a price decrement of one percent of the base clock's opening value—would require 100 rounds, whereas using a price decrement of one percent of the current base clock value, without part (ii) or a similar mechanism, could cause the auction to continue for hundreds of more rounds as the decrement gets increasingly smaller. The Commission recognizes commenters' concerns that larger decrements could cause some stations to drop out quickly, but find that with a decrement of five percent any loss of efficiency or increased costs is likely to be *de minimis.* Moreover, a decrement of one percent risks increasing the cost of repurposing spectrum. In the absence of the proposed DRP mechanism, the prices offered to stations in some areas may ''freeze'' near opening price levels; in such cases, a one-percent decrement might require higher payments to individual stations. Higher payments are likely when stations are able to engage in coordinated behavior to manipulate the point at which their prices ''freeze.'' The Commission's rules and procedures are intended to prevent such manipulation, but do not prevent coordinated behavior by bidders that own multiple stations within an individual market. In addition, five percent price decrements would be small enough to allow the system to provide useful information to participants to guide their bidding.

C. Bidding Mechanics

104. Consistent with its proposed procedures, at the commencement of the clock phase of the reverse auction, each participating bidder will begin bidding for each of its stations at the opening price for that station's ''currently held option,'' which will be the initial relinquishment option determined by the initial commitment procedures. So long as the auction system can determine a feasible channel assignment

for that station in its pre-auction band—by conducting a ''feasibility check'' prior to the clock round—the system will continue making new, reduced price offers to that station. For each station the auction system must, prior to processing its bid, find a feasible channel assignment in the station's pre-auction band—that is, an assignment that does not violate any of the pairwise constraints and is therefore consistent with the Spectrum Act's preservation mandate. To do this, the system conducts a ''feasibility check'' using mathematical satisfiability-solver software to quickly determine whether such a channel assignment exists. The bid options for which the system will calculate price offers will be based on the station's pre-auction band, the options the bidder selected for that station on its application, the currently held option for that station, and the hierarchy of bid options. If, however, a feasible channel assignment does not exist for a station in its pre-auction band in the first round, the station will be ''frozen'' in its currently held option from the start of the auction at the opening price offer to which it initially committed. The system will then ask the bidder to place a bid for that station by indicating whether it is willing to accept the new price offer for its currently held option, wishes to switch to a different bid option (if applicable), or wishes to drop out of bidding. If the system is able to find a feasible channel assignment for the station in its pre-auction band during bid processing, it will adjust the station's currently held option according to its bid (honoring its request to switch options if feasible) and reduce its current price to the accepted price offer for that option. Otherwise, the system will ''freeze'' that station's currently held option without reducing its current price. Once a UHF station is frozen, it becomes a provisionally winning bidder and will not be asked to bid for the rest of the reverse auction in that stage. If a VHF station is frozen, however, it does not necessarily become provisionally winning if the station may be unfrozen later in the reverse auction in the same stage. This could occur, for example, if a UHF station that was bidding to move to VHF chooses to drop out of bidding, thus freeing up a channel in the VHF band. If this free channel enables the system to feasibly assign a frozen VHF station to a channel in its pre-auction band, the system will unfreeze the VHF station and ask it to bid at its new price offers. The system will freeze a station in its currently held option without reducing its current price regardless of whether the station submitted a bid to accept the new price offer for the option, requested to switch to a different option, or bid to drop out of the auction. This will provide strategic simplicity for bidders by ensuring that bidding to accept a new price offer will never result in a station receiving a lower price for its option than it could have received if it refused to accept the offer.

105. A bidder that has or is interested in only a single bid option will have a simple choice: Whether to accept the lower clock price offered for its station's currently held option or to rejects that offer and drop out of the bidding. If a bidder fails to place a bid, the auction system will treat this bidder as unwilling to accept a lower offer. A bidder that is considering more than one of the relinquishment options currently available to its station will additionally be able to request to switch bid options, consistent with the hierarchy of options. Since the auction system may not always be able to find a feasible channel assignment for a station to switch to one of the VHF bands, the system will prompt a bidder requesting to switch options to provide a fallback bid in case the system cannot accommodate its request. A fallback bid allows the bidder to choose either to accept the lower price offered for its station's currently held option or to drop out of bidding if the system cannot accommodate its request to switch bid options. The Commission reminds bidders that each bid placed is a binding commitment by the bidder to accept a payment that is no less than the price offered in return for relinquishing the spectrum usage rights associated with its bid option should the auction system select the bid as a winning bid.

106. Responding to numerous commenters that urge the Commission to make reverse auction bidding as simple as possible, the Commission determines that it can reduce complexity without sacrificing efficiency by foregoing the use of intra-round bidding. In the *Auction 1000 Comment PN,* the Commission sought comment on bidding procedures without intra-round bidding due to its concern that intra-round bidding could increase the complexity of auction participation for broadcasters. Absent intra-round bidding, bidders will face a simpler choice to accept or rejects a new lower price, or to switch bid options at the lower price, rather than having to indicate precise prices at which their choices change. In addition, because the number of computationally complex feasibility checks that the system must solve during bid processing will be greatly reduced, the auction system will be able to report round results more quickly. Furthermore, not providing for intra-round bidding will have minimal effect on the reverse auction's efficiency and cost given the relatively small price decrements that the Commission has chosen. For reasonably sized price decrements (within the three to 10 percent range that the Commission proposed), the loss in efficiency and cost is of ''second-order'' to the size of the decrement because the likely number of instances in which there is any loss at all for any particular bidder and the magnitude of the loss when it occurs are both proportional to the percentage bid decrement. Specifically, the likelihood of loss is proportional to the bid decrement because there is a loss only when two competing bidders attempt to make incompatible changes to their bids in exactly the same clock round. The magnitude of the loss is likewise proportional to the decrement because two competing bidders that try to change in the same round have the same value to the auction, within one decrement, in terms of cost and efficiency. The price decrements the Commission chooses are large enough to ensure a reasonably speedy reverse auction while at the same time small enough that removing intra-round bidding will not have a substantial impact on the outcome of the auction.

107. The Commission adopts a simple proxy bid mechanism to make it easier for bidders to monitor the auction. EOBC, the only commenter to address this proposal, urges the Commission to adopt it. Under the bidding procedures the Commission adopts, a bidder will be able to submit a proxy bid to continue bidding for its station's currently held option until the price offer drops below some specified price. A station that is frozen but not provisionally winning (*i.e.,* that has the status of either ''frozen—currently infeasible'' or ''frozen—pending catch up'') may also place a proxy bid notwithstanding the fact that it is not given a price offer in the round and it is not otherwise submitting a bid, because the station may become unfrozen in a later round. Additionally, the Commission will limit the range that a bidder can set its proxy bid, so that the specified price for a proxy bid may be no less than 75 percent of a station's price offer in the round. This limit may be adjusted up or down at any point in the auction. Such an adjustment will be announced at least one round before the new limit on proxy bids. Thus, a bidder who wishes to remain active in the auction may be required to submit a new proxy bid periodically. Bidders will be able to

revise or cancel any proxy bid before it is processed or in subsequent rounds while the proxy bid instructions are still in effect. Proxy bids will remain confidential from other bidders and from Commission staff other than those staff authorized during the auction to monitor bidding and the operation of the bidding system.

D. Processing Between Clock Rounds

108. The Commission establish procedures by which bids will be processed at the conclusion of each round to determine new provisional channel assignments and the new bidding status for stations. The Commission adopts the bid processing procedures detailed in Appendix D of the *Auction 1000 Comment PN,* except that the auction system will not use DRP. As bids are processed, for each station bidding in the current round, the auction system will either process its bid and reduce its current price to the accepted price offer or freeze the station, keeping its current price and currently held option unchanged, depending on the results of feasibility checking during bid processing. Once all bids have been processed, the auction system will update the bidding status of all stations and begin a new round or, if the stopping rule has been met, the reverse auction will conclude for the stage.

1. Bid Processing

109. After a clock round closes, the auction system will process bids using the bid processing algorithm the Commission proposed, except without intra-round bidding. Under these procedures, the auction system will first establish an order or ''processing queue'' for processing the bids of stations that are bidding in the current round. The system will order all such stations in descending order of the per-volume difference between the station's current price and its new price offer. Specifically, this metric is calculated by subtracting the station's new price offer from its current price and then dividing by its volume. Since the system cannot change the status of provisionally winning stations within a stage or of exited stations at any point in the auction, the system does not consider such stations during bid processing. The auction system will break any ties between stations following this calculation by using pseudo-random numbers. The system will then sequentially conduct feasibility checks for each station in the queue to find the first station in the queue that can feasibly be assigned a channel in its pre-auction band given the current provisional channel assignment. The system will consider the first feasible station and process its bid, removing it from the queue, before resuming its search for the next feasible station in the queue. The auction system will repeat this process of considering bidding stations until each station remaining in the queue is ''frozen'' in its currently held option at its current price.

110. Under the procedures that the Commission established, when the auction system considers a station that bids to accept the new price offer for the station's currently held option, the auction system will reduce the station's current price to the new price offer for that option. When the auction system considers a station that bids to switch relinquishment options, the system will first perform a feasibility check to determine whether the station's request can be accommodated: The system will only switch the station's currently held option if the station can feasibly be assigned to a channel in the requested VHF band. In that case, the auction system will update the station's currently held option and current price to the option and price offer for the requested bid option. If the station cannot be feasibly assigned to a channel in the new band, the system will instead process the station's fallback bid—either to accept the lower price offer for its currently held option or to drop out of bidding. If a station's fallback bid is to drop out of bidding, the system will mark the station as exited. Similarly, when the system considers a station whose only bid is to drop out of the auction, the system will mark the station as exited. An exited station will be assigned a provisional channel in its pre-auction band and will no longer be given price offers or asked to bid for the remainder of the auction. After bid processing, the auction system will again perform feasibility checks for all stations to determine if any stations processed earlier in the queue that had a feasible assignment are no longer feasible as a result of later processing. Any such stations will then be frozen in their currently held option at the already-reduced current price. Because the system will have already updated the currently held option and reduced the current price of stations that became infeasible due to later processing, these stations will be frozen at the lower price offer that they accepted or in the new bid option that they switched into at the start of the next round. For all stations that will be active in the next round, the auction system will then calculate prices for the next round using the price reduction procedures. The auction system will calculate prices for stations that are ''frozen—currently infeasible'' so that they may monitor price decreases in case they become unfrozen and must resume bidding in later rounds, but such stations will not be asked to submit a bid so long as they remain frozen.

111. Two parties disagree with aspects of the bid processing procedures and algorithm the Commission proposed, and filed comments proposing alternatives. AT&T proposes that, after each round, the auction system recompute the repacking constraint files based upon the provisional TV channel assignment plan in order to link price decrements to the difficulty of repacking a station in each round. Professors Sandholm and Nguyen propose to remove the hierarchical restriction on bid options and use mathematical optimization to calculate price offers and process bids. As an initial matter, neither of these commenters has demonstrated, either in theory or by means of simulations, that their proposals have significant advantages over the auction procedures the Commission establishes herein. The pricing procedures the Commission adopts take into account some measure of repacking difficulty for VHF options and VHF stations. However, in comparison to AT&T's proposed approach, the procedures that the Commission adopts provide the significant advantage of greater price certainty and predictability for UHF stations bidding to go off-air, which should speed the auction and encourage bidders to consider this relinquishment option. The Commission therefore is not persuaded that AT&T's proposal offers substantial benefits over the procedures it adopts.

112. The Commission also rejects the alternative approach proposed by Professors Sandholm and Nguyen. They argue that the sequencing of bids under the approach the Commission adopts provides an unfair advantage to stations that are processed first. However, bids must always be processed sequentially due to the relationship between the reverse auction and the repacking process, which must guarantee a feasible assignment: Stations face price competition in the reverse auction as a result of the number of stations that must be repacked into a limited number of channels. Thus, stations must always be repacked one at a time in order to guarantee a feasible assignment. In any event, some bid sequencing (and thus possible price variation) is required for *any* processing algorithm. Indeed, even the optimization-based approach proposed by Professors Sandholm and Nguyen relies upon the sequencing of

bids, they just disagree with how the Commission achieves this sequencing and instead propose an optimization-based approach that would optimize to reduce costs. While bids processed earlier may limit the options available to bidders later in the queue (*e.g.,* if two otherwise identical stations both request to switch to High-VHF, but there is only one channel available in the band), this sequencing provides the best value to the auction, because the stations that have the largest price decreases will be processed first. Furthermore, stations processed later in the queue are more likely to be frozen at a higher price offer. Any price variation due to sequencing will be no larger than one price decrement for identical bidders, in line with the price variation found in the Commission's simultaneous multiple round auctions. The Commission therefore does not regard this outcome to be problematic.

113. In addition, Professors Sandholm's and Nguyen's alternative procedures for eliciting information from bidders and for setting clock prices would add strategic complexity to the reverse auction and might deter participation. For eliciting bids, they propose that each bidder indicate a set of acceptable options, rather than a single preferred option in each round. For determining prices, they suggest optimization-based procedures to set clock prices in which a bidder's prices could continue to fall even after it can no longer be assigned a feasible channel in its pre-auction band. The Professors claim certain advantages of their proposed algorithm, but offer no comparison of their proposal to the algorithm described in the *Auction 1000 Comment PN.* Their proposed approach would create significant new opportunities for some bidders to affect final prices for their own bid options, adding strategic complexity to the auction. Such complexity would make bidding errors more likely, raise the costs of bidding, and potentially deter participation, making these procedures unsuitable for the reverse auction.

2. Dynamic Reserve Prices

114. The Commission elects not to adopt DRP procedures, which would enable the bidding system to reduce the prices offered to all UHF stations in the early rounds of the reverse auction, regardless of whether a station could be feasibly repacked into its pre-auction band. By providing a ''safety valve'' for stations whose opening prices otherwise would remain frozen because no feasible channel assignment is available for them in the remaining television bands (due to international border constraints or other factors), the Commission explained that DRP would allow it to set higher opening prices for all stations, reduce the overall cost of repurposing spectrum, and increase the likelihood of a successful auction. Based on examination of the record, however, the Commission concludes that the potential benefits of DRP are outweighed by its potential costs. Broadcasters unanimously oppose the use of DRP procedures, arguing that it will ''artificially reduc[e] prices,'' undermine trust in the fairness of its auction procedures, increase complexity and uncertainty, and discourage participation. A broad range of commenters also oppose use of DRP because it risks increasing the degree of impairment to repurposed spectrum. Commenters argue that using DRP will inevitably increase the amount of impairments to or close to the near-nationwide standard and detract from the value of repurposed spectrum.

115. The Commission agrees with commenters that it should adopt auction procedures that minimize impairments. By not using DRP procedures, the Commission eliminates the possibility of creating additional impairments after the determination of a clearing target. In addition, based on examination of the record, the Commission is concerned that using DRP as proposed would discourage voluntary broadcaster participation in the auction, contrary to its commitment to encouraging such participation. Accordingly, the Commission will not use DRP procedures. Instead, price offers will be reduced only in accordance with the procedures, and any stations with no feasible channel assignments at the beginning of the reverse auction bidding will be frozen at their opening prices. Combined with its decisions regarding the initial clearing target selection procedure and the information that will be available to bidders, not using DRP will promote its auction goals by encouraging reverse auction participation, minimizing impairments, and providing transparency for bidders.

116. The Commission also declines to adopts EOBC's alternative proposal for a ''round zero reserve'' pricing mechanism which would offer, before bidding begins, an undefined (but high) take-it-or-leave-it price to each station that would otherwise begin the reverse auction bidding process ''frozen'' at its opening price. EOBC and others support this proposal only as a substitute for DRP, and the Commission is not persuaded that EOBC's alternative would provide the benefits of its proposed DRP procedures.

3. Bidding Status

117. Based on the bid processing procedures the auction system will determine the bidding status of each station prior to each round of the reverse auction. The auction system will also determine the bidding status of each bidder prior to the first round of the reverse auction after bidders commit to an initial relinquishment option, as well as prior to the first round after transitioning to a new stage. The system will inform each bidder of the currently held option, the current price for this option, and the bidding status of each of its stations. The bidding status of each station will be one of the following: (1) Bidding in the current round, (2) frozen—provisionally winning, (3) frozen—currently infeasible, (4) frozen—pending catch up, (5) exited—voluntary, or (6) exited—not needed.

118. *Bidding in the Current Round.* If the auction system determines that a station can be feasibly assigned a channel in its pre-auction band, its bidding status will be ''bidding in the current round'' and the system will offer a new reduced price offer for each of the options currently available to it, consistent with the bid option hierarchy and price determination procedures. A station will be offered lower prices and asked to submit a bid in each round so long as its status remains ''bidding in the current round.'' However, if the system determines that a station can be feasibly assigned a channel in its pre-auction band but will be not needed for the remainder of the auction, its status will become ''exited—not needed.''

119. *Frozen—Provisionally Winning.* If the auction system determines that a station can never be assigned a feasible channel in its pre-auction band in the current stage, the station will be declared ''frozen—provisionally winning.'' For the remainder of the stage, the current price and currently held option of a station with this bidding status will remain unchanged. If the final stage rule is met during that stage, such stations will become winning stations. Otherwise, at the beginning of the next stage, the auction system will again evaluate the feasibility of assigning the station to a channel in its pre-auction band, and the station's status may change to ''frozen—pending catch up,'' ''frozen—currently infeasible,'' ''bidding in the current round,'' or ''exited—not needed.'' If at any point the system is unable to find a feasible assignment for a UHF station, its status will become ''frozen—provisionally winning.''

120. *Frozen—Currently Infeasible.* If the auction system is currently unable

to find a feasible channel assignment for a VHF station in its pre-auction band, but a feasible channel assignment could become available in a later round of the current stage, the station's bidding status will be ''frozen—currently infeasible'' and the system will freeze the station in its currently held option at its current price. A station with this status will not be asked to bid and will keep its currently held option and its current price in each round in which its status remains ''frozen—currently infeasible.'' However, a station with this status may become unfrozen and resume bidding in later rounds if the system is able to find a feasible channel assignment for the station in its pre-auction band. Such a station will be able to monitor the price offers for its different options as clock prices are decremented, and may submit proxy bid instructions that will apply if and when it becomes unfrozen. Likewise, stations with this status may later become ''frozen—provisionally winning'' if the system determines that, for all possible future behavior of bidders in the current stage, a feasible assignment will never be found. This bidding status is only possible for a VHF station because a feasible channel assignment in the VHF band may become available in a subsequent round if a UHF station currently designated to move to this VHF option drops out of the bidding or switches to a different VHF option.

121. *Frozen—Pending Catch Up.* If, at the start of a new stage, the auction system determines that a station that was ''frozen—provisionally winning'' at the end of the prior stage is no longer provisionally winning, but the base clock has not caught up to the station's ''catch up point,'' or the base clock price at the time that the station became provisionally winning in a previous stage, the station's bidding status will change to ''frozen—pending catch up'' and its currently held option and current price will remain unchanged. A station with this status will not be offered lower prices nor asked to bid in each round so long as the base clock remains above the station's catch-up point. However, a station with this status may become unfrozen and resume bidding in later rounds if the base clock reaches this price. As a result, such a station will be able to submit proxy bid instructions that will apply in case it becomes unfrozen and its status changes back to ''bidding in the current round.'' Likewise, stations with this status may later become ''frozen—provisionally winning'' if, prior to the base clock reaching the station's catch up point, the system determines that a feasible assignment will never be found for all possible future behavior of bidders in this stage.

122. *Exited—Voluntary.* If a bidder places a bid for its station to drop out (or the system placed this bid because the bidder failed to submit a bid for its station that had the status of ''bidding in the current round'') and the bid is processed, the station's status will become ''exited—voluntary,'' and that station will no longer bid in the auction. Stations with this status will no longer be offered prices nor allowed to place bids in the auction, and will be designated for repacking in their pre-auction bands.

123. *Exited—Not Needed.* If the auction system determines at any point that a feasible channel assignment will always be available for a station in its pre-auction band, its status will change to ''exited—not needed,'' and that station will no longer bid in the auction. Since the auction system will never freeze a station that has a feasible assignment, such a station will be dropped out of the bidding rather than forcing it to continue bidding until the price offer decreases to $0. As with stations that voluntarily drop out, stations with this status will be designated for repacking in their pre-auction bands, and will not participate in the remainder of the auction.

E. Stopping Rule

124. Under the procedures the Commission establishes, bidding rounds in a stage of the reverse auction will continue until no participating stations are ''active'' and all participating stations have the status ''frozen—provisionally winning,'' ''exited—voluntary,'' or ''exited—not needed.'' At that point, each participating station will either have its currently held option tentatively accepted or it will be provisionally assigned to a feasible channel in its pre-auction band. The procedures the Commission adopts answer EOBC's objection that bidding should stop when it ''does not need any additional volunteers.'' The Commission will ''not need any additional volunteers'' when no actively bidding stations remain in the auction and the reverse auction in that stage will end.

F. Final Winning Bids

125. If the current stage is the final stage of the incentive auction—that is, if the final stage rule is satisfied in the forward auction portion of the current stage—stations with ''frozen—provisionally winning'' status when the reverse auction stops in that stage will become winning stations, and the system will accept the currently held relinquishment option of each winning station. Bidders whose stations won will receive their current prices at the time the stations became ''frozen—provisionally winning.''

VI. Forward Auction Bidding

A. Bidding in the Clock Phase

126. The forward auction will utilize an ascending clock auction format under which each qualified bidder will indicate in successive clock bidding rounds its demands for categories of generic license blocks in specific geographic areas. After bidding stops in the clock phase of the forward auction, the forward auction assignment phase will be conducted to assign frequency-specific 600 MHz Band licenses consistent with the demands of specific bidders in specific geographic areas.

127. The initial stage of the forward auction will begin on the second business day after the close of bidding in the reverse auction, but no sooner than 15 business days after the release of the *Qualified Bidders PN.* The *Qualified Bidders PN* will announce the list of forward auction qualified bidders—those applicants with submitted auction applications that are deemed timely-filed and complete, provided that such applicants have timely submitted an upfront payment that is sufficient to qualify them to bid. Forward auction qualified bidders will have access to the detailed impairment information once they receive their registration materials, which will be sent after release of the *Qualified Bidders PN.* Detailed impairment information will be available only to forward auction qualified bidders. Forward auction qualified bidders must use the SecurID® tokens included with their registration materials to access the impairment information. All forward auction qualified bidders will have an opportunity to participate in a mock auction prior to bidding in the clock phase of the forward auction. The Commission anticipates that forward auction qualified bidders will have at least 10 business days after receiving their registration materials to analyze impairment data before the first round of bidding begins in the forward auction. In subsequent stages, if necessary, the forward auction will begin on the next business day after the close of bidding in that stage of the reverse auction. Forward auction bidders will be given detailed impairment information for a subsequent stage prior to the start of the reverse auction in that stage, which will give them adequate time to analyze such

information. Therefore, the Commission declines to provide any additional time between the conclusion of the reverse auction and start of the forward auction in any subsequent stage.

1. Availability of Auction-Related Information

a. Impairment Information for Bidders

128. In order to make the forward auction transparent for bidders, and in response to commenters' concerns regarding the challenges associated with bidding for impaired licenses, more information regarding impairments will be available than what the Commission proposed in the Comment PN. Forward auction qualified bidders will have access to detailed impairment information, including the actual source and location of any impairment, upon receipt of their registration materials. Information regarding the actual source and location of any impairment, *i.e.,* the facility information of the impairing stations, will be determined when the clearing target for a stage is set. More specifically, the auction system will give forward auction qualified bidders access to the following information about the licenses offered in all PEAs: (1) Aggregated impairments at the license level (for every block of every PEA), with impairment level percentages calculated using population (pops) including the associated license category (*i.e.,* Category 1 or Category 2), provided in two formats (CSV [Comma-separated values (CSV) files provide tabular data in a plain text format] and PEA maps); (2) uplink and downlink impairments at the license level (for every block of every PEA), with impairment level percentages calculated using pops, provided in two formats (CSV and PEA maps); (3) impairments measured in pops at the 2x2 kilometer cell level for each impairing station for ISIX Case 1, including the facility ID (*i.e.,* the specific television station, domestic or international, that will cause the impairment) of and the channel assigned to the source of potential interference to the wireless base station as well as the difference between the interference threshold and the interfering field strength, provided in CSV format only; (4) impairments measured in pops at the 2x2 kilometer cell level for each impairing station for ISIX Case 2, including the facility ID, domestic or international, of and the channel assigned to the source of potential interference to the user equipment as well as the difference between the interference threshold and the interfering field strength, provided in CSV format only; (5) for ISIX Case 3, impairments measured in pops of counties containing the hypothetical wireless base station which causes interference to a 2x2 kilometer cell within a television station's protected contour, regardless of whether this cell has population provided in CSV format only (because 600 MHz Band wireless base stations will not be deployed until after the incentive auction, for purposes of applying the ISIX methodology during the auction, the optimization software will assume the location of hypothetical wireless base stations by applying uniformly spaced sample locations, spaced every ten kilometers within the boundaries of every wireless license area that is within 500 kilometers of the television station); (6) impairments measured in pops at the 2x2 kilometer cell level for ISIX Case 4, provided in CSV format only; and (7) reference files giving the location of all 2x2 cells, the location of all hypothetical base stations, information on stations interfered with by hypothetical base stations, and information on the spectrum overlap, in megahertz, between the interfering transmitter channel and the interfered-with receiver channel. This information will be provided to forward auction qualified bidders for each stage, and will not become fixed unless and until the final stage rule is satisfied. The Commission rejects Sprint's suggestion that it re-optimize the provisional channel assignment plan at the close of the reverse auction in a stage in order to further reduce impairments, then release this information to forward auction bidders who would have two weeks before the forward auction begins. Because the reverse auction can only increase the number of stations that must be assigned channels in the UHF band between the start of a stage and the end of a stage, the potential efficiency gains of re-optimizing are extremely limited and do not warrant delaying the auction for two weeks. If the final stage rule is not satisfied at a particular clearing target, the clearing target will be lowered, and forward auction bidders will be provided with new impairment information for the new clearing target. The Commission also plans to release sample data in advance of the auction for bidders to examine, which—if desired—would allow bidders to build their own analysis tools.

129. Providing this detailed information responds to concerns commenters raised about whether forward auction bidders would have sufficiently detailed information to make informed bids on impaired licenses. For example, NAB asserts that providing information about all potential impairments will aid transparency for bidders in the forward auction and prevent disputes as to whether or not winning bidders understood their future obligations with respect to inter-service interference. Sprint argues that bidders must know precisely how impairments may affect particular licenses. Similarly, CTIA states that detailed information regarding the location of impairments ''would greatly enhance the ability of bidders to develop strategies and make sound choices.'' Specifically, CTIA suggests that the FCC provide information regarding the impairing stations, including key operating parameters—such as station location, antenna height, and power level—to forward auction bidders on a confidential basis. Bidders will know for each impaired license the percentage of impairment (by population), whether the impairment is located in the uplink or downlink portion of the license, and the geographic location of the impairment. Bidders can use the facility information about the impairing station to determine how their wireless networks could be deployed around the impairment. Further, Verizon recommends Commission outreach in order to ''educate potential forward auction bidders about how to participate from a technical and administrative point of view.'' The Commission provides extensive information prior to the bidding in every auction, including publicly available seminars and/or tutorials and—for qualified bidders—mock auctions. The Commission intends that the education and outreach efforts in advance of Auction 1000 will be even more detailed and extensive than normal in light of the many new aspects of this auction and the procedures necessary to conduct it. Several commenters request that in addition to providing the ISIX data results based on the F(50,50) statistical measure incorporated into the Commission's ISIX methodology, the auction system provide data using the F(50,10) statistical measure. While the Commission declines to provide multiple sets of ISIX data results to bidders, the impairment information that will be provided will allow a forward auction bidder to analyze the potential interference employing any statistical measure it chooses. The Commission will address Sprint's pending Petition for Reconsideration of the use of the F(50,50) measure for the ISIX methodology in the ISIX proceeding.

130. The Commission finds that providing information to forward auction bidders about impairing stations is consistent with its statutory confidentiality obligation because providing this data will not reveal the identity of licensees that elect to participate in any stage of the reverse auction. Impairing stations in the 600 MHz Band could be stations that elected not to participate in the reverse auction at all, stations that applied but failed to make an initial commitment and therefore did not become qualified to bid in the clock phase of the reverse auction, stations that the system could not accommodate during the initial commitment process, or stations that dropped out in a prior stage. In any subsequent stage, an impairing station may also have been a bidder in a prior stage that has dropped out. Forward auction bidders will not be able to distinguish previously participating impairing stations from impairing stations that never participated. Moreover, forward auction bidders will not be able to infer which licensees elected to participate in the reverse auction from the impairment information they receive. The vast majority of non-participating stations will be assigned to channels in the remaining TV bands, and forward auction bidders will not receive any information about those stations. Therefore, forward auction bidders will not have enough information about the full complement of non-participating stations from which to surmise the identity of participating stations. This impairment information will be available only to forward auction qualified bidders. Forward auction participants need this information to make informed bids, but other parties do not need to know this information to participate effectively in the auction; in particular, the Commission declines to provide this information to all auction participants, because knowing this type of information could lead to undesirable strategic behavior by reverse auction bidders. Additionally, the Commission will not provide this information to the impairing stations. The impairing stations' assignments will remain provisional only until the final stage rule is satisfied and the final TV channel assignment plan is determined (the assignments will become permanent if the auction closes in the current stage, however, so forward auction bidders will know the actual impairing stations for any given stage). Thus, although the Commission recognizes that impairing stations may be interested in this information, it will not provide it to them. The Commission cautions forward auction participants that communicating the non-public information that they receive to others, whether directly or indirectly through third-parties or public disclosure, could violate the Commission's rule prohibiting communication of certain auction information.

b. Bidding Information

131. As in past Commission auctions, the public will have access to certain auction information, while auction participants will have secure access to additional non-public information. Details of how to access auction information will be provided in the *Application Procedures PN.*

132. The *Application Procedures PN* also will detail the prohibition on communicating information relating to bids or bidding strategies, such as the non-public information that bidders may access in the auction system, to other forward auction applicants or to broadcast licensees eligible to participate in the reverse auction, subject to specified exceptions. As in all recent Commission spectrum license auctions, it will limit the availability of forward auction information in order to prevent the identification of forward auction bidders placing particular bids until after the auction is over. Specifically, the Commission will not make publicly available until after the auction concludes: The PEAs that an applicant selects for bidding in its application, the amount of any upfront payment made by or on behalf of the applicant, any information on any applicant's bidding eligibility, including whether an applicant is eligible to bid on reserve spectrum, and any other bidding-related information that might reveal the identity of the bidders placing bids and taking other bidding-related actions. The Commission cautions forward auction participants that communicating the non-public information regarding bids or bidding strategies, such as PEAs selected in the auction application, could violate its rule prohibiting communication of certain auction information. These procedures have helped safeguard past auctions against potential anti-competitive behavior, such as retaliatory bidding, and should do so here as well. As in prior auctions, the Commission will make available to the public before the bidding begins the other contents of applications to participate in the forward auction. The Commission retains the discretion not to limit information regarding the identities of forward auction bidders pursuant to the procedures if circumstances indicate that these procedures would not be an effective tool for deterring anti-competitive behavior. This helps ensure the competitiveness of the bidding. The Commission reiterates that auction applicants could violate the prohibition on communicating certain forward auction information by communicating non-public information that they receive to others, whether directly or indirectly through third-parties or public disclosure.

133. The public notice announcing qualified bidders for the forward auction also will announce the forward auction's initial bidding round schedule. The schedule will establish the length of time each round will last. Bidders may respond to prices in each round. Each bidding round will be followed by the release of round results.

134. Before bidding begins in the forward auction clock phase, information on the target amount needed to satisfy each component of the final stage rule will be publicly available, based on the results of the reverse auction bidding for the current stage. Specifically, depending on whether or not the clearing target for the stage is above the spectrum clearing benchmark of 70 megahertz, the target gross proceeds or average price in relevant PEAs required to satisfy the first component of the final stage rule and the target estimated aggregate net proceeds required to satisfy the second component will be publicly announced.

135. After each round of forward auction clock phase bidding concludes, whether the final stage rule has been met and detailed information regarding the progress toward meeting it will be publicly available. Given the provision of this information regarding whether the final stage rule may be satisfied, the Commission need not address U.S. Cellular's argument that, if such information is not provided, the bidders should have an opportunity to change their bids when the rule is satisfied. Available detailed information will include the aggregate gross proceeds and average price in relevant PEAs with respect to the first component of the final stage rule, and the estimated aggregate net proceeds, rounded down to the nearest $10 million, with respect to the second. Rounding will help prevent any attempt to infer information about applicable bidding credits and the identity of bidders and rounding down will prevent any confusion that could result from a rounded amount appearing to meet the target before the actual estimate does so. In addition, for each category of license in each PEA in the just completed round, the supply, the aggregate demand, the price at the end

of the last completed round, and the price for the next round, will be publicly announced. This detailed price information will indicate the progress of the auction, both towards satisfying the final stage rule and, separately, towards completion of bidding. The Commission addresses the information that will be provided to forward auction bidders regarding the assignment phase of the forward auction below.

136. In addition to the bidding information described here, the Commission will use auction announcements to report any other necessary information to forward auction participants, such as schedule changes. Providing auction announcements through the auction system has been an effective and efficient way to communicate necessary information to auction participants in past auctions, and the Commission expects that this will be the case for the forward auction as well.

2. Available Generic Spectrum Blocks

137. In the clock phase of the forward auction, the Commission will offer generic blocks in two bidding categories based on the extent to which the blocks may be impaired by broadcast television stations repacked in the 600 MHz Band. The Commission adopts its proposed approach to categorizing blocks for bidding, including how it define generic blocks in two categories. The Commission also addressed implementation of the spectrum reserve established the *Mobile Spectrum Holdings R&O.*

a. Bidding Categories

138. The Commission will offer two categories of generic blocks for bidding in the clock phase of the forward auction. ''Category 1'' will include any block with potential impairments that affect zero to 15 percent of the population of a PEA. The impairment percentage will be calculated based on the population impaired in a PEA as measured at the two-by-two kilometer cell level. ''Category 2'' will include any block with potential impairments that affect greater than 15 percent but less than or equal to 50 percent of the population of a PEA. Any block with potential impairments that affect more than 50 percent of the population will not be offered in the forward auction. After the assignment phase, the auction system will provide a price adjustment to the final clock phase price equal to one percent for each one percent of impairment to account for varying degrees of impairment to the licenses.

139. *Category 1.* The Commission adopts its proposal to establish a 15 percent threshold for Category 1 blocks. Many commenters agree that some level of impairment is acceptable in generic blocks, supporting a range of percentages. Moreover, the record reflects that wireless operators have the ability to mitigate the impact of impairments within license areas: Operators normally expect some degree of signal degradation due to attenuation, scattering, interference, or other factors, and have various methods of mitigating interference from impairing TV stations. In choosing a specific threshold, the Commission must balance the need to ensure fungibility of blocks within Category 1 with its auction design goal of maximizing the number of such licenses available in the forward auction, which in turn will promote its competitive goals and the overall success of the auction. The Commission finds that a 15 percent threshold strikes the appropriate balance. Its analysis projects that the vast majority of Category 1 blocks will have no impairments. In Scenario 1 (84 megahertz repurposed), 2535 of the 2654 Category 1 licenses in the continental United States would have no impairments. In Scenario 2 (114 megahertz), 3334 of the 3469 Category 1 licenses would have no impairments. And in Scenario 3 (126 megahertz), 3753 of the 3886. The 15 percent threshold the Commission adopts provides the flexibility to include in this Category blocks with a limited range of impairments that should be manageable for wireless operators and are unlikely to affect major population centers within the PEA. Major population centers in Category 1 blocks are likely to be unimpaired because in most PEAs, such areas would likely comprise more than 15 percent of the population in the PEA. The fungibility of such blocks will be enhanced by the discount that will be available at the end of the assignment phase of the forward auction, and bidders will be provided with detailed information in order to prevent uncertainty regarding the inventory of Category 1 blocks available in each PEA. The Commission recognizes that bidders will judge impairments and their impact on the value of a block differently. The detailed information the auction system will provide on the levels, including locations and types, of impairments in a block will enable bidders to reflect their own assessment of the impairment's impact on the value of the license with their bids both in the clock and assignment phase. For these reasons, the Commission declines to adopt the proposed alternative to limit Category 1 to unimpaired blocks (and broaden Category 2 to blocks with impairments from one to 50 percent). The Commission also agrees with CCA, T-Mobile and U.S. Cellular that adopting this alternative would create excessively wide disparities in the level of impairment in Category 2 licenses, ultimately harming their fungibility.

140. The 15 percent threshold the Commission adopts also serves its competition goals. Only Category 1 blocks will be placed in the spectrum reserve. In addition, Category 1 blocks will be reserved after all bidders, including non-reserve-eligible bidders, have already established bidding interests in them. The amount of reserved spectrum will be based on demand by reserve-eligible bidders at the time the final stage rule is met, in part so that ''entities that acquire reserved spectrum would pay their fair share of the cost of the Incentive Auction.'' The 15 percent threshold maximizes the number of Category 1 blocks, which will help to ensure that a full complement of reserved blocks can be made available in each market, while also allowing an equitable distribution of Category 1 blocks among reserve-eligible and non-reserve-eligible bidders.

141. *Category 2.* The Commission also adopts its proposal to establish an impairment threshold for Category 2 blocks of greater than 15 percent but less than or equal to 50 percent. The record reflects that impaired spectrum blocks retain significant value and utility for wireless providers. In the *Incentive Auction R&O,* the Commission stated that it will offer paired spectrum blocks and declined to offer downlink-only blocks. The thresholds for Category 2 blocks are consistent with this policy, and therefore the Commission declines to adopt T-Mobile's proposal to revise the Category 2 thresholds. The Commission concludes that the 15-to-50 percent range that it establish strikes a reasonable balance between ensuring the fungibility of blocks within Category 2 and its other goals. So long as Category 2 blocks in a PEA are economic substitutes, which means that sufficiently raising the price of one license in a set of Category 2 blocks would cause demand to switch to a lower priced license in the set, the relative prices of the Category 2 licenses within a PEA can be determined by bidding in the assignment phase. The anticipated minimal range of impairments between Category 2 blocks within individual PEAs, means that the difference between the most impaired license, to which clock phase bidders bid, and the other Category 2 blocks will also be minimal and bidders, and

therefore likely economic substitutes. Blocks within Category 2 will be subject to significant impairment levels by definition, and the Commission projects that there will be very few of them available in the forward auction. In many cases, only one Category 2 block will be available in a PEA. Staff simulations demonstrate that from among the top 20 PEAs, only 2 PEAs had more than one Category 2 block in Scenarios 1 & 3 and only three PEAs had more than one Category 2 block in Scenario 2. Further, the variation in impairment levels among Category 2 blocks in a specific PEA likely will be minimal. Category 2 blocks within a single PEA will likely be affected by the same impairing station, resulting in similar levels of impairment and geographic footprints across the Category 2 blocks. Thus, although the range of impairments in Category 2 is between 15 and 50 percent, the actual range in any one PEA is likely to be much smaller. Accordingly, the Commission finds that a wider range of impairments is appropriate for Category 2 than for Category 1. Given the minimal number of PEAs in which the Commission expects multiple Category 2 blocks to be available, and the limited impairment range of Category 2 blocks within such PEAs, the Commission is not concerned that its decision puts too much emphasis on bidding in the assignment phase, as some commenters suggest. As with Category 1 blocks, the fungibility of Category 2 blocks will be enhanced by the discount that will be available at the end of the assignment phase, and bidders will be provided with detailed information to prevent uncertainty regarding the available inventory of Category 2 blocks. The fungibility of Category 2 licenses will be further enhanced by the Commission's decision not to weight impairments located in the downlink portion of the 600 MHz Band for purposes of measuring the extent of potential impairments, as the percentage of impairment permitted for Category 2 licenses will be lower for uplink impairments than the Commission proposed initially.

142. The comparatively wide impairment range for Category 2 also serves its auction design goals by enabling the Commission to limit the total number of generic blocks categories to two, thereby simplifying the auction and providing bidders with more flexibility. Limiting the number of categories to two will enable bidders to more easily switch their demands from one category to another or from one PEA to another than if the clock phase included more, but more narrowly defined, categories, as AT&T suggests. Given the need to assure that the final stage rule remains satisfied once it is met, the procedures the Commission adopts herein will limit bidders' ability to reduce demand for blocks in a category unless there is excess demand in the category. With fewer categories for bidding, the likelihood that there will be excess demand in any one category is greater, giving bidders' greater flexibility to modify their bidding strategies. In addition, limiting the number of categories to two will simplify the auction interface and make the bidding process more manageable for forward auction bidders.

143. *Clock Phase Price Adjustment for Impaired Blocks.* To enhance the fungibility and offset the variation in value of the generic blocks within the two categories the Commission adopts, it incorporates a price adjustment to account for impairment for both Category 1 and Category 2 blocks. Specifically, for a given frequency-specific license, the final clock phase price in the assignment round will be discounted by one percent for each one percent of impairment to the license. The auction system will calculate the categories of generic licenses based on the percentage of the population impaired in each block as measured at the two-by-two kilometer cell level. For example, if a Category 1 block is ten percent impaired, it will be subject to a ten percent discount off the final clock phase price. The price adjustment will be applied at the end of the assignment phase of the forward auction. While several commenters argue that the impact of impairments on forward auction license value will not necessarily be linear, most commenters either support or do not oppose a price adjustment, and no commenter identifies an alternative that would be more effective in enhancing fungibility. Consistent with the Commission's reasoning for adopting its proposed price adjustment, it declines to adopt T-Mobile's proposal to offer different price adjustments for foreign-origin impairments. The value that bidders ascribe to each license is likely to vary based on a variety of factors in addition to the level of impairment, including the location of the impairments and the wireless operators' existing coverage area. The price adjustment the Commission adopts is designed to accommodate a range in values and enhance fungibility, and is not intended to fully compensate for that range or resolve all differences in value, however. Indeed, the price adjustment remains consistent for all bidders, allowing them to assess each license, its level of impairment (if any), and its relative value, which they can then express through their bidding in the assignment round.

144. The Commission also agree with T-Mobile that when the price adjustment is ''accompanied by more granular information about the impairments,'' it will provide ''enough commonality among [blocks] to allow for generic . . . bidding. By providing bidders with detailed information about impairments, including the impairing station, the auction system will enable bidders to assess whether they should bid on, and how much they should bid for, impaired licenses in a particular PEA. For example, if a bidder considers impairments in a particular block to be more detrimental to the value of the license than is accommodated by the discount, it can bid less or shift its preference to another block in the assignment round. This includes any valuation a bidder may have on either expanding its service footprint to currently unserved areas or acquiring more spectrum in its service area. The Commission notes that U.S. Cellular's assertion that ''areas subject to inter-service interference could be concentrated in the portions of the PEA that encompass a carrier's current service area, and thus have the greatest value to the carrier,'' assumes that all carriers will value spectrum in their existing service areas more than spectrum in areas they currently do not serve.

145. *Alternative Proposals.* The Commission declines to offer in the forward auction any spectrum blocks that are more than 50 percent impaired. Specifically, the Commission declines to offer such blocks as ''overlay'' licenses in the assignment phase in conjunction with frequency-adjacent licenses in the same PEA. The Commission finds that doing so would unduly complicate the assignment phase of the forward auction, making bidder strategies more difficult and potentially interfering with the assignment phase's primary purpose: To optimally assign licenses to winning bidders consistent with their frequency preferences and the contiguity goals the Commission adopts. Specifically, this approach would complicate the assignment phase priority of assigning contiguous blocks. Consistent with prior Commission actions with regard to licenses that remained unsold after an initial auction for a new spectrum band, the Commission could offer heavily impaired 600 MHz licenses in a subsequent auction.

146. The Commission rejects commenters' proposals that it offer only one category of generic blocks in the forward auction or a single category of wholly-unimpaired licenses outside of border areas. Although these commenters assert that their proposals would improve fungibility of the generic licenses, the Commission finds that the potential benefits in terms of increased fungibility would be outweighed by the harms to its other auction goals. Limiting available blocks to a single category of unimpaired or lightly impaired blocks, whether nationwide or outside of border areas, would limit the amount of spectrum available in the forward auction, potentially reducing auction revenues, complicating bidding for forward auction bidders, and undercutting its competitive goals. With staff simulations demonstrating that only a small portion of available licenses will be Category 2, and in light of the demonstrated interest in these moderately-impaired licenses, the Commission finds good reason to offer both types of licenses. Further, the Commission projects that its approach will result in the vast majority of licenses available in the forward auction being unimpaired or only minimally impaired. The Commission is persuaded that the categories it adopts strike the appropriate balance between ensuring fungibility and its other goals. Conversely, the Commission rejects CCA's suggestion that it offer a single category of generic blocks with a wider range of impairments because such an approach would fail to ensure the fungibility of generic blocks within the one category.

147. The Commission also rejects Sprint's proposal for bidding on frequency-specific spectrum blocks in the clock phase rather than generic blocks as inconsistent with the basic auction design the Commission established in the *Incentive Auction R&O.* In the *Incentive Auction R&O,* the Commission adopted an ascending clock mechanism to collect bids on generic categories, to be followed by a separate assignment mechanism to assign frequency-specific licenses. Because auction speed correlates to costs for both forward and reverse auction participants, the Commission found that bidding on generic blocks enhances the speed and efficiency of the auction because bidders will not need to bid iteratively across rounds on several similar blocks. Finally, the Commission declines to treat impairments in border regions differently. Under the approach the Commission adopts, bidders will know whether an impairing station in a PEA is domestic or foreign, and can adjust and prioritize their preferences accordingly.

b. Market-Based Spectrum Reserve

148. The Commission starts by addressing issues related to the market-based spectrum reserve adopted in the *Mobile Spectrum Holdings R&O.* First, the Commission denies a petition for reconsideration of the *Mobile Spectrum Holdings R&O* insofar as it seeks to change its determination that the spectrum reserve will be triggered when both components of the final stage rule are satisfied. The Commission addresses this specific T-Mobile reconsideration request here, rather than in the Mobile Spectrum Holdings proceeding along with the other reconsideration requests filed in that proceeding. Unlike the other requests in the Mobile Spectrum Holdings proceeding, T-Mobile's request that the Commission reconsider the spectrum reserve trigger is interrelated with arguments in this proceeding that the $1.25 benchmark that it adopts for the average price component of the final stage rule is not an appropriate benchmark for purposes of triggering the spectrum reserve. The Commission notes that T-Mobile's Petition for Reconsideration also requests that the Commission change the size of the maximum spectrum reserve at initial clearing targets, an issue that was raised in several of the comments in response to the *Auction 1000 Comment PN.* The Commission does not address this issue here. Rather, the Commission affirms in the Mobile Spectrum Holdings Order on Reconsideration that it will not increase the maximum amount of reserved spectrum. The Commission finds that this determination continues to further its underlying goals, particularly in light of its adoption herein of $1.25 as the average price component of the final stage rule. Second, the Commission affirms that the maximum spectrum reserve will be set based on the initial clearing target and will be reduced in a PEA in the transition to a new stage only if actual demand by reserve-eligible bidders in the prior stage does not reach the maximum. Third, the Commission clarifies the criteria determining whether an applicant will qualify to bid on reserved spectrum in a PEA.

149. Next, the Commission addresses implementation issues raised in the *Auction 1000 Comment PN.* In particular, the Commission adopts its proposals that, for a given PEA in which the Commission offers fewer Category 1 blocks than the nationwide clearing target, the maximum number of reserved spectrum blocks, will be based on the total number of Category 1 blocks and Category 2 blocks (if any) offered in that PEA. In addition, the spectrum reserve only will include Category 1 blocks, and the demand determining the actual amount of reserve at the time the spectrum reserve is triggered will be the demand by reserve-eligible bidders for Category 1 blocks. Further, the Commission adopts its proposal that the actual spectrum reserve in a PEA with only one reserve-eligible entity bidding on Category 1 blocks at the time the spectrum reserve is triggered will be no more than 20 megahertz. However, the Commission rejects commenters' proposals to adopt a cap of 20 megahertz on the amount of reserved spectrum that any reserve-eligible bidder may acquire in a PEA if there is more than one reserve eligible entity bidding at the time the reserve is triggered. Lastly, the Commission declines to adopt various other proposals offered by commenters in response to the *Auction 1000 Comment PN.*

(i) Background

150. In the *Mobile Spectrum Holdings R&O,* the Commission established a market-based spectrum reserve. The Commission first established the *maximum* amount of licensed spectrum that will be reserved in each PEA for reserve-eligible entities in the forward auction for different initial clearing targets. The Commission affirms these maximum amounts in the *Mobile Spectrum Holdings Order on Reconsideration.* The Commission notes that if the available amount of spectrum (Category 1 and Category 2 licenses) offered in a PEA at the initial stage is 30 megahertz or less, there will be no spectrum reserved in that PEA, as the maximum reserve chart in the *Mobile Spectrum Holdings R&O* did not provide for a spectrum reserve at those clearing levels.

151. If the auction does not close, the maximum amount of reserved spectrum in each PEA in subsequent stages will be the smaller of the maximum amount of reserved spectrum in the previous stage or the amount that the reserve-eligible bidders demanded at the end of the previous stage. For example, if the initial clearing target is 70 megahertz, the maximum reserve will be 30 megahertz in the next stage, provided that reserve-eligible bidders continue to demand that amount. If reserve-eligible bidders demand less than 30 megahertz at the end of the initial stage, the maximum reserve for the next stage will be that demand. The same rule holds for any subsequent stages as well. In addition, the Commission determined

that the *actual* amount of reserved spectrum will depend on the demand by reserve-eligible bidders when the final stage rule is satisfied. To be reserve-eligible, an entity must not hold an attributable interest in 45 megahertz or more of below-1–GHz spectrum in a PEA, or must be a non-nationwide provider. The Commission noted that it would revise the short-form application to provide for a certification by an applicant intending to bid on reserved spectrum that it meets the qualification criteria. If any entity plans to file a pre-auction divestiture application to come into compliance with the below-1–GHz holdings threshold, it will have to file in sufficient time to qualify by the short-form application deadline. Additional details regarding completing the short-form application will be provided in the *Application Procedures PN.*

152. In the *Auction 1000 Comment PN,* the Commission proposed that in a given PEA, the maximum number of reserved spectrum blocks would be based on the total number of Category 1 and Category 2 blocks offered in that PEA. Further, the Commission proposed that the spectrum reserve would include only Category 1 blocks. The Commission proposed that the actual number of reserved blocks would be based on demand for Category 1 blocks by reserve-eligible bidders at the time the auction reaches the spectrum reserve trigger. As a result, in the Commission's implementation, if demand for Category 1 blocks in a PEA by reserve-eligible bidders is less than the maximum reserved spectrum, then fewer reserved blocks would be available in that PEA. Alternatively, the Commission sought comment on whether it should include Category 2 blocks in the spectrum reserve in any PEAs with fewer Category 1 blocks than the maximum spectrum reserve. Further, the Commission proposed that the amount of reserved spectrum in any PEA be limited to 20 megahertz if there is only one reserve-eligible bidder demanding blocks when the trigger is reached.

(ii) Spectrum Reserve Trigger

153. The spectrum reserve is designed to provide the opportunity for multiple service providers to have access to low-band spectrum, while also ensuring that all bidders bear a fair share of the cost of the forward auction. To facilitate its underlying goals, the *Mobile Spectrum Holdings R&O* tied the *actual* amount of the spectrum reserve to the quantity demanded by reserve-eligible bidders in each PEA at the point the final stage rule is satisfied in the forward auction. The final stage rule is a reserve price with two components, both of which must be satisfied. The first component requires that the average price per MHz-pop for licenses in the forward auction meets or exceeds a specified price per MHz-pop benchmark (average price component). The second ''requires that the proceeds of the forward auction be sufficient to meet mandatory expenses set forth in the Spectrum Act and any Public Safety Trust Fund amounts needed in connection with FirstNet'' (cost component). The Commission rejects various requests that it either eliminate or modify the link between the spectrum reserve trigger and the final stage rule.

154. First, the Commission rejects T-Mobile's request, in its petition for reconsideration of the *Mobile Spectrum Holdings R&O,* that the Commission eliminate the link between the spectrum reserve trigger and the average price component of the final stage rule, as well as more recent requests by commenters to eliminate the link between the spectrum reserve trigger and the cost component of the final stage rule or eliminate the link to the final stage rule altogether. In particular, the Commission disagrees with arguments that linking the spectrum reserve trigger to one or the other component of the final stage rule undermines its goals in establishing the spectrum reserve. Rather, the Commission affirms that linking the spectrum reserve trigger to the average price component is important to ''fairly distribute the responsibility for satisfying the costs of the Incentive Auction among all bidders,'' particularly in light of its decision to set the average price component at $1.25. Moreover, linking the spectrum reserve trigger to the cost component ensures that the existence of the spectrum reserve will not reduce the amount of spectrum being cleared for mobile broadband use. The Commission found in the *Mobile Spectrum Holdings R&O* that satisfaction of both components of the final stage rule would ensure that reserve-eligible bidders pay significant prices for spectrum, that they are paying the same price as other bidders at the time that the final stage rule is met, and that the final stage rule is met before the spectrum reserve is implemented. In essence, the Commission concluded that linking the spectrum reserve with satisfaction of the final stage rule ensured that reserve-eligible bidders would be contributing ''a fair share'' of the final stage rule requirements, including ''a portion'' of the value of the spectrum for the public and the costs of clearing the spectrum.

155. The Commission also disagrees with T-Mobile, Sprint, and CCA that the link between the spectrum reserve trigger and one or both components of the final stage rule creates a significant risk of undesirable strategic bidding by non-reserve-eligible bidders. The Commission finds that the clock auction format of the forward auction, together with the auction procedures it adopts in the *Auction 1000 Bidding Procedures Public Notice,* place significant limitations on the possibility for such undesirable strategic bidding. First, those procedures will not allow bidders to switch demand away from a product except when there is excess demand for the product and its price is rising, thereby limiting the ability of non-reserve-eligible bidders to drive up prices prior to the spectrum reserve being triggered without incurring significant risk. Second, the efficacy of a strategy to drive up prices will be limited: For instance, since ''jump bidding'' cannot occur in a clock auction, bidders will be limited in their ability to strategically bid up particular markets relative to other markets. In an SMR auction, ''jump bidding'' occurs when an entity bids more than what is required or necessary to be a currently winning bidder. Jump bidding is not possible in a clock auction. Moreover, in a clock auction, prices increase at a steady rate as long as there is any excess demand; in an SMR auction, prices can increase more quickly the greater the extent of excess demand.

156. In addition, by limiting the use of extended rounds to situations where bidding has come close to meeting the final stage rule during the clock phase, the Commission limit the potential for bidders to successfully implement an undesirable strategic bidding strategy by taking advantage of a higher clock increment in the top 40 markets in an extended round. Further, in response to Sprint's contention that uncertainty about when the final stage rule will be met will cause reserve-eligible bidders to inefficiently maintain bidding activity across multiple PEAs and across bidding categories, the Commission notes that it will make publicly available during the auction on a round-by-round basis information showing how close forward auction revenues are to the final stage rule. This will enable reserve-eligible bidders to assess how their current bidding activity will affect the spectrum reserve in each PEA when the final stage rule is met. Accordingly, the Commission denies T-Mobile's petition for reconsideration insofar as it requests that the spectrum reserve trigger should not be linked to the

average price component of the final stage rule, and it rejects proposals by commenters to delink the spectrum reserve trigger from the cost component or both components of the final stage rule.

157. The Commission also rejects recent arguments that tying the spectrum reserve trigger to the cost component of the final stage rule increases the risk of foreclosure pricing. Commenters contend that, because the cost component must be satisfied before the reserve is triggered, high clearing costs under a high clearing target could allow non-reserve eligible bidders to intentionally increase prices to foreclosure levels in key markets in the early rounds of bidding, forcing reserve-eligible bidders to reduce demand prior to the split and thereby reducing the amount of reserved spectrum. Moreover, they argue, because the auction system does not reset prices if the auction drops to the next lower clearing target, the impact of any such foreclosure bidding would be carried forward to these later stages, even if clearing costs drop. To address these possibilities, T-Mobile proposes a ''safety valve'' of retaining the $1.25 price per MHz-pop trigger in the top 40 PEAs, but amending the other component of the trigger to be either (1) an average of $2 per MHz-pop in the top 40 PEAs; or (2) the cost component of the final stage rule, whichever is met first. Other parties propose a single spectrum reserve trigger of $2 per MHz-pop for the top 40 markets, either generally or limited to spectrum clearing targets of more than 84 megahertz. Verizon and AT&T oppose T-Mobile's ''safety valve'' proposal, arguing that triggering the reserve before the cost component is met will result in lower auction revenue and threaten the success of the auction.

158. The Commission affirms its decision to tie the spectrum reserve trigger to the cost component of the final stage rule as well as the average price component and decline to adopts T-Mobile's ''safety valve'' or another alternative trigger. The foreclosure scenarios that T-Mobile and other competitive carriers fear are extremely unlikely. The clock auction format, as well as the bidding procedures the Commission adopts, including the no-excess supply rule and the limitation on the use of an extended round, will limit the ability of certain bidders to strategically bid up prices in order to disadvantage others, and impose on any such bidders the risk of being forced to purchase unwanted spectrum at high prices. Further, T-Mobile's ''hangover effect'' scenario is premised on an assumption—that clearing costs will steeply decline in subsequent auction stages—that is not founded in the record. On the other hand, the Commission previously found that tying the spectrum reserve trigger to *both* components of the final stage rule—the cost component as well as the average price component—is necessary to ensure that the reserve does not cause a reduction in the spectrum clearing target and to ensure that reserve-eligible bidders contribute a fair share of the costs of meeting the auction's revenue requirements. The Commission is not persuaded that the benefits of tying the spectrum reserve trigger to both components of the final stage rule are outweighed by the risk of foreclosure that T-Mobile and others have identified. Untying the reserve trigger from the cost component also would place the onus on the Commission to accurately predict clearing costs—which is difficult to do, as T-Mobile has argued in its initial advocacy to untie the reserve trigger from the average price component of the final stage rule—rather than allowing the market to determine when the reserve is triggered. Accordingly, the Commission affirms its judgment to tie the spectrum reserve trigger to the cost component of the final stage rule. In so affirming, the Commission considered information that T-Mobile and Sprint filed in support of their arguments along with a request for confidential treatment. In light of the Commission's decision, it dismisses as moot Verizon's requests that the Commission strike this information from the record without consideration or, alternatively, reject the request for confidential treatment and make the information public, and the Commission declines to address the merits of Verizon's arguments in support of these requests.

159. The Commission emphasizes, however, that it takes very seriously its duty to ensure the integrity of its auctions. To this end, all auctions are monitored carefully, and appropriate actions will be taken if undesirable strategic behavior is discovered. The Commission also adopts additional measures to help it meet this objective. For instance, the Commission adopts a smaller minimum clock price increment than it proposed in the *Auction 1000 Comment PN* and authorizes clock price increments to be changed on a PEA-by-PEA basis. This allows a smaller increment to be used in specific PEAs should clock prices rise too fast in some markets relative to others. Its auction procedures typically provide for this tool, which has been available in past Commission auctions and implemented to maintain a balance of price increases across geographic license areas.

160. The Commission also rejects arguments against tying the spectrum reserve trigger to the average price benchmark of $1.25 in the top 40 PEAs proposed in the *Auction 1000 Comment PN*. T-Mobile contends that the benchmark price should be set as low as possible and no more than $1.25 in the top 25 PEAs, while Sprint proposes that the spectrum reserve be set at the beginning of the clock phase, subject to a condition subsequent of spectrum being de-reserved if reserve-eligible bidders do not, in aggregate, demand quantities equivalent to the supply. They argue that tying the spectrum reserve trigger to the average price benchmark of $1.25 in the top 40 PEAs will allow strategic bidding by the two largest providers to foreclose their major competitors, both on a nationwide and market-specific basis. CCA states that there should not be a price per MHz-pop reserve trigger; however, if the Commission chooses to move forward with a price per MHz-pop reserve trigger, then it should be set at no more than $1.25 per MHz-pop in the largest 40 PEAs, based on gross bids, which is what the Commission proposed in the *Auction 1000 Comment PN*. By contrast, AT&T and Verizon argue that $1.25 is too low a trigger, and will result in too much spectrum being allocated to the spectrum reserve and a windfall for reserve-eligible bidders. They contend that $1.25 is not an appropriate ''market price'' to ensure that reserve-eligible bidders pay their fair share, noting that this price is only approximately half of prices paid in the AWS–3 auction and significantly less than prices paid in the 700 MHz auction.

161. The Commission rejects the various arguments that the price benchmark should be increased or decreased for purposes of triggering the spectrum reserve. Contrary to arguments by AT&T and Verizon, ensuring that reserve-eligible bidders pay a ''fair share'' does not require that the Commission determine the ''true competitive market value of the 600 MHz spectrum'' and set the spectrum reserve trigger price ''as close as possible'' to that value, or that the Commission determine and set a price that represents the exact point at which foreclosure of reserve-eligible bidders could occur. The Commission previously concluded that satisfaction of both components of the final stage rule would ensure, among other things, that reserve-eligible bidders pay significant prices for spectrum, and that they are paying the same price as other bidders at the time that the final stage

rule is met. Consistent with that conclusion, the Commission affirms that tying the spectrum reserve trigger to satisfaction of the cost component of the final stage rule and an average price component of $1.25 is sufficient to achieve its goal of ensuring that reserve-eligible bidders bear a fair share of the costs of the forward auction.

162. Likewise, the Commission rejects arguments that $1.25 is too high to achieve its pro-competitive goals. The Commission is not persuaded that a fair distribution of the costs of the incentive auction would occur if the price for reserved spectrum is determined solely by competition among reserve-eligible bidders for reserved spectrum instead of being tied to satisfaction of the final stage rule. Moreover, the Commission is not convinced that its approach of tying the spectrum reserve trigger to the final stage rule creates a significant risk of undesirable strategic behavior by non-reserve-eligible bidders, including at the $1.25 average price component that it determine herein represents a portion of the value of the spectrum. In addition, the maximum amount of spectrum in the reserve is tied to bidders' demands in order to balance the underlying goals of the spectrum reserve. If reserve-eligible bidders' demand is insufficient, then the Commission finds that it is appropriate to set aside less than the maximum in order to balance the Commission's objectives. The Commission also rejects T-Mobile's alternate proposal to tie the spectrum reserve to a $1.25 benchmark across only the top 25 PEAs, rather than the top 40 PEAs.

(iii) Determination of Maximum Spectrum Reserve for a New Stage

163. As the Commission set out in the *Mobile Spectrum Holdings R&O,* the maximum amount of reserve established based on the initial spectrum clearing target will not be reduced in any later stages of the incentive auction based on lower clearing targets, although it will be subject to demand by reserve-eligible bidders. The Commission concluded in the *Mobile Spectrum Holdings R&O* that the maximum amount of licensed spectrum that will be reserved in each market will be identified at the initial stage. In the *Auction 1000 Comment PN,* the Commission reiterated that the maximum reserve will be set according to the initial clearing target.

164. Accordingly, AT&T's claim is incorrect that its prior decision established that the maximum spectrum reserve amount would be tied to the spectrum clearing target in each stage, not just the initial stage. The Commission finds that this procedure is consistent with its goals for the spectrum reserve: basing the maximum reserve amount on the initial spectrum clearing target will ensure the efficacy of the reserve and will protect its competitive goals by preventing the reserve from being reduced if the final stage rule is not satisfied in the initial stage and reserve-eligible bidders continue to demand the maximum level. By contrast, reducing the maximum reserve amount based on later clearing targets, regardless of demand by reserve-eligible bidders, would likely create incentives for non-reserve-eligible bidders to suppress demand at the initial stage in order to reduce the amount of the spectrum reserve.

165. Contrary to AT&T's assertions, this procedure is consistent with its observation that every bidder will have the opportunity to bid for and win at least half of the 600 MHz Band spectrum in each PEA. Generally, if non-reserve-eligible bidders bid actively on spectrum in the initial stage, the bidding either will meet the final stage rule, or due to insufficient demand by reserve-eligible bidders, the bidding will not meet the final stage rule (thus reducing the spectrum reserve for the next stage). In either case, the market-based spectrum reserve rule would not have prevented non-reserve-eligible bidders from winning at least half of the 600 MHz Band spectrum in each PEA.

(iv) Attribution for Purposes of Qualifying to Bid on Reserved Spectrum

166. For purposes of qualifying to bid on reserved spectrum as a non-nationwide provider, the Commission clarifies that an entity is subject to the attribution criteria set forth in 47 CFR 20.22(b). For example, all interests of ten percent or more by a nationwide provider in a non-nationwide provider will eliminate that non-nationwide provider from being considered reserve-eligible as a non-nationwide provider, though that provider still could qualify based on low-band holdings of less than 45 megahertz. An entity can qualify to bid on reserved spectrum by either: (1) Holding an attributable interest in less than 45 megahertz, on a population-weighted basis, of below-1–GHz spectrum in a given PEA; or (2) being a non-nationwide provider. Attributable holdings include, for example, controlling interests, non-controlling interests of 10 percent or more, and long-term *de facto* transfer leasing arrangements and long-term spectrum manager leasing arrangements that enable commercial use. In the *Mobile Spectrum Holdings R&O,* the Commission adopted criteria to attribute partial ownership and other interests in spectrum holdings for purposes of applying a mobile spectrum holding limit to the licensing of spectrum through competitive bidding (as well as applying the initial spectrum screen to secondary market transactions).

167. The *Mobile Spectrum Holdings R&O* stated that ''non-nationwide providers'' include any provider other than Verizon Wireless, AT&T, Sprint, and T-Mobile, but that Order also included attribution rules ''for purposes of . . . applying a mobile spectrum holding limit'' in the auction. Those attribution rules were intended to ensure the integrity of its underlying rule, by permitting eligibility for the reserved spectrum only when appropriate to enhance competitive choices beyond nationwide providers and when eligibility would present a lesser risk of anti-competitive behaviors due to ''relative lack of resources.'' Accordingly, the Commission clarifies that the attribution criteria set forth in 47 CFR 20.22 govern the application of all aspects of the mobile spectrum holding limit in the incentive auction, regardless of whether an entity is attempting to qualify to bid on the spectrum reserve as a holder of less than 45 megahertz of low-band spectrum in the relevant market or as a non-nationwide provider.

168. CCA has expressed concern about the potential impact that attribution of long-term leases of spectrum from nationwide providers to otherwise non-nationwide providers may have on the eligibility of those non-nationwide providers to bid on reserve spectrum. To address this concern, although the Commission will attribute long-term transfer leasing arrangements set forth in 47 CFR 20.22(b)(vii) for purposes of qualification based on low-band spectrum holdings, the Commission will not attribute such leasing arrangements to lessees and sublessees for purposes of qualifying as a non-nationwide provider. Attributing long-term leasing arrangements in individual PEAs for purpose of qualification based on low-band spectrum holdings is consistent with the Commission's intent that entities lacking significant low band spectrum resources in those PEAs should have an opportunity to bid on reserved spectrum, and such attribution is consistent with the Commission's methodology for competitive review of spectrum acquisition. However, attributing long-term leasing arrangements to lessees from nationwide providers for purposes of qualifying as a non-nationwide provider—which would have the effect of disqualifying providers ''with

networks that are limited to regional and local areas'' from bidding on reserved spectrum as a non-nationwide provider—would be inconsistent with its intent to ''permit bidding on 600 MHz reserve spectrum by regional and local service providers in all PEAs, including those where such a provider holds more spectrum than its 45 megahertz holding threshold of the available low-band spectrum.'' As the Commission indicated in the *Mobile Spectrum Holdings R&O,* non-nationwide service providers enhance competitive choices for consumers in the mobile wireless marketplace, and help promote deployment in rural areas.

169. CCA has similarly expressed concern that it would be inconsistent with the intent of the reserve, in certain unique circumstances involving limited equity interests, to apply an attribution rule that would prevent non-nationwide providers from bidding for reserved spectrum or participating in the auction entirely. CCA notes as examples various insignificant passive equity interests that nationwide providers have in certain long-standing rural partnerships and argues that the FCC should consider certain limiting factors so as not to foreclose those partnerships from bidding on reserve spectrum. The Commission agrees. In particular, where the nationwide provider is not the managing partner of the rural partnership, has not and will not provide funding for the purchase of the licenses in spectrum auctions by the rural partnership, including the incentive auction, the rural partnership is of long standing, the nationwide provider's interest in the rural partnership is non-controlling and is less than 33 percent, and the partnership's retail service is not branded under the name of the nationwide provider, non-attribution may enhance competitive choices for consumers by giving the partnerships an opportunity to gain access to low-band spectrum through the spectrum reserve, and without creating an undue risk of anti-competitive behaviors due to the rural partnership's relative lack of resources. The Commission will specify in the *Application Procedures PN* how such rural partnerships can secure status as non-nationwide providers for purposes of qualifying to bid on the spectrum reserve.

(v) Applying the Spectrum Reserve in PEAs With Category 1 and Category 2 Blocks

170. The Commission adopts its proposal that, for a given PEA in which the Commission offers fewer Category 1 blocks than the nationwide clearing target, the maximum number of reserved blocks will be determined by the total number of Category 1 blocks and Category 2 blocks (if any) offered in that PEA. This approach will help facilitate the availability of more reserved spectrum in the limited number of PEAs in which the Commission offers fewer Category 1 blocks than the nationwide clearing target, relative to an approach based solely on Category 1 blocks. The Commission notes that in a limited number of PEAs, it will offer fewer licenses (either Category 1 or Category 2) than the nationwide clearing target because blocks with greater than 50 percent impairment will not be made available for acquisition. In these instances, the Commission's balancing of goals to facilitate post-auction competition and to provide opportunities for all bidders to acquire 600 MHz spectrum does not support setting the maximum spectrum reserve based on the nationwide clearing target, rather than based on the total number of Category 1 and Category 2 licenses. Thus, if there are 50 megahertz of Category 1 blocks and 10 megahertz of Category 2 blocks made available in a PEA at the initial stage, the available amount of spectrum offered in that PEA will be 60 megahertz, with a corresponding maximum reserve of 20 megahertz. That, in turn, will promote its competitive goals for the reserve by providing an opportunity for reserve-eligible bidders, who likely will be more reliant than non-reserve eligible bidders in particular PEAs on 600 MHz Band spectrum, to utilize the market-based reserve to expand coverage and enter new geographic areas. As the Commission has noted, this auction will be the last offering of a significant amount of nationwide ''greenfield'' low-band spectrum for the foreseeable future and access to this spectrum by smaller bidders is particularly important to increasing competition and choice in the wireless marketplace. If a particular stage of the auction is not the final stage, the maximum amount of reserved spectrum in each PEA in subsequent stages will be the smaller of the maximum amount of reserved spectrum in the previous stage or the amount that the reserve-eligible bidders demanded at the end of the previous stage. Similarly, the Commission notes here that, in PEAs in which it offers fewer Category 1 blocks than the nationwide clearing target, the maximum amount of reserve established in the initial stage in a PEA will not be reduced in any subsequent stages of the incentive auction so long as there are a sufficient number of Category 1 blocks being offered in that PEA that are demanded by reserve-eligible bidders. For example, if there are 50 megahertz of Category 1 blocks and 10 megahertz of Category 2 blocks made available in a PEA at the initial stage, with a maximum reserve of 20 megahertz, the maximum reserve will remain 20 megahertz at each subsequent stage, provided that 20 megahertz of Category 1 blocks continue to be offered in that stage and reserve-eligible bidders demanded that amount in the prior stage.

171. In addition, the Commission adopts its proposal that the spectrum reserve will include only Category 1 blocks. That is, in the limited number of PEAs in which there are both Category 1 and Category 2 blocks, Category 1 blocks will be allocated to the spectrum reserve up to the maximum number of reserved spectrum blocks, assuming that reserve-eligible bidders demand up to that maximum. The Commission notes that any remaining Category 1 blocks, as well as all Category 2 blocks, will be unreserved, and both reserve-eligible and non-reserve-eligible bidders will be able to bid on these blocks. This also will help ensure the efficacy of the pro-competitive policies that the Commission adopted in the *Mobile Spectrum Holdings R&O* by ensuring that reserve-eligible bidders, who by definition currently hold little or no low-band spectrum, have access through the spectrum reserve to unimpaired or minimally-impaired spectrum blocks in areas with impairments. Limiting the spectrum reserve to Category 1 blocks also will simplify the forward auction for bidders by limiting the number of license categories that must be ''split'' at the time the spectrum reserve is triggered.

172. The Commission declines to adopt AT&T's alternative proposal to fill the reserve first with Category 2 blocks in the PEA, followed by any Category 1 blocks necessary to meet the reserve allocation. AT&T and Verizon assert that the approach the Commission adopts will undermine its incentive auction goals by preventing them from acquiring the spectrum they need to effectively serve their customers, and will result in lower spectrum clearing targets and auction revenues. The Commission disagrees. First, the Commission notes that AT&T and Verizon themselves are eligible to acquire reserved 600 MHz spectrum in those PEAs where they have the most need, that is, in those PEAs where they hold less than one-third of currently suitable and available low-band spectrum. Indeed, AT&T and Verizon will be eligible to bid on reserved spectrum in PEAs that cover

approximately 40 percent of the total population of the United States. And, of course, they can bid on substantial amounts of non-reserved spectrum nationwide.

173. According to the simulations conducted by staff, approximately 84 to 88 percent of PEAs (and 88 to 93 percent of high-demand PEAs) will contain only Category 1 blocks, and even in PEAs with Category 2 blocks the vast majority of blocks offered in the forward auction will fall into Category 1. And the record reflects that Category 2 blocks are of substantial value and will provide utility to wireless service providers for future advanced broadband deployment. Accordingly, the Commission is not persuaded that the approach it adopts to implementing the spectrum reserve will have a significant impact on either the amount of spectrum that is repurposed through the auction or on auction revenues. Moreover, as stated above, in the limited number of areas with Category 2 blocks for sale, its approach is critical to realizing the pro-competitive goals of the *Mobile Spectrum Holdings R&O* by ensuring that service providers that lack a sufficient mix of low-band and high-band spectrum to compete robustly have the opportunity to gain access to low-band spectrum.

174. Likewise, the Commission rejects Mobile Future's argument that its approach will harm consumers by ''skew[ing]'' access to 600 MHz Band spectrum. Rather, its approach will benefit consumers by promoting competition and reducing the potential for competitive harm. Contrary to Mobile Future's suggestion, its decisions to allocate Category 1 blocks to the reserve up to the maximum number (subject to demand by reserve-eligible bidders), while counting both Category 1 and Category 2 blocks towards the maximum number, are not inconsistent. The two decisions involve separate issues. The Commission first needs to decide how much licensed spectrum is in the maximum spectrum reserve. In the *Mobile Spectrum Holdings R&O,* the Commission determined that the maximum spectrum reserve is to be based on the ''Licensed Spectrum in the Initial Clearing Target.'' Its decision here implements that determination: Both Category 1 and Category 2 licenses are going to be auctioned and are included in the initial clearing target. And placing only Category 1 blocks in the reserve makes sense to provide reserve-eligible bidders with the best opportunity to increase competition and choice in the wireless marketplace.

175. The Commission also rejects AT&T's claim that its approach to implementing the spectrum reserve in PEAs with impairments violates the Spectrum Act as an auction-specific restriction that would dramatically increase the barriers to AT&T's ''participation'' in this ''system of competitive bidding.'' AT&T has not demonstrated that its approach, which will apply in a limited number of markets and is necessary to carry out its goals in establishing the spectrum reserve, undermines its reasoning in the *Mobile Spectrum Holdings R&O* that the reservation of spectrum in the incentive auction is fully consistent with its authority under Title III and the Spectrum Act. More specifically, AT&T has not demonstrated that its approach transforms an otherwise permissible application of the spectrum reserve into an approach that is no longer a rule of ''general applicability'' or a provision that would ''prevent'' any entity ''from participating'' in a ''system of competitive bidding.''

176. The Commission also rejects proposals from prospective reserve-eligible bidders to reserve the least impaired Category 2 blocks in any PEAs with fewer Category 1 blocks than the maximum spectrum reserve. As the Commission explained in the *Auction 1000 Comment PN,* to implement separate reserved categories for both Category 1 and Category 2 blocks in individual PEAs where they exist would significantly complicate the design of the auction by necessitating an additional bidding category, potentially extending the length of the auction and requiring additional procedures for dividing bidder demands at the time the spectrum reserve is triggered. Reserving only Category 1 blocks will simplify the auction design and promote its goal of a successful auction. Indeed, T-Mobile recognizes that dividing both Category 1 and Category 2 blocks into reserved and unreserved categories would create significant complications of managing four simultaneous auction clocks—two in the reserved and two in the non-reserved blocks—across the large number of licenses expected to be offered in the incentive auction. The Commission also concludes that filling out the reserve with Category 2 blocks would create an imbalance between its pro-competitive goals and ensuring that all bidders, including non-reserve-eligible bidders, have an opportunity to acquire a significant amount of 600 MHz Band spectrum in the incentive auction.

177. Finally, the Commission adopts its proposal that the actual number of reserved blocks will be based on demand for Category 1 blocks by reserve-eligible bidders at the time the forward auction reaches the spectrum reserve trigger, *i.e.,* when the final stage rule is satisfied. The Commission rejects arguments that the actual number should be based on reserve-eligible bidders' demand for Category 1 and Category 2 blocks. Given its decision to limit reserve blocks to Category 1 blocks, the most logical measure for determining demand at the reserve trigger are the Category 1 blocks.

(vi) Other Proposals Related to Bidding by Reserve-Eligible Entities

178. As the Commission indicated in the *Mobile Spectrum Holdings R&O,* and after opportunity for comment in the *Auction 1000 Comment PN,* in order to balance the needs of all bidders and to promote competition within the forward auction, the Commission adopts its proposal to limit the maximum amount of reserved spectrum in a PEA to 20 megahertz if there is only one reserve-eligible bidder demanding Category 1 blocks when the spectrum reserve trigger is reached. The Commission notes that DISH supports this proposal; no commenter has opposed it. The Commission does not believe the public interest benefits of a maximum of 30 megahertz of reserved spectrum would be realized without more than one reserve-eligible bidder in a PEA.

179. CCA, T-Mobile, and U.S. Cellular argue that, regardless of the number of reserve-eligible bidders in a PEA, no reserve-eligible bidder should be permitted to purchase more than 20 megahertz of reserved spectrum in any PEA in order to protect license diversity among reserve-eligible bidders. The Commission finds that giving more than one reserve-eligible bidder an opportunity to acquire reserve spectrum in smaller, more rural PEAs where 30 megahertz of reserve spectrum is available will further its goal of facilitating post-auction competition in those areas. Competition in these areas is generally less robust than in larger, more urban areas. As the Commission has observed, ''92 percent of non-rural consumers, but only 37 percent of rural consumers are covered by at least four 3G or 4G mobile wireless providers' networks and more than 1.3 million people in rural areas have no mobile broadband access.'' The Commission has frequently stressed the importance of competition and consumer choice in rural as well as in urban areas. The policies in the *Mobile Spectrum Holdings R&O* were intended to ''ensure that all Americans, regardless of whether they live in an urban, suburban, or rural area, can enjoy the benefits that competition provides.'' The Commission found there that regional

and local service providers enhance competitive choices for consumers in the mobile wireless marketplace, and are ''important sources of competition in rural areas, where multiple nationwide service providers may have less incentive to offer high quality services.'' Accordingly, the Commission adopts a cap of 20 megahertz for smaller PEAs where 30 megahertz of reserve spectrum is available. The Commission defines smaller PEAs as those with a population of 500,000 or less, which corresponds to PEAs 118–416, excluding PEA 412 (Puerto Rico). The population density of PEAs with population of 500,000 or less correlates more closely with that of rural areas as previously defined by the Commission. The average population density of PEAs with a population greater than 500,000 is 333 pops/square mile, whereas the average population density for the smaller PEAs is 76 pops/square mile. The Commission observes that 76 pops/square mile roughly corresponds with the 100 pops/square mile approach it takes in defining rural areas. Geographic area and population data can be found on the Commission's Web site. In addition, the Commission notes that this threshold provides an objective and easily administrable delineation between larger urban and smaller rural PEAs and one that provides consistency with the definition it already will be applying in this auction for other purposes. This threshold also identifies ''where rural service providers are most likely to offer service''. By adopting the cap of 20 megahertz on reserve spectrum in the smaller PEAs, the Commission promotes the dissemination of licenses among a wide variety of applicants, and avoid the excessive concentration of licenses. In addition, the cap prevents any single reserve-eligible bidder from foreclosing other reserve-eligible bidders from obtaining reserve spectrum in the significant number of smaller PEAs where this is a potential risk. Thus, the Commission finds that the cap of 20 megahertz on reserve spectrum will help ensure that multiple service providers have access to low-band spectrum, and promote ''the rapid deployment of new wireless broadband technologies to all Americans, including those residing in rural areas.''

180. In response to concerns raised by AT&T and DISH that adopting a cap could decrease competition in the bidding for reserved spectrum, the Commission first notes that it is adopting a cap of 20 megahertz in the smaller PEAs only, and thus, to the extent those concerns are valid, there will be no decrease in competition in the bidding for reserved spectrum in the larger, more urban PEAs. The Commission finds that in smaller PEAs, any such concerns are outweighed by the benefits to post-auction competition of facilitating access by multiple bidders to reserved spectrum. In balancing the competing factors identified in Section 309(j), the Commission believes it is important to take account of concerns about the degree of competitive mobile voice and broadband service in rural areas, as well as the important contributions that rural service providers can offer in promoting such competitive service and incentives for increased deployment in these more rural areas. In addition, the Commission disagrees with DISH's assertion that restricting reserve-eligible bidders to acquiring a maximum of 20 megahertz of spectrum within a single PEA could unnecessarily limit the network and business strategies of reserve-eligible participants. While the Commission caps the amount of reserved spectrum that any entity can acquire in order to extend the benefits of the reserve to multiple providers in smaller PEAs, a reserve-eligible bidder has an opportunity to acquire more than 20 megahertz of 600 MHz spectrum by bidding on unreserved licenses. Accordingly, the Commission adopts a 20 megahertz cap in the smaller PEAs nationwide on the amount of reserved spectrum that an individual bidder can win in the forward auction in those PEAs where the spectrum reserve is set at 30 megahertz when the final stage rule is satisfied.

181. The Commission also declines to adopt U.S. Cellular's proposal of a special round after the spectrum reserve trigger is met that would provide reserve-eligible bidders prior notice and the opportunity to shift their demand for reserved blocks to compensate for any difference between actual demand on the maximum spectrum reserve. U.S. Cellular has not demonstrated how this special round could be implemented without undercutting its auction design goals by adding undue complexity and reducing the speed of the auction. In addition, the Commission is making significantly more information available to forward auction bidders, including information indicating how close forward auction revenues are to satisfying the final stage rule.

182. Finally, the Commission rejects AT&T's contention that a change to its bidding procedures is necessary to avoid strategic behavior by reserve-eligible bidders. In particular, AT&T contends that, once the spectrum reserve is triggered, reserve-eligible bidders' demand for spectrum in a given PEA should be assigned to the lowest-price spectrum available between the reserved and unreserved categories. The Commission disagrees with AT&T's assertion that implementation of this proposed change is necessary to avoid an opportunity for manipulative bidding by reserve-eligible bidders because those bidders could bid for unreserved blocks instead of reserved blocks even when the reserved price is lower. In rejecting claims by certain bidders that AT&T could engage in strategic bidding behavior, the Commission adopts procedures that will not allow bidders to switch demand away from a category in a PEA except when there is excess demand and the price is rising. These procedures limit the ability of reserve-eligible bidders to shift from reserved to unreserved blocks in a given PEA and thereby narrow the circumstances under which the bidding strategies suggested by AT&T would be possible. They also discourage these strategies by limiting the ability of a reserve-eligible bidder to return to reserved blocks without driving up the prices of those blocks. Moreover, AT&T's approach could reduce competition for non-reserved spectrum by reserve-eligible bidders, contrary to its goal of encouraging competitive bidding for non-reserved blocks as well as reserved blocks. The Commission is not persuaded that additional safeguards are necessary to prevent strategic behavior by reserve-eligible bidders once the spectrum reserve is triggered.

3. Acceptable Bid Amounts

a. Opening Bids

183. The Commission will set minimum opening bids at $5,000 per bidding unit for all spectrum blocks offered in the forward auction, regardless of category. At the beginning of the clock phase of the forward auction in the initial stage, a bidder will indicate how many blocks in a generic license category in a PEA it demands at the minimum opening bid price. The *Application Procedures PN* will set forth the minimum opening bid amount for the 5+5 megahertz generic blocks for each PEA in the forward auction, calculated according to these procedures.

184. The Commission finds there is no need to discount minimum opening bids for blocks in Category 2. Because its minimum opening bids serve primarily as a starting point for bidding, not as estimates of final prices, there is no need to base them upon the extent to which a spectrum block may be impaired (*i.e.,* which category a block

falls into—Category 1 or 2). Further, winning bidders will receive an impairment-based discount off the final clock phase price for licenses that are subject to impairments, regardless of whether they are Category 1 or Category 2 licenses.

185. A minimum opening bid amount of $5,000 per bidding unit should, as intended, help to accelerate the competitive bidding process. Basing minimum opening prices on the number of bidding units associated with blocks in a particular PEA serves to incorporate past pricing information into the calculation of minimum opening prices. By setting higher minimum opening prices in markets that have historically commanded relatively higher prices, the Commission expects to reduce the number of rounds it will take for demand to equal supply in those markets. Moreover, incorporating the results from Auction 97 will ensure that minimum opening prices reflect relative value differences that bidders have placed on different geographic areas most recently. Its experience in past spectrum license auctions indicates that this will be an effective tool for accelerating the competitive bidding process, a particularly important goal for the incentive auction given the interdependency between the reverse and forward auctions.

186. Its approach is consistent with Section 309(j) of the Communications Act, as amended, which calls for prescribed methods of establishing minimum opening bid amounts when FCC licenses are subject to auction, unless the Commission determines that a minimum opening bid amount is not in the public interest. This approach is also consistent with the precedent of its AWS–3 auction procedures, where the Commission set the minimum opening bid amount at twice the upfront payment for each license.

b. Clock Increments

187. The Commission adopts its proposal to set clock prices for a subsequent bidding round by adding a fixed percentage to the previous round's price, but modify the range to be broader than the range of five to 15 percent the Commission proposed. The Commission will use an increment of between one percent and 15 percent to provide additional flexibility to offer appropriate prices to bidders. Further, the Commission sets the initial increment at five percent. This initial increment is consistent with AT&T's suggestion to use increments at the bottom of the proposed increment range. While the Commission anticipates applying the same percentage increment to all categories in all PEAs, increments may be changed during the auction on a PEA-by-PEA or category-by-category basis as stages and rounds continue. This discretion provides a tool to ensure that price increases over a broad range of markets remain relatively balanced. The Commission finds that setting the increment in a round in the range of one to 15 percent, beginning with five percent, will allow the auction system to manage the auction at a reasonable pace, offering appropriate price choices to bidders.

188. After each round, the system will announce a clock price for the next round, which will be the highest price to which a bidder can respond during the round. In this clock auction, a bidder will be required to confirm its demands in every round, although it will not need to bid at a higher price. Unlike in an SMR auction, there are no provisional winners in the forward auction. For each category in each PEA, the clock price will be higher than the previous round's price by the fixed percentage increment. For example, if the price for the first round is $10, and the price increment is 20 percent, the clock price for second round will be $12. As long as total demand for blocks in a category exceeds the supply of blocks, the percentage increment will be added to the clock price from the prior round. If demand drops to equal supply in a round, then the clock price for the next round will be set by adding the percentage increment to the price (potentially an intra-round bid price) at which demand became equal to supply. If demand is equal to or less than supply at the minimum opening price, the increment will be added to the minimum opening price. Further, if at the beginning of a round supply exceeds demand and during the round demand increases to equal supply, then the increment will be added to the beginning of round price, which may be the minimum opening price.

c. Intra-Round Bids

189. The Commission adopts its proposed procedures to permit a bidder to make intra-round bids by indicating a point between the previous round's price and the new clock price at which its demand for blocks in a category changes. The previous round's price may be the clock price for the previous round or, if there was not excess demand, the minimum opening bid or the price at which demand equaled supply. In placing an intra-round bid, a bidder will indicate a specific price, and a quantity of blocks it demands if the price for blocks in the category should increase beyond that price. The auction system will not permit a bidder to place inconsistent bids for blocks in a category in a PEA during a round. For example, a bidder cannot indicate that it wishes to decrease its demand at a low intra-round price and then, in the same round, indicate that it wishes to increase its demand for blocks in the same category in a PEA at a higher intra-round price.

190. Intra-round bids will be optional; a bidder may choose to express its demands only at the clock prices. The decision to permit intra-round bidding will allow the auction system to use relatively large clock increments, thereby speeding the forward auction, without running the risk that a jump in the clock price will overshoot the market clearing price—the point at which demand for blocks equals the available supply. The more complicated bid processing in the reverse auction, involving multiple bidding options and feasibility checking, means that allowing intra-round bidding would unduly slow the progress of the reverse auction, as well as making participation more complicated for reverse auction bidders.

4. Reducing Demand, Bid Types, and Bid Processing

191. A forward auction participant will bid by indicating a quantity of blocks in a PEA it demands at a price, indicating that it is willing to pay that price for the specified quantity. A bidder cannot demand more blocks in a category than the supply of available blocks. A bidder can express its demands at the clock price or at an intra-round price, and bid quantities can represent an increase or a decrease over the bidder's previous demands for blocks in a category. Under the procedures the Commission adopts, the auction system will treat bids as requests; the bid processing procedures it adopts, however, will ensure that a bidder will never win a block at a price higher than it indicates it is willing to pay. Bids generally must be consistent with rules on bidding eligibility. Accordingly, bids to increase demand will be applied subject to the bidder having sufficient bidding eligibility as measured by the number of bidding units associated with the blocks a bidder demands. If a bid would reduce the quantity of blocks a bidder demands in a category in a PEA, the auction system will apply the reduction only if the reduction will not result in aggregate demand falling below the available supply of licenses. This restriction ensures that the final stage rule, once met, will continue to be satisfied. Absent such a restriction, blocks with

bids that were counted toward meeting the reserve price could later become unsold, leaving revenue below the necessary minimum. For this reason, and because the Commission agrees with T-Mobile that the restriction provides ''a meaningful safeguard against anticompetitive or predatory auction behavior,'' the Commission finds that the benefits of the restriction outweigh concerns, expressed by AT&T, about a potential exposure risk to bidders. Moreover, the Commission agrees with T-Mobile that AT&T overstates the significance of an exposure problem. Further in this regard, the Commission declines AT&T's recommendation to allow bidders a limited number of withdrawals to mitigate an exposure problem.

192. The Commission also adopts its proposal to process bids in order of price point after a round ends, where the price point represents the percentage of the bidding interval for the round. For example, if the price for the previous round is $5,000 and the new clock price is $6,000, a price of $5,100 will correspond to the 10 percent price point, since it is 10 percent of the bidding interval between $5,000 and $6,000. Considering bids in increasing order of price point allows the auction system to determine an ascending processing order when prices in different PEAs may be at very different absolute levels. Once a round ends, the auction system will process bids in ascending order of price point, considering first intra-round bids in order of price point and then bids at the clock price. The system will consider bids at the lowest price point for all categories in all PEAs, then look at bids at the next price point in all areas, and so on. Importantly, for a given category in a given PEA, the uniform price for all of the blocks in the category will stop increasing when aggregate demand no longer exceeds the available supply. If no further bids are placed, the final clock phase price for the category will be the stopped price.

193. In order to give bidders more flexibility in managing their demands in certain situations, the Commission adopts its proposal to allow bidders to make two additional types of bids in addition to the ''simple'' bids mentioned below: ''all-or-nothing'' bids and ''switch'' bids. These additional bid types will enable bidders to indicate that they want a bid to be implemented fully or not at all or that they wish to switch demand from one license category to another at a certain price. In a given round, a bidder may place at most one of the three bid types for a given category in a PEA. Because all-or-nothing and switch bids are optional, a bidder can choose not to submit such bids. The Commission finds that the bid types and associated processing procedures it adopts will provide bidders with the flexibility they need to modify their demands as the bidding progresses while ensuring that the reserve price conditions, once satisfied, will continue to be satisfied.

a. Simple Bids

194. A simple bid indicates a desired quantity of a product at a price. If it is not possible for the auction system to apply the simple bid in its entirety, a simple bid may be applied partially. A simple bid requesting a reduction in demand will be applied in full if there is sufficient excess demand for blocks in the category. That is, the auction system will apply the reduction provided that there is sufficient aggregate demand at the bid price to allow the reduction to be applied without the total demands of all bidders falling below available supply in the category. If there is some excess demand, but not enough to grant the full requested reduction, the auction system will partially apply the reduction, thereby reducing the bidder's demand by fewer than the requested number of blocks. A simple bid requesting an increase in demand will be applied in full as long as the bidder has sufficient bidding eligibility, measured by the total number of bidding units associated with the blocks the bidder demands in that round, at the time the bid is processed. If the bidder does not have sufficient eligibility, the auction system will apply the increase to the extent possible given the bidder's available bidding eligibility.

195. Formally, to the auction system, a simple bid to reduce demand at an intra-round price indicates that a bidder is willing to pay up to the intra-round bid price for a quantity of blocks that is unchanged from its previously demanded quantity. At the intra-round bid price, the bidder is willing to accept the unchanged quantity, the changed quantity, or any quantity in-between. At a price above the intra-round bid up to the clock price for the round, the bidder is willing to accept the changed quantity indicated by the intra-round bid.

196. Because the auction system will process bids in increasing order of price point and the uniform price for blocks in a category stops increasing when demand falls to equal supply, a bidder placing a simple bid for a reduction that is partially applied will not pay a price above its bid price for its unreduced quantity. If a requested reduction cannot be applied at all, it must be the case that demand fell to equal supply at a previous, lower price. Alternatively, demand could fall to equal supply at the same price point, in the case of ties, which are broken pseudo-randomly. Further, in the case where fewer blocks are demanded than are available at the minimum opening bid price, the price will remain at the minimum opening bid. In that case, the bidder that placed the simple bid will still demand its unreduced quantity at a price it indicated it would accept. In sum, a simple bid requesting a reduction will either be fully applied, partially applied with the price stopping at the bid price, or not applied but with the stopped price below the bid price.

197. In the event that a bid is not applied, or not fully applied, the auction system will maintain the unapplied demands in a queue, prioritized by price point, should subsequent changes in aggregate demand or a bidder's eligibility later make it possible to apply the bid. Bids are only held in the queue during the processing of bids for a single round. For example, if a bidder's reduction request is only partially applied because aggregate demand is insufficient, but another bidder requests an increase in demand at a higher price point, it may then be possible to fully apply the bid reduction request that was only partially applied earlier in the bid processing for the round and held in the queue. And if a bidder's request to increase demand is not applied or not fully applied because the bidder has insufficient bidding eligibility at that price point, and its request to reduce demand in another category is later applied at a higher price point, freeing bidding eligibility, the system may then be able to fully apply the increase.

b. All-or-Nothing Bids

198. An all-or-nothing bid also indicates a desired quantity of blocks at a price but differs from a simple bid in that it will not be applied partially. Hence, an all-or-nothing bid is useful if the bidder wants the bid to be implemented fully or not at all. An all-or-nothing bid requesting a reduction in demand will be applied only if there is sufficient excess demand at that price point to apply the full reduction. If not, the auction system will not apply the bid, and will move on to consider bids at higher price points. The uniform price for the category may continue to increase as long as there is excess demand. The bidder will still demand its unreduced quantity, at a price which may increase up to the round's clock price. This is in contrast to a simple bid that may be partially applied, and

which, hence, stops the price from increasing if it cannot be fully applied. Thus, in making an all-or-nothing bid that requests a reduction, the bidder affirmatively indicates that it will accept the round's clock price for its unreduced demand if the bid cannot be fully applied at the bid price.

199. A bidder making an all-or-nothing bid that requests a reduction may add a ''backstop'' to the bid that would allow the bid to be applied partially at a higher price, as long as the bidder makes only a single all-or-nothing bid for the category in the PEA in the round. The auction system will allow a backstop bid only if a bidder submits a single all-or-nothing bid for the category because bid processing could become excessively complex if bidders submit multiple all-or-nothing bids with backstops. The backstop will ensure that the price for the category cannot go higher than the specified higher price if the all-or-nothing bid is not applied. The backstop is essentially a simple bid that may be applied partially, thereby stopping the price from increasing further.

200. An all-or-nothing bid that requests an increase in demand will be applied only if the bidder has sufficient bidding eligibility for the full increase at the price point of the bid. If an all-or-nothing bid requesting an increase or decrease in demand is not applied, it will be held in the processing queue in case it should later become possible to apply it.

c. Switch Bids

201. To place a switch bid, the bidder will indicate a desired quantity of blocks in the category in which it wishes to reduce its demand at a given price point, and will identify another category in the same PEA that it wishes to switch into at the price point. While processing the bid, the auction system will apply as much of the requested reduction as possible considering excess demand, and then will apply an increase in the bidder's demand in the other category by the same number of blocks. Because all blocks in a PEA, regardless of category, will have the same number of associated bidding units, the eligibility freed up by the reduction portion of a switch bid will always cover the corresponding increase in demand. The unapplied portion of a switch bid will be held in the processing queue in case it can be applied later in the round's bid processing.

5. No Bidding Aggregation

202. The Commission will not incorporate package bidding procedures into the forward auction because of the additional complexity such procedures would introduce into the auction. Further, consistent with its proposal in the *Auction 1000 Comment PN,* the Commission declines to adopt an alternative to package bidding under which it would create an aggregation of the largest PEAs in advance of the auction. The Commission is not persuaded that creating a bidding aggregation will serve its goal of encouraging entry by a broad range of potential wireless service providers. In particular, several commenters share its concern that the alternative aggregation approach the Commission sought comment on would discourage small or regional entities with an interest in only a subset of the PEAs in the aggregation from participating in the forward auction. Further, larger carriers may have interests in only some of the largest PEAs, or may wish to acquire a different number of licenses in different large PEAs, thus making an FCC defined bidding aggregation undesirable for them, also. Therefore, the Commission declines to adopt a bidding aggregation and will instead permit bidders to bid for blocks in any or all of the individual PEAs.

6. Bidding Eligibility and Activity Rule

203. In order to ensure that the auction moves quickly and to promote a sound price discovery process, bidders will be required to maintain a minimum, high level of activity in each round of the auction in order to maintain bidding eligibility. The Commission will use upfront payments to determine initial (maximum) eligibility, the maximum number of blocks as measured by their associated bidding units a bidder demands at the start of the auction. Bidding eligibility will be reduced as the auction progresses if a bidder does not meet the activity requirement.

204. Specifically, bidders must be active on at least 95 percent of their bidding eligibility in all regular clock rounds to maintain their bidding eligibility. An activity rule requires bidders to bid actively throughout the auction to maintain bidding eligibility, rather than wait until late in the auction before participating. In the forward auction, the activity rule will provide an incentive for bidders to participate in each round of the auction. However, the activity requirement may be further altered (by, for example, establishing a 98 or 100 percent threshold) before and/or during the auction as circumstances warrant. Any changes to the activity requirement will be announced via the auction system.

205. The activity rule will be satisfied when a bidder has bidding activity on blocks with bidding units that total at least 95 percent of its current eligibility in the round. If the activity rule is met, then the bidder's eligibility will not change in the next round. Failure to maintain the requisite activity level will result in a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction. A bidder's activity level will reflect its demands as applied by the auction system during bid processing. Thus, if a bidder requests a reduction in the quantity of blocks it demands in a category, but the auction system does not apply the requested reduction because demand for the category would fall below the available supply, the bidder's activity will reflect its unreduced demand.

206. While the record supports an activity rule that requires significant bidder participation, some commenters argue that the proposed 92–98 percent threshold is too aggressive, will disadvantage smaller carriers, and may limit a bidder's ability to move its bids between markets. Commenters propose setting the threshold at 80 percent and only increasing it during later stages of the auction. The Commission finds that the 95 percent threshold it adopts is appropriate for the clock phase of the forward auction. Although the Commission has sometimes used an 80 percent activity requirement in simultaneous multiple round (SMR) auctions, having an activity requirement significantly below 100 percent in the clock phase of the forward auction would create uncertainty with respect to the exact level of bidder demand, interfering with the basic clock price-setting and winner determination mechanism, providing less helpful price-discovery information to bidders, and unduly prolonging the bidding process. As bidders plan their bidding strategies, they need accurate information about relative prices and the level of excess demand in different markets, and if significant bidding eligibility is held back, the available price and demand information will be less reliable. At the same time, the Commission recognizes that some flexibility will be helpful for bidders choosing between two categories of generic licenses across as many as 416 PEAs. The Commission finds that the 95 percent threshold it adopts will satisfy the requirements of the clock auction format and ensure that accurate price discovery information is available for bidders, while also providing bidders

with adequate flexibility. Further, based on its experience with prior spectrum license auctions, the Commission expects that the activity rule it adopts will foster an appropriate bidding pace and ensure that each stage of the forward auction closes within a reasonable period of time.

207. For these same reasons, the Commission does not provide for activity rule waivers to preserve a bidder's eligibility in the forward auction. In previous FCC SMR auctions, when a bidder's eligibility in the current round was below a required minimum level, the bidder was able to preserve its current level of eligibility with a limited number of activity rule waivers. Several commenters support the use of such waivers in the forward auction. Allowing such waivers, however, would cause the same problems that the Commission is concerned about with respect to the activity requirement. Thus, the auction system will require bidders to reconfirm their bids in every round and will not provide bidders with activity rule waivers.

208. While acknowledging that a clock auction format weighs against activity rule waivers, U.S. Cellular is concerned that, in their absence, bidders will need more time to adjust their bidding strategies in order to maintain their bidding eligibility before the first round following an increase to the activity requirement and after that round, if bidding surges ensue. CTIA is concerned that bidders may never have time to establish a comfort level with the auction system, and asks the Commission to ensure bidders are comfortable before moving to higher activity levels. As is typical in its spectrum license auctions, these concerns will be considered in setting the bidding schedule and determining whether to move to higher activity levels as the clock phase portion of the forward auction progresses.

7. Final Stage Rule

209. The Commission adopts procedures to implement the final stage rule, which establishes reserve price conditions that, when met, will determine that bidding in the incentive auction will end with the current stage and clearing target. The Commission recently reaffirmed the adoption of the first component as a part of the final stage rule. Accordingly, to the extent commenters repeat prior challenges to that component, those arguments have been answered. To the extent they seek reconsideration of the rule's adoption on other grounds, those arguments should have been made in a petition for reconsideration and need not be addressed in the *Auction 1000 BIA Procedures Public Notice.* The Commission addressed elsewhere challenges to the use of the final stage rule in connection with establishing the spectrum reserve. Specifically, the Commission adopts the proposed $1.25 average price and 70 megahertz licensed spectrum clearing benchmarks, as well as the proposed method to evaluate whether the final stage rule criteria have been satisfied. The Commission adopts a modified version of the procedures it proposed for triggering an extended round in order to limit the size of the shortfall that an extended round will attempt to close.

a. First Component

210. The Commission adopts a $1.25 average price and 70 megahertz licensed spectrum benchmark, as well as its proposed procedures for evaluating whether the first component of the final stage rule has been satisfied. The forward auction spectrum benchmark of 70 megahertz of licenses corresponds to a spectrum clearing target of 84 megahertz. Hence, the first component, which aims to ensure that winning bids for forward auction licenses reflect competitive prices, will be satisfied if, for a given stage of the auction: (1) The clearing target is at or below 70 megahertz and the benchmark average price per MHz-pop for Category 1 blocks in high-demand PEAs in the forward auction is at least $1.25 per MHz-pop; or (2) The clearing target is above 70 megahertz and the total proceeds associated with all licenses in the forward auction exceed the product of the price benchmark of $1.25 per MHz-pop, the forward auction spectrum benchmark of 70 megahertz, and the total number of pops associated with the Category 1 blocks in high-demand PEAs.

211. Based on its review of the record and past auction experience, the Commission finds that the proposed $1.25 average per MHz-pop benchmark price balances the statutory objective of seeking to recover ''a portion'' of the value of the spectrum for the public with the goal of a successful incentive auction that allows market forces to determine the highest and best use of spectrum. A number of commenters supported a benchmark price of $1.25. The Commission disagrees with commenters who argue that $1.25 is either too low or too high. While recent auction results may suggest that final forward auction prices ultimately will be higher, the benchmark price is not a predictor of final auction prices, but rather a reserve price or ''floor,'' consistent with the Commission's obligation to protect the public interest in its spectrum resources. Although final prices from Auction 97 (AWS–3) were not yet available at the time the Auction 1000 *Comment PN* was released, the general price level in that auction was already apparent and the Commission considered it in proposing the $1.25 benchmark.

212. The auction system will determine whether the price benchmark is satisfied based on the average prices for Category 1 spectrum blocks in the 40 high-demand markets. The high-demand markets include PEAs 1–40. PEAs are numbered in decreasing order of population, except that PEAs in the states are ranked before those in the territories and protectorates. Accordingly, PEAs 1–40 are the 40 most populous PEAs within the 50 states. Had territories not been ranked after the states, Puerto Rico would have been included in the most populous group. Commenters agree that it is unnecessary to evaluate the final stage rule based on all of the PEAs, although some commenters propose focusing instead on the top 25 largest markets. Since the purpose of the average price benchmark is to establish a reserve price that appropriately balances the Commission's goals, not to predict ultimate spectrum values, it declined to broaden its focus to all markets because that would fail to promote a faster auction. While reducing the number of markets evaluated for purposes of the final stage rule might ''promote an even faster auction,'' the Commission is not persuaded that the clock prices for the top 25 largest markets would ''serve as a 'good leading indicator of final auction revenues' to the same extent as the prices in the top 40 PEAs.'' In addition, limiting consideration of bids to Category 1 blocks will be more consistent with the price benchmark derived from past auctions, which did not include licenses impaired in a manner comparable to Category 2 licenses. Moreover, in evaluating whether the price benchmark is satisfied, the auction system will rely on gross bids, rather than bids net of individual bidders' bidding credits or any adjustments for impairments.

213. The 70 megahertz licensed spectrum benchmark the Commission adopts corresponds with the spectrum recovery scenario in which an 84 megahertz clearing target is selected and licenses for 70 megahertz of spectrum are offered in the forward auction. Incorporating a spectrum benchmark into the final stage rule's first component ''recognizes that if the incentive auction repurposes a relatively large amount of spectrum for flexible uses, per-unit market prices

may be expected to decline consistent with the increase in available supply.'' In proposing this threshold for the spectrum benchmark, the Commission explained that a 70 megahertz spectrum benchmark would repurpose the UHF spectrum between television channel 37 and the 700 MHz Band and would enable multiple bidders to obtain low-band spectrum, thereby promoting its competitive goals for the incentive auction. No commenters disagreed with its proposal. The Commission is adopting the 70 MHz benchmark for the specific purpose of establishing the final stage rule. It should not be construed as a target or projection for the amount of spectrum the Commission anticipates clearing in the incentive auction.

214. For clearing targets higher than 84 megahertz, the auction system will consider current auction proceeds for all licenses in evaluating whether the first component of the final stage rule is satisfied. Accordingly, for forward auction stages in which more than 70 megahertz of licensed spectrum is available in the forward auction, the first component will be satisfied if current auction proceeds for all blocks—Category 1 and Category 2, in all PEAs—exceed the proceeds generated by the Category 1 blocks in the 40 high-demand PEAs at the benchmark price of $1.25 per MHz-pop and benchmark clearing target of 70 megahertz. On balance, when the clearing target is relatively high, the Commission finds that the simplicity of comparing total auction proceeds for all blocks to the benchmark proceeds, which is based only on the high-demand PEAs, outweighs any concern for consistency in including only some markets in both sides of this metric. Total auction proceeds information will be available to the public after each round, and the proceeds benchmark is a fixed number for each clearing target, making it very easy to evaluate whether this component of the final stage rule is satisfied. Moreover, in stages with higher clearing targets, the $1.25 benchmark price is relaxed as long as overall revenues are sufficient; hence the tie to the high-demand PEAs is less important in this context.

b. Second Component—Cost Elements

215. The Commission adopts its proposed procedures for implementing the second component of the final stage rule. Bidding in the reverse auction will determine the first cost element—winning bidder payments required for broadcasters. With respect to the second element, the Commission's relevant administrative costs, it estimates these costs at $226 million. The Commission intends to update these costs no later than the commencement of bidding in the clock phase of the forward auction. For the third element, the Commission proposed that broadcaster relocation costs be estimated at $1.75 billion, the maximum amount that the Spectrum Act permits it to deposit in the TV Broadcaster Relocation Fund. To be prudent, the Commission will use that estimate when calculating expenses for the purposes of evaluating the costs component of the final stage rule. The actual amount that will be needed to reimburse broadcasters from the TV Broadcaster Relocation Fund will not be known until sometime after the auction. The Spectrum Act provides that the forward auction must generate proceeds sufficient to meet the Commission's estimate of the total expenses, as opposed to the actual amount. While the Commission concluded in the *Incentive Auction R&O* that the forward auction proceeds also must cover any Public Safety Trust Fund amounts still needed to provide the funds for FirstNet specified in the Spectrum Act, proceeds from the recent H Block and AWS–3 spectrum auctions are sufficient to fully fund the $7 billion provided to FirstNet. Therefore, the procedures the Commission adopts need not include any amounts to cover FirstNet expenses.

216. The Commission adopts its proposed approach to bidding credits and other discounts from clock phase prices for purposes of applying the second component of the final stage rule. The auction system will consider current total proceeds (for all PEAs and both categories of blocks), net of any discounts based on impairments and small business bidding credits claimed by particular bidders on their short-form applications for Auction 1002. The auction system will presume that the bidder with the largest bidding credit will win the quantity of blocks on which it is bidding and then proceed to the bidder with the next largest bidding credit and so on, until there are no more blocks left. Moreover, since bidders will be bidding on generic blocks rather than specific licenses at the time the final stage rule is evaluated, the auction system will presume that bidders with larger bidding credits will win blocks that are less impaired and thus, subject to less adjustment based on the extent of impairment. If the supply of blocks in a category exceeds the aggregate demand in that category, the system will presume that any unsold blocks will be those that are least impaired. While this approach will likely underestimate net proceeds, it will not be possible to know more exact amounts at the time of the evaluation, and the Commission finds that it is appropriate to adopt a conservative approach when ensuring that statutory requirements are met.

217. The Commission will not make adjustments for any Tribal lands bidding credits in evaluating the second component of the final stage rule. Instead, consistent with previous spectrum auctions, any subsequent Tribal lands awards will be limited to available funds that exceed the relevant reserve price. This rule is applicable in, among others, ''any auction with reserve price(s) in which the Commission specifies that the provision shall apply.''

c. Evaluation Each Round

218. As long as the final stage rule has not yet been met, the auction system will evaluate after each round of forward auction bidding whether forward auction proceeds are sufficient to satisfy the two components of the final stage rule. In a new stage, the final stage rule will be evaluated after bidding in the first clock round of the forward auction is complete. The auction system will make the needed calculations as part of the round results processing in order to establish as soon as possible whether the incentive auction will conclude after forward auction bidding ends at the current clearing target. Data indicating the progress of the auction in meeting the various components of the final stage rule will be made public after each round of the forward auction.

d. Allocating Demand for Purposes of the Spectrum Reserve

219. The Commission adopts its proposed procedure to allocate demand in order to initiate bidding for the spectrum reserve. At the time the final stage rule is met, Category 1 blocks in each PEA will be split into separate reserved and unreserved categories, with a separate price clock for each new category. In the first round following the round in which the final stage rule is met, the clock price will be the same for reserved and unreserved Category 1 blocks, but prices for the two categories may diverge in later rounds depending upon the extent of excess demand in the separate categories going forward. To allocate the pre-''split'' demands of bidders for Category 1 blocks into the reserved and unreserved categories, the auction system first will assign all demand by non-reserve-eligible bidders to the unreserved category, and then will assign demand by reserve-eligible bidders to the reserved category up to the point where demand for reserved blocks is equal to supply.

220. Specifically, the auction system will first allocate demand for one block to the reserved category for each reserve-eligible bidder in turn, then demand for a second block, and so on until the total demands allocated to the reserved category equal the supply of reserved blocks. The order of reserve-eligible bidders will be chosen pseudo-randomly. Thus, any excess demand will be for unreserved Category 1 blocks. The auction system will apply the remaining demand of reserve-eligible bidders to unreserved Category 1. The Commission adopts this approach because allocating demands in this way—as opposed to assigning all demand by reserve-eligible bidders to the reserved category—avoids the possibility of excess supply of unreserved Category 1 blocks after the split, which could result in unsold licenses and lower revenues than when the final stage rule was deemed to have been met. As noted in the *Auction 1000 Comment PN,* this could occur if the demands for Category 1 prior to the split came disproportionately from reserve-eligible bidders. If all those demands were transferred to the reserved category after the split, demand for unreserved Category 1 blocks could be less than the supply, even if demand exceeds supply in the pre-split Category 1. Excess supply cannot occur in the reserved category because the actual number of blocks that will be reserved in a PEA will not be greater than the number of Category 1 licenses demanded by reserve-eligible bidders at the time the auction reaches the spectrum reserve trigger. Avoiding such an outcome is an important principle in designing the forward auction. In the bidding rounds that follow the implementation of the spectrum reserve, bidders will be able to switch their bids between the separate categories of reserved Category 1, unreserved Category 1, and Category 2 blocks, consistent with its adopted bidding procedures. In this regard, contrary to AT&T's suggestion, the procedure the Commission adopts for allocating demand at the time of the split will not prevent reserved spectrum prices from rising. In rounds after the split, reserve-eligible bidders may switch to bidding for reserved blocks if the price for unreserved blocks is rising more quickly than the price of reserved blocks. The bidding procedures the Commission adopts for the forward auction will mitigate the risk that reserve-eligible bidders can engage in strategic bidding for non-reserved blocks.

221. The Commission clarifies that no bidder's demand for blocks in a category will be allowed to exceed the total available supply in the category in the PEA after the split. This is consistent with the general rule that no bidder's demand for blocks in a category may exceed the total available supply in a category. Thus, if the pre-split demand of a non-reserve-eligible bidder exceeds the supply of blocks in the unreserved category, the bidder's demand for the unreserved blocks will be reduced to the available supply. If, after the system allocates the reserve-eligible bidders' demands to the reserved category, a reserve-eligible bidder's remaining pre-split demand exceeds the total number of blocks available in the unreserved category, the bidder's demand for the unreserved blocks will be reduced to the available supply. Non-reserve-eligible and reserve-eligible bidders will maintain the bidding eligibility associated with any demand that cannot be assigned to a category, and will be able to use such bidding eligibility in other PEAs or in other categories in the next round. For example, assume the supply of Category 1 blocks in a PEA is seven. Prior to the split, reserve-eligible bidder 1 (RE1) and non-reserve-eligible bidder 1 (NRE1) each demand seven blocks, and two other reserve-eligible bidders each demand one Category 1 block. At the split, three Category 1 blocks are reserved, leaving four unreserved blocks. NRE1's demand for Category 1 blocks in the PEA will be reduced to four, and NRE1 will have three blocks' worth of excess eligibility to use in another PEA. Pursuant to the allocation method the Commission adopts, one block worth of RE1's demand will be assigned to one reserved block, and the other two reserve-eligible bidders' demand will be assigned to the other two reserved blocks, so that demand in the reserved category equals supply. Four blocks' worth of RE1's remaining six blocks of demand will be assigned to the unreserved category, and RE1 will have two blocks' worth of excess eligibility to use in another PEA. A reserve-eligible bidder that has its demands reduced can use the eligibility to bid in the reserved category, if it wishes.

8. Extended Round Procedures

a. Triggering an Extended Round

222. The Commission adopts the procedures it proposed for triggering an extended round, with one modification. An extended round will be implemented if the final stage rule is not satisfied but bidding activity has stopped—that is, if demand does not exceed the available supply—for Category 1 blocks in the 40 high-demand markets. High-demand markets are PEAs 1–40. Since bidding in these markets generally serves as a leading indicator of final auction proceeds, the Commission finds that basing the trigger on bidding for Category 1 blocks in the high-demand markets will be a reliable predictor of whether the final stage rule can be satisfied in the current stage. The auction system will not implement an extended round, however, if bidding activity has stopped for Category 1 blocks in the high-demand markets but the gap between current forward auction proceeds (from all blocks in all PEAs) and the amount needed to meet the final stage rule exceeds 20 percent of current auction proceeds. Information on progress toward meeting the final stage rule, including the shortfall, will be made public during the auction. Instead, the auction will move to a new stage without an extended round. This modification of its proposed procedures addresses concerns that bidding dynamics and price discovery may be distorted if the auction system attempts to raise a large portion of auction proceeds in a single round on only a subset of the available blocks.

223. The Commission decline to accept AT&T's suggestion that an extended round not be triggered until bidding has ended in all or almost all of the PEAs. AT&T's suggested approach would undercut the purpose of the extended round, which is to avoid running what may be a very large number of bidding rounds before ascertaining that the final stage rule cannot be met in the current stage.

b. Extended Round Bidding Procedures

224. The Commission adopts its proposed extended round bidding and bid processing procedures, which are described in detail in Appendix G of the *Auction 1000 Comment PN.* Under these procedures, extended round bidding will be conducted only for Category 1 blocks in high-demand markets, the same set of licenses considered in triggering the extended round and applying the first component of the final stage rule. Because bidding will have stopped on these blocks, the currently winning bidders are very likely to become the winning bidders when the clock phase ends and, hence, they will have a strong incentive to try to ensure that the final stage rule can be met. Bidders in less settled markets may be less inclined to accept their allocated share of an extended round increment, which may in turn reduce the chances that the extended round will meet the final stage rule. Moreover, asking participants that are bidding for the most valuable licenses to accept an

extended round increment will not pose an unreasonable burden, since proceeds for comparable licenses typically account for a very large fraction of revenues in other spectrum auctions. This is especially so given the Commission's decision to limit the circumstances in which the extended round will be implemented to ensure that the shortfall in proceeds is not too large. Therefore, the Commission declines to adopt AT&T's suggestion to include all available licenses in the extended round bidding.

225. Under the procedures the Commission adopts, the auction system will set an extended round clock price increment for Category 1 blocks in each high-demand PEA that is 33 percent larger than the increment required to satisfy the final stage rule. The same percentage increment will be applied to Category 1 blocks in each high-demand PEA, such that the additional proceeds over all the areas would equal 133 percent of the amount needed to meet the shortfall. High-demand PEAs where there is excess supply will not be included in extended round bidding. This required amount will be the amount needed to meet the first or second components of the rule, whichever is greater. Setting the clock price 33 percent higher than the minimum amount necessary to meet the reserve price will enable the extended round to satisfy the rule even if a market clearing price in some PEAs is less than proportional to the full gap in proceeds, by permitting bidders in markets with higher market clearing prices to make up for the difference in needed proceeds.

226. A bidder in the extended round will be permitted to accept the clock price for the blocks it demands or to submit an intra-round bid that requests a reduction of one block at a price lower than the clock price. Only bidders that demanded blocks in the previous round in the category may bid in the extended round. A bidder will not be able to request an increase in demand in the extended round. The auction system will consider bids in all PEAs for which there is extended round bidding in increasing order of price point (and random number in the case of ties). A quasi-random number will be associated with each bid as it is submitted. At the lowest price point at which the auction system encounters an intra-round bid in a given PEA, the uniform price applying to Category 1 blocks in that PEA will stop increasing. The auction system will stop processing bids if it reaches a point where the total additional proceeds associated with the extended round prices in the high-demand PEAs together are sufficient to meet the final stage rule. This point may not necessarily correspond to a price-point at which an intra-round bid is submitted. Hence, prices in high-demand PEAs where there is an intra-round bid will stop increasing when bid processing reaches the price point of the first requested reduction if the final stage rule has not yet been met. In high-demand PEAs without a reduction request, prices will stop at the price point at which the final stage rule is met.

227. If the final stage rule is met in the extended round, the uniform price applying to all Category 1 blocks in each high-demand market will increase only as much as needed to meet the final stage rule. Regular clock rounds will resume with the spectrum reserve in place, and clock rounds will continue as long as there is excess demand in any category in any PEA. In PEAs where there was extended round bidding, clock prices for Category 1 blocks in the first new clock round will be based on the extended round stopped price. Where there was no extended round bidding—that is, for Category 2 blocks and Category 1 blocks in non-high-demand PEAs—clock prices in the next clock round will be based on prices from the last regular clock round. However, even if in the extended round the price stopped in a PEA at an intra-round price point at which a bidder requested a reduction, the reduction will not be applied to the bidder's demands, since applying the reduction would result in excess supply. The bidder will still demand the quantity it demanded going into the extended round, but at the stopped price.

228. If the final stage rule cannot be met in the extended round, the current stage of the auction will end and a new stage will begin. In PEAs where there was extended round bidding, clock prices for the first round of the forward auction in a new stage will be based on the extended round stopped price in PEAs where a reduction was requested, and on the extended round clock price if no reduction was requested. If there was no extended round bidding, *i.e.,* for Category 2 blocks and Category 1 blocks in non-high-demand PEAs, clock prices in the new stage will be based on the last regular clock round. In contrast to the case where the final stage rule is met, if a bidder requested a reduction that stopped the price in the extended round, the auction system will apply that reduction to the bidder's demands going into the next stage. Since a bidder can request a reduction of at most one block in the extended round, and the stage transition procedures the Commission adopts generally will reduce the supply of blocks in a PEA by one block, the Commission finds that allowing a single extended round reduction to be applied will not unduly risk creating unsold licenses.

9. Stopping Procedures

229. The auction system will employ a simultaneous stopping rule for the clock phase of the forward auction in the final stage. Specifically, if the final stage rule has been met (with or without an extended round), the clock phase of bidding will end for all categories of licenses following the first round in which there is no excess demand in any category in any PEA. Forward auction bidders that are still expressing demand for a category of a PEA at the time the stopping rule is met will become the winning bidders, and will be assigned specific frequencies in the assignment phase.

B. Assignment Phase

230. The assignment phase will determine which frequency-specific licenses will be won by the winning bidders of generic blocks during the clock phase. In the assignment phase, winning bidders will have the opportunity to bid for preferred combinations of frequency-specific licenses. A bidder can assign a price using a sealed bid to one or more possible frequency assignments for which it wishes to express a preference, consistent with its winning bids for generic blocks in the clock phase. For instance, if a bidder won two Category 1 blocks and one Category 2 block in the clock phase, then it will only be offered the option of bidding for frequency assignments with exactly two Category 1 licenses and one Category 2 license. The bid prices will represent a maximum payment that the bidder is willing to pay for the frequency-specific license assignment, in addition to the final price established in the clock phase for the generic blocks, which may be subject to an impairment discount. The procedures the Commission establishes will determine the optimal assignment of licenses within each PEA by first considering a series of spectral contiguity objectives and then, if there are multiple arrangements that meet the contiguity objectives, determine assignments based on bid amount in the assignment phase. As a simple example, assume four identical blocks are available in a PEA, and two bidders won two blocks each in the clock phase, and each was presented with bidding options for contiguous blocks AB and CD. One bidder bid 10 for AB and 0 for CD, the other bidder bid 12 for AB and

0 for CD in the assignment phase. The auction system will assign AB to the second bidder, and CD to the first bidder.

231. The Commission generally adopts the assignment round procedures proposed in the *Auction 1000 Comment PN,* except that in response to concerns expressed by commenters the Commission will not group PEAs when any of the licenses are at all impaired. This modified approach to grouping PEAs will ensure that bidders can express divergent frequency preferences for impaired licenses across geographic areas.

1. Availability of Auction-Related Information to Bidders

232. Prior to commencement of bidding in the assignment phase, the auction system will inform all winning bidders from the clock phase of the extent to which contiguous blocks feasibly may be assigned in every PEA. This applies to all blocks in the PEA irrespective of whether they are in Category 1 or Category 2, reserved or unreserved, or are impaired to varying extents. More specifically, the auction system will provide information with respect to each PEA on whether, consistent with the contiguity objectives: (1) It is possible to assign contiguous blocks to all winning bidders in the clock phase, or, if not, (2a) that it is possible to assign at least two contiguous blocks to all winning bidders of two or more blocks in the clock phase, or (2b) that it is not possible to assign at least two contiguous blocks to all winning bidders of two or more blocks in the clock phase. The auction system will determine the potential for contiguous frequency assignments, as well as the assignment phase bidding options provided to each bidder, based on the availability of frequency-specific licenses corresponding to Category 1 and Category 2 blocks in the PEA (or group of PEAs), and the contiguity objectives that are possible given the particular mix of bidders and the categories of their clock phase winning. This information will enable a bidder to assess the likelihood of being assigned contiguous blocks, and the extent to which contiguity may be possible across PEAs. Providing such information about all PEAs to all winning bidders, rather than only to winners in each specific PEA, averts the risk that winning bidders in a large number of PEAs will gain an undue advantage over others.

233. In addition to the foregoing information, the auction system will provide to each assignment phase bidder a menu of bidding options consisting of possible configurations of frequency-specific licenses on which it can bid in each PEA in which it holds winning clock phase bids, as U.S. Cellular proposed. These bidding options will be consistent with the bidder's clock phase winnings and information. The auction system may, in some cases, offer a bidder assignment bidding options that include combinations that are not possible for the bidder to win, given the winnings of other bidders, in order to avoid disclosing too much information about the winning bids of other bidders. In other cases, if there is only one possible assignment in a PEA given a bidder's winnings (for example, if a bidder won the only available Category 2 block and no Category 1 blocks), the bidder may not be offered a bidding option but will be assigned to that option by the auction system. Providing such information will facilitate participation in the assignment phase, particularly for smaller bidders with fewer resources to expend on analysis, by limiting the number of frequency configurations on which they need to consider for the assignment phase.

234. The auction system will provide clock phase winning bidders with the information as soon as possible and announce a schedule of assignment phase rounds that will commence beginning no less than five business days later. While CTIA advocates at least 10 days between the provision of detailed information and the commencement of the assignment phase, the Commission finds that five days will be sufficient for bidders to prepare given the information that will be made available to facilitate bidding in the assignment phase.

235. When an assignment round concludes, the auction system also will advise the bidders in each PEA of their own payments and assignments.

2. Structure of the Assignment Phase

a. Grouping of PEAs

236. The Commission adopts its proposed requirements for grouping PEAs for assignment phase bidding purposes, with an additional requirement in response to concerns expressed by commenters regarding bidding for licenses with impairments. Specifically, the auction system will group together PEAs in a single assignment round only if all of the following three conditions are met: (1) The PEAs are one of the following: (a) All high-demand (PEAs 1–40), regardless of Regional Economic Area Grouping (REAG); (b) All in the same REAG and not subject to the small market bidding credit cap (*i.e.,* those PEAs with a population of 500,000 or less, which corresponds to PEAs 118–416, excluding PEA 412); or (c) All in the same REAG and are subject to the small market bidding credit cap; (2) Each PEA in the group has the exact same number of blocks, all of which are Category 1 blocks and are zero percent impaired; and (3) Each PEA in the group has the same mix of clock phase winners and winnings. For example, in all PEAs in the group there are five Category 1 blocks with zero percent impairment. Bidder A won one block in each of the PEAs in the group. Bidder B won one block in each of the PEAs, and Bidder C won three blocks in each of the PEAs

237. These requirements will assure that in any grouping, assignment round bidders will be presented with a set of PEAs with blocks with the same characteristics, which should reduce uncertainty and simplify bidding for all bidders. No PEAs will be grouped in the assignment phase if any of the blocks are considered impaired. That is, all blocks will be considered 0 percent impaired. The Commission's modified approach addresses concerns raised by commenters, including Sprint, U.S. Cellular, and others, that the approach the Commission proposed might not give bidders sufficient flexibility to express preferences for assignments in cases where PEAs with licenses in the same category are impaired differently but are grouped together for bidding.

b. Intra-PEA Contiguity Objectives

238. The auction system will use an optimization process to determine for each PEA or PEA group various possible configurations of frequency-specific licenses consistent with the pattern of winning bidders and block categories from the clock phase. More specifically, the auction system will apply the following contiguity objectives, taking into account both Category 1 and Category 2 blocks: (1) For bidders that win multiple blocks, maximize the number of bidders that are assigned at least two contiguous blocks; (2) for bidders that win multiple blocks, minimize the number of blocks that are non-contiguous to any of the bidder's other blocks; (3) maximize the number of bidders that are assigned only contiguous blocks; and (4) maximize the number of pairs of unsold blocks that are contiguous as long as the impairment of blocks to winning bidders does not increase. These objectives are consistent with comments indicating that carriers place significant value on spectrally contiguous spectrum, as well as some commenters'

arguments that prioritizing inter-PEA contiguity, as opposed to contiguity within PEAs, could disadvantage certain carriers and create opportunities for discriminatory conduct.

239. The contiguity objectives will be applied in the order specified, so that the second objective will only be applied to possible assignments that fully satisfy the first objective, the third objective will only apply to assignments that fully satisfy the first two objectives, and so on. As a result, the fourth objective regarding unsold blocks will not adversely affect the assignment of contiguous blocks as determined by the first three objectives. The Commission adopts the fourth objective, in addition to the three objectives it proposed in the *Auction 1000 Comment PN,* in order to ensure that, if the auction system must choose between an assignment in which any unsold blocks are contiguous or separated, the system will choose the contiguous assignment, thus maximizing the value of blocks retained by the FCC.

240. The Commission declines to adopt CCA's proposal for the auction system to assign the winning bidder of a single license in a PEA the least impaired license block before assigning any others. The Commission disagrees with the premise of CCA's proposal that the first three objectives uniformly favor multi-license or multi-market winning bidders and harm carriers that purchase only one license in a PEA. The contiguity objectives will be applied without regard to the level of impairment and therefore will not favor any bidder or type of bidder. The Commission also declines to adopt U.S. Cellular's proposal for an additional objective which minimizes the difference in the average level of impairment of the same-category license(s) assigned to any two bidders. Since bidders may value impairments differently, the Commission prefers to allow bidders to indicate their own frequency preferences through their bidding in the assignment phase.

c. Sequencing of Assignment Phase Bidding

241. The Commission adopts its proposal to sequence bidding on PEAs or PEA groups in the assignment phase based on total weighted-pops, beginning with the high-demand PEAs and then moving to non-high- demand PEAs by REAG. For assignment phase bidding, assignment rounds for the PEAs in the six smaller REAGs will be sequenced with one of the six continental REAGs. Under this approach, clock phase winning bidders of blocks in the high-demand PEAs will first bid on the PEA or PEA group with the greatest number of weighted-pops. Bidding will continue in descending order of weighted-pops until specific frequencies have been assigned in all the high-demand PEAs. Once frequencies have been assigned for the high-demand PEAs, the auction system will conduct a series of assignment rounds for the non-high-demand PEAs within each of the six REAGs, again in descending order of weighted-pops. The Commission expect that the auction system will run the assignment rounds for non-high-demand PEAs associated with different REAGs in parallel. However, an alternative schedule for the REAG rounds, of which bidders will be given ample notice, may be necessary in the event that running multiple rounds in parallel is deemed too complicated for bidders, the auction managers, or the auction system. Within each REAG, the assignment rounds would be conducted one PEA or PEA group at a time, sequentially.

242. The Commission is not persuaded by arguments that larger bidders would derive a significant advantage from being able to participate in assignment rounds that are sequenced earlier in the assignment phase process, and hence, the Commission declines to adopt the commenters' proposal to randomly sequence the assignment rounds to avoid any timing advantage. The Commission finds that the information it will provide—on bidders' own bidding options and on the potential for contiguous assignments in each PEA—will minimize any ''early mover'' informational advantage. In addition, the second-pricing procedures will simplify bidding strategy for bidders, mitigating any potential advantage from bidding ''experience'' in the assignment phase.

243. The Commission also rejects the assumption that earlier bidding for frequency assignments in the high-demand markets will enable winners of blocks in those markets to establish consistent frequency ''footprints'' that they will later pay a premium to extend, thereby disadvantaging bidders with fewer resources to spend in the assignment phase. The intra-area contiguity objectives will limit bidders' abilities to establish consistent frequency footprints across PEAs. Because the auction system will only allow bids for license combinations that satisfy those contiguity objectives, it is unlikely that a single bidder will have the opportunity to bid for and win a consistent footprint in all areas in which it won blocks. Consequently, the Commission is not persuaded that the sequencing procedures it adopts will lead to a lack of interoperability as a result of larger carriers establishing consistent footprints in one section of the 600 MHz Band, leading equipment manufacturers to tailor equipment only to those frequencies, and note moreover that its rules require interoperability throughout the 600 MHz Band. The *Incentive Auction R&O* adopted a strong interoperability rule that requires that any user equipment certified to operate in any portion of the 600 MHz Band must be capable of operating, using the same technology that the licensee has elected to use, throughout the entire 600 MHz Band.

d. Bidding and Bid Processing

244. Once bids have been submitted, the auction system will perform an optimization to select as the winning license assignment that configuration, consistent with the continuity objectives and the options provided to bidders in advance, for which bidders indicate the greatest willingness to pay. Ties, if any, will be broken by including pseudo-random numbers in the optimization. Bidding in an assignment round is voluntary. If a bidder chooses not to bid in an assignment round, the auction system will assign a zero bid to each of the bidder's available options, or to any option for which the bidder does not submit a bid. Bidders that choose not to bid in an assignment round will be assigned licenses consistent with their winnings in the clock phase of the auction and the contiguity objectives. The Commission declines to implement the suggestion that the auction system process assignment round bids by looking separately at the high bids on various licenses, since bids will be used to select a single configuration of license assignments and the licenses with the highest bids may not be in the same configuration.

245. Under the assignment phase bidding procedures the Commission adopts, winners of either reserved or unreserved Category 1 blocks will be able to bid for the available frequencies in Category 1, and the auction system will assign specific frequencies without regard to the reserve-eligible status of the bidder. In other words, the auction system will not differentiate in the assignment rounds between reserved and unreserved spectrum blocks. Subsequent to making frequency assignments in the assignment phase, in order to determine final license prices, the auction system will determine which license or licenses are deemed as reserved, if a bidder wins both reserved and unreserved Category 1 blocks in a single PEA or PEA group. Consistent

with the record, the procedures the Commission adopts will prioritize the assignment of contiguous blocks within PEAs in order to promote efficient utilization of the 600 MHz Band. Differentiating between reserved and unreserved blocks would undermine this objective by making it more difficult to assign frequency-contiguous spectrum blocks to winners of blocks in an area, particularly if a bidder wins both reserved and unreserved blocks. Further, the Commission is not persuaded that differentiating is necessary to ensure fulfillment of its competitive goals for the auction, especially since all reserved blocks will be Category 1, and therefore relatively substitutable. Accordingly, the Commission declines to assign reserved and non-reserved licenses separately during the assignment rounds.

246. The Commission declines to adopt an assignment approach that would rely on random or quasi-random distribution of licenses, or other non-monetary bidding for frequency preferences, as some commenters suggest. The Commission also declines to adopt the alternative approach advocated by U.S. Cellular and others, under which the auction system would take into account preferences for contiguous blocks within an area and then randomly determine the remaining frequency assignment. The Commission determined in the *Incentive Auction R&O* that the use of competitive bidding procedures would promote the efficiency of the assignment process, and allow more confident bidding for generic licenses in the clock phase of the forward auction, by facilitating the assignment of specific frequencies to the highest-valuing users. Accordingly, the Commission rejected an administrative, random or quasi-random process. Nevertheless, these commenters assert that using competitive bidding will give an advantage to nationwide carriers in obtaining the least impaired blocks in a category, leaving less desirable blocks for the smaller and regional carriers. They argue further that bidding in the assignment phase is likely to depress revenue in the clock phase. The Commission reaffirms that giving bidders the opportunity to bid monetary amounts for specific frequency preferences in the assignment phase, which they will not be able to express in the bidding for generic blocks in the clock phase, will allow the auction system to take bidder interests into account in assigning frequency-specific licenses. Moreover, the Commission agrees that a monetary bidding-based assignment round will allow bidders to express the intensity of preferences for particular licenses, which the points-based approaches generally do not. This will lead to potentially more effective use of the spectrum than would a random assignment mechanism.

247. In addition, the Commission finds that competitive bidding will provide a greater incentive for sincere bidding—since real resources will be at stake—than would a system of ''draft pick'' preferences or points based bidding, as also suggested by commenters. The Commission further rejects arguments that the competitive bidding-based approach it adopts to the assignment phase will depress revenues in the clock phase, potentially causing the auction to move to a lower clearing target because the final stage rule cannot be met. In other spectrum auctions around the world in which similar assignment phase designs have been used, the revenues in the assignment phase have averaged less than 0.5 percent of the total auction revenues. For example, assignment phase revenues were 1.15 percent of total auction revenues in the 2013 UK 4G Auction. In the 2013 Australian Digital Dividend Auction, while the auction data was not released in full, an upper bound of 0.19 percent can be calculated using available public data for assignment phase revenues as a percentage of total auction revenues. Assignment phase revenues were less than 0.01 percent of total auction revenues in the Canadian 700 MHz Auction. On the contrary, bidders may bid more aggressively in the clock phase because they know that they will later have an opportunity to bid for a strongly-held frequency preference in the assignment phase. In addition, given its projections that the initial clearing target procedure will result in a very high proportion of Category 1 blocks with minimal or no impairment, and its decision to make detailed impairment information available to bidders prior to the commencement of bidding in the clock phase of the forward auction, bidders generally are unlikely to hold back their clock phase bids in order to be able to secure the least impaired licenses in the assignment phase. In most PEAs, the Commission expects that there will be insufficient impairment or variety in the degree to which licenses are impaired to warrant such action. The discount on clock phase prices for any license impairments also will help account for variation in value due to impairment, minimizing the incentive to limit clock phase bids to the value of the most impaired generic block in a category. Accordingly, the Commission is not persuaded that clock phase revenues will be significantly suppressed by the use of competitive bidding procedures in the assignment phase.

248. The Commission also disagrees with arguments that a competitive bidding-based approach to the assignment phase will disadvantage smaller carriers. First, the assignment phase structure will level the competitive playing field: The auction system will prioritize assigning contiguous frequency blocks within each PEA before taking bids, without regard to whether potential bidders (the winning bidders in the clock phase) are nationwide carriers or regional entities, reserve-eligible or not, and without taking into account the extent of impairment within a bidding category. By prioritizing intra-area contiguity of licenses, the assignment phase structure will protect all bidders equally from discontiguous frequency assignments, even if a bidder does not submit an assignment round bid. Second, smaller carriers are as likely as larger ones to be able to benefit from expressing assignment phase preferences. Indeed, because the networks of smaller carriers may be less flexible than those of the nationwide carriers, the ability to bid for frequency-specific preferences may be all the more important for smaller carriers. Moreover, because the contiguity objectives will seek to assign two contiguous blocks to each winner *before* trying to assign any winner three or more contiguous blocks, they are likely to benefit carriers that win fewer than three blocks within a PEA over carriers that win more. Third, designated entity bidding credits will apply to assignment phase payments, giving smaller carriers that qualify as designated entities a price advantage over larger carriers in assignment phase bidding.

249. Moreover, under the competitive bidding-based procedure the Commission adopts, bidding strategies will be easier than more complex and unfamiliar procedures advocated by some commenters. For example, the ''serial priority-assessment algorithm'' approach advocated by T-Mobile and U.S. Cellular would require a bidder to understand a new bidding mechanism in which the optimal bidding strategy is not clear and depends on what strategy it expects others to play. Choosing selection order randomly and enforcing rotations among bidders, as advocated by T-Mobile and U.S. Cellular, would result in a less efficient assignment than if bidders can express preferences using monetary bids, which also allow for varying intensity of preferences. In

combination with the ''second-pricing'' approach, the procedures the Commission adopts will allow bidders to follow a clear and familiar strategy: Bid the incremental value of a specific assignment option, knowing that the payment will be equal to or less than that bid amount. For example, assume a bidder's three possible assignments are AB, BC, and CD. All that the bidder needs to do is determine a valuation for AB, BC, and CD. Assume these valuations are $120 million, $110 million, and $100 million, respectively, and the final clock phase price for A, B, and C was $100 million. The bidder would assign a value of $0 to its lowest priority assignment, CD, and submit a bid of $10 million for BC and $20 million for AB. The bidder's valuation would not depend on guesses about others' bids.

e. Assignment Phase Payment Calculations

250. The Commission adopts the procedures it proposed to calculate the assignment phase payment (above the discounted final clock phase price) a bidder will pay for a frequency-specific license using a generalized ''second price'' approach. The final clock phase price of an impaired license will be discounted by an amount proportional to the extent of impairment. Under this approach, the auction system will calculate a payment amount that, if the winning bidder had bid that amount, would have been just sufficient to result in the bidder receiving the same winning frequency-specific license assignment. This pricing approach is a version of a Vickrey-Clarke-Groves mechanism. This payment will be less than or equal to the amount the bidder indicates in its bid that it is willing to pay for the assignment. The Commission find that this approach will simplify bidding strategies for bidders by giving them an incentive to bid what they consider to be full value for the assignment: If the assignment is selected, they will pay no more than would have been necessary to ensure that the assignment won. While U.S. Cellular indicates that inexperience with a second-pricing approach may still lead bidders to ''overbid,'' the Commission is confident that as bidders consider seriously their bidding strategies, this incentive will become apparent to them. Appendix H from the *Auction 1000 Comment PN* includes a detailed explanation of the procedures the Commission will use to determine the assignment round payment.

C. Final Winning Bid Amounts

251. The Commission adopts the procedures proposed in the *Auction 1000 Comment PN* for determining final forward auction prices, on which it received no feedback from commenters. The final price that a winning bidder must pay for a license it wins in the assignment phase will be the final clock phase price for the category of license it won within a given PEA, adjusted by the percentage of any impairment to the frequency block, plus any assignment phase payment, all reduced by any designated entity bidding credit.

252. The Commission clarifies that, in the event a bidder wins both Category 1 reserved and unreserved blocks in the same PEA in the clock phase, in determining final payments, the auction system will deem as reserved that block or blocks that will yield the bidder the lowest price, taking into account the final clock phase price for the category and the impairment discount. The blocks that are deemed reserved will carry the restrictions on transferability, consistent with the conditions on reserved spectrum established in the *Mobile Spectrum Holdings R&O.* This approach will maximize the impairment discount. For example, assume that in the clock phase a bidder won one unreserved Category 1 block and one reserved Category 1 block in a PEA. The assignment phase procedures determined that the bidder would be assigned blocks E and F, where block E is two percent impaired and block F is zero percent impaired. The assignment phase payment is determined to be $100. If the final clock phase prices were $1,000 for reserved blocks and $1,200 for unreserved blocks, then the E block would be deemed unreserved and the F block would be deemed reserved. Conversely, if the final clock phase prices were $1,200 for reserved blocks and $1,000 for unreserved blocks, then the E block would be deemed reserved and the F block would be deemed unreserved. In either event, the bidder's final payment amount for blocks EF, assuming it has no designated entity bidding credit, will be calculated as follows: {1,000 + 1,200*0.98} + {100} = $2,276. If, for example, the bidder is eligible for a designated entity bidding credit, its total payment will be reduced by the amount of the bidding credit, subject to any cap. In the event that the reserved and unreserved blocks have the same final clock phase prices or the blocks are equally impaired, blocks will be designated as reserved in descending order of frequency. While ties in FCC auctions are traditionally broken pseudo-randomly, the Commission finds that this rule is clear and simple to implement, and will result in assigning contiguous reserved licenses in cases where a bidder wins multiple reserved blocks as well as unreserved blocks, which a random assignment mechanism will not necessarily do.

VII. Transition, if Necessary, to Any Subsequent Stage

253. If a stage of the auction ends without satisfying the final stage rule, the auction system will begin a new stage of the auction using a lower clearing target. The reverse auction will be conducted for the applicable clearing target followed by the forward auction. The auction system will announce the new clearing target to bidders, as well as a bidding schedule for the reverse auction. A new stage of the reverse auction will begin not sooner than five business days after the conclusion of the prior stage of the forward auction. CTIA requests that the Commission allow at least two weeks between auction stages. The Commission concludes that five business days will provide the auction system with adequate time to conduct a clearing target optimization and provide forward auction bidders with impairment information for the new stage of the auction. While forward auction bidders need time to analyze new impairment data, the Commission notes that such bidders will have that information for the entirety of the stage of the reverse auction. Additionally, at a lower clearing target, there generally will be fewer impairing stations for forward auction bidders to consider. The Commission concludes that bidders will have sufficient time to process new impairment information and commenters have not provided it with a compelling reason to delay the start of a subsequent stage of the reverse auction by an additional week. Reverse and forward auction bidding in subsequent stages will carry-over from the prior stage—the prices will continue to descend in the reverse auction and continue to rise in the forward.

A. Selecting a New Clearing Target

254. The clearing target for any subsequent stage of the auction generally will be the next lowest clearing target in the 600 MHz Band Plan. As with the initial clearing target, prior to bidding in a new stage, the auction system will make public the new clearing target. In the *Auction 1000 Comment PN,* the Commission also sought comment on the alternative of skipping clearing targets when moving to a new stage. CTIA and EOBC both argue against skipping any clearing targets as the auction advances to

subsequent stages. CTIA is concerned that if the Commission skips a clearing target it could unknowingly bypass an opportunity to clear additional spectrum. The Commission generally agrees. Therefore, in any subsequent stage, the clearing target determination procedure will be applied for the next lowest clearing target. It may be necessary to skip the 108 MHz clearing target to better harmonize our band plan with Canada or Mexico. Under this procedure, the current assignment of participating stations to relinquishment options from the reverse auction will not change. The optimization tool will determine a new provisional television assignment plan for the UHF band using the same objectives as in the initial clearing target optimization, taking into account the additional channel in the TV band and any participating stations that have dropped out of the auction in the previous stage. As part of this process, the optimization procedure may modify the provisional assignment of stations to the 600 MHz Band from the prior stage in order to minimize impaired weighted-pops and carry out the other objectives the Commission adopts. Prior to the start of the reverse auction in a new stage, the auction system will provide forward auction bidders with the same impairment and other information as will be provided to bidders in the initial stage. Based on the new provisional television channel assignment plan, the nationwide impaired weighted-pops will be calculated on a 2x2 cell level. The one-block-equivalent nationwide standard for impairments will then be applied. In the event that the new plan does not meet the standard, the process will be repeated at the next lowest clearing target until a plan is identified that meets the one-block-equivalent impairment standard. The Commission anticipates that only in rare situations would the process result in moving down more than one clearing target.

255. In Attachment A to the *Auction 1000 Bidding Procedures Public Notice,* the Commission provides a description of how its computer model will apply the between-stages clearing target determination procedure the Commission adopts on a step-by-step basis. An updated version of Appendix C to the *Auction 1000 Comment PN* setting forth the technical details and formulas associated with this procedure will be included with the appendices to the *Application Procedures PN.*

B. Reverse Auction Bidding

256. The Commission adopts its proposals for resuming bidding and setting clock prices in the reverse auction in any subsequent stages. In the beginning of a new stage, the auction system will re-evaluate the bidding status of each station that was ''frozen—provisionally winning'' in the prior stage of the reverse auction in light of the reduced clearing target, notifying every such station of its new status, and resetting the base clock price.

257. The auction system will reset the base clock price to the highest ''catch up point'' of all newly-active stations. Active stations are all participating stations that have not exited or become provisional winners. At the start of the new stage, each provisional winner from the prior stage will have its status reevaluated to take account of the new clearing target. In a subsequent stage, the auction system will inform newly-active stations that they will be returned to the active status of ''bidding in current round,'' ''frozen—currently infeasible,'' or ''frozen—pending catch up,'' whichever the case may be, at the beginning of the reverse auction in the new stage. For each newly-active station, its catch up point will be the base clock price at the time that the station became provisionally winning in a previous stage. In the first round of the new stage, the newly-active station(s) with the highest catch up point will become either ''bidding in the current round'' (applicable to UHF or VHF stations) or ''frozen—currently infeasible'' (applicable only to VHF stations), while all newly-active stations with lower catch up points will become ''frozen—pending catch up.'' The auction system will inform reverse auction bidders of their bidding status after each round of the auction and at the start of a new stage. Bidders that have a station that is ''frozen—pending catch up'' or ''frozen—currently infeasible'' may place proxy bid instructions, if they so choose, in accordance with the reverse auction bidding procedures.

258. The base clock price will descend from the reset price (*i.e.,* the highest catch up point of newly-active stations). The auction system will calculate new price offers for bidding stations using the descending clock pricing procedures. Bidders with a newly-active station that is ''frozen—pending catch up'' will not resume bidding in the current round until the base clock price falls below the station's catch up point and its status changes. In order to avoid rounds in which no bidders are able to submit bids, if in any round there would be no stations that have the status ''bidding in the current round'' but there are stations that remain ''frozen—pending catch up,'' the auction system will temporarily adjust the price decrement. Specifically, the auction system will increase the price decrement only for the next round so as to meet the highest catch up point of a station that is pending catch up. This change will be announced to bidders immediately prior to adjusting the decrement. Once the base clock price descends to that point, such bidders will see their station's bidding status change to ''bidding in the current round'' if the station has a feasible channel assignment, or ''frozen—currently infeasible'' if the station is a VHF station and does not currently have a feasible channel assignment. Bidders who are asked to bid in a new stage will be able to bid using the bidding procedures including requesting to switch to another bid option if their station is eligible to do so. Any stations that exited in a prior stage will retain that status and will not resume bidding.

C. Forward Auction Bidding

1. License Inventory by Category and PEA

259. In the forward auction in a subsequent stage, the number of spectrum blocks available in each PEA will generally be reduced by one. The number of Category 1 and Category 2 licenses available in a given PEA may increase or decrease, however, because the clearing target determination procedure between stages may change the assignment of television stations to the 600 MHz Band, altering the extent and location of impairments in the available blocks. Prior to the start of the forward auction in a new stage, the auction system will inform forward auction bidders of the new band plan, including the number of blocks that will be available in each category in each PEA, and the same types of impairment information provided prior to the initial stage of the auction. The auction system will not evaluate whether the final stage rule has been satisfied until after bidding in the first clock round of the forward auction in a subsequent stage is complete.

a. Bidder Demands and Bidding Eligibility

260. The auction system will initiate bidding in the forward auction in any subsequent stage based on bidder demands and bidder eligibility from the end of the previous stage. If a new stage does not follow an extended round because the shortfall to meet the final stage rule was too large, bidder demands and eligibility at the start of the first round of the forward auction in the new stage will be equal to those accepted by the auction system at the end of the last

regular clock round in the previous stage.

261. If the forward auction in a new stage follows an extended round in which the final stage rule was not met, bidder demands will be based on bidding in the extended round for license categories in PEAs that participated in the extended round, and on demands from the last regular clock round for license categories and PEAs that did not participate. More specifically, for categories of blocks for which all bidders indicate that they are willing to accept the full extended round price increment, bidder demands will carry over from the extended round. For categories for which a reduction was accepted, bidder demands from the start of the extended round will carry over to the new stage for all but the bidder whose requested reduction was accepted. Under the procedures the Commission adopts for processing extended round bids when the final stage rule is not met, the auction system will process a demand reduction of up to one block per ''high-demand'' PEA. In some cases the supply of Category 1 blocks in a PEA may not decrease in a subsequent stage in spite of the lower clearing target because the clearing target selection procedure could reduce impairments to licenses in a PEA sufficiently that one or more blocks previously considered Category 2 will be considered Category 1 in the new stage, so that even with a lower total number of blocks, the number of Category 1 blocks will not decrease. The Commission anticipates that, in such cases, bidders previously demanding a Category 2 block, the supply of which will be reduced disproportionately, are likely to shift to bid on the Category 1 blocks, so that demand for the Category 1 blocks will at least equal supply. That bidder's demand will reflect the reduction, consistent with its extended round bid processing procedures. For blocks that are not included in bidding in the extended round, bidder demands that were accepted at the end of the last regular clock round of the previous stage will carry over to the beginning of the next stage. If supply exceeds demand in a category because a bidder on a Category 2 block chose to reduce its demand, taking advantage of the exception to the rule that reductions will not be applied if aggregate demand will fall below supply, the clock price for the second round of the new stage will be also based on the price from the last round in the previous stage (when supply did not exceed demand).

262. In recognition that bidder demand for Category 2 blocks in a PEA may be reduced based on changes to the extent of impairments, the auction system will accept requests to reduce demand for Category 2 blocks in the first round of the forward auction in a subsequent stage, even if the reduction will result in demand falling below supply for that category. Bidder eligibility in a subsequent stage will be based on the bidder's bidding activity at the end of the previous stage. A bidder will begin the first round of the forward auction in the new stage with its eligibility reset based on bidding in the extended round for licenses for which there was bidding in the extended round, and for other licenses on bidding in the last regular clock round.

b. Clock Price

263. The auction system will initiate forward auction bidding in any subsequent stage based on prices from the end of the previous stage. The price increment in the first round of the forward auction in the next stage will be added to the last clock price from the previous stage, or to the intra-round price at which a reduction that brought demand down to equal supply was processed. If an extended round was held, for blocks not subject to extended round bidding (*i.e.,* Category 2 blocks and blocks in non-high-demand PEAs) clock prices for the first round in the new stage will be based on prices from the round preceding the extended round. For categories subject to extended round bidding, the increment will be added to the extended round clock price if no reduction was requested in the category, or the lowest price at which a reduction was requested. If the new stage is triggered without an extended round because the shortfall in proceeds was sufficiently large, these procedures are equivalent to setting clock prices for the first round of the new stage as if it were a new round in the previous stage.

264. The Commission disagrees with T-Mobile's assertion that forward auction clock prices in a subsequent stage should reflect the reduction in payments to provisionally winning reverse auction bidders and relocation expenses resulting from a lower clearing target. Nor is the Commission persuaded to set clock prices in a new stage that are just sufficient to satisfy the final stage rule for the reduced spectrum clearing target. The Commission agrees with AT&T that rolling back prices between stages may provide an incentive for undesirable bidding behavior because bidders may hold back on bidding, knowing ''that prices could be lower in the next round if they allow the auction to fail at the current clearing targets,'' which would reduce the amount of spectrum cleared in the incentive auction. Moreover, the procedures the Commission adopts to prevent an extended round if the needed shortfall to satisfy the final stage rule is too large will limit the extent to which clock prices can increase from stage to stage, mitigating T-Mobile's concern that a failed extended round will set ''an artificially inflated price floor for subsequent stages'' of the auction, potentially leading to reduced bidder demands and fewer blocks in the spectrum reserve. The pricing procedures the Commission adopts will provide a smooth transition between stages and sound incentives for straightforward bidding in the forward auction in any subsequent stages.

VIII. Final Television Channel Assignment Plan Selection Procedure

265. Once the forward auction satisfies the final stage rule, no additional stages will be required: At that time it will be possible to finalize the provisional television channel assignment plan for the remaining television bands using the optimization procedures. The satisfaction of the final stage rule will be publicly announced. The final television channel assignment plan will not be released until after the close of the forward auction. The mathematical formulas for implementing the final television channel assignment selection procedure will be set forth in an appendix to the *Application Procedures PN.* The results of the final television channel assignment plan selection procedure will be announced by the Media and Wireless Telecommunications Bureaus in the *Channel Reassignment Public Notice* after the completion of the reverse and forward auctions.

266. The final television channel assignment plan will include a channel assignment for each eligible full power and Class A television station that will remain on the air post-auction; *i.e.,* those that did not participate in the reverse auction, those that participated but exited the bidding, and those that successfully bid to voluntarily relocate to a different TV band. With the exception of any stations that were assigned to channels in the 600 MHz Band in the final stage of the auction, all provisional television channel assignments will be subject to change in the final television channel assignment plan. The channel assignments of stations provisionally assigned to the 600 MHz Band in the final stage of the auction will not change in the final television channel assignment plan. This approach provides needed certainty for the auction outcome by

ensuring that impairments to forward auction licenses will not change as a result of the final television channel assignment optimization procedure. Every final channel assignment will be required to satisfy the constraints adopted in the *Incentive Auction R&O* to fulfill the statutory mandate that the Commission make all reasonable efforts to preserve each station's coverage area and population served.

267. The auction system will use optimization techniques to determine a final television channel assignment plan. In addition to satisfying the constraints adopted in the *Incentive Auction R&O,* the final television channel assignment plan selection procedure will take into account the following objectives, listed in order of priority: (1) Maximizing the number of channel ''stays,'' or stations assigned to their pre-auction channels instead of being assigned to new channels; (2) minimizing the maximum aggregate new interference experienced by any station; (3) avoiding reassignment of stations with high anticipated relocation costs; and (4) prioritizing assignments to channel 5 in the Low-VHF band and off of channel 14 in the UHF band. The procedure will first optimize for the first objective. It will then optimize for the second objective, which will be constrained by the results of the optimization for the first objective. The procedure will then optimize for the third objective, which will be constrained by the results for the first and second objectives. Finally, the procedure will optimize for the fourth objective, which will be constrained by the results for the first three objectives. The procedure will select a final television channel assignment plan that satisfies the constraints adopted in the *Incentive Auction R&O* and best fulfills the objectives. The final television channel assignment plan will be subject to international coordination with Canada and Mexico.

268. The first objective of maximizing the number of stations assigned to their pre-auction channels will promote a number of important goals. First, it will help to reduce the total cost of reimbursing broadcasters and others for the reasonable costs associated with repacking. Several commenters have expressed concerns regarding the sufficiency of the $1.75 billion in the TV Broadcaster Relocation Fund that Congress made available for reimbursing the reasonable relocation expenses of broadcasters and MVPDs. By minimizing the number of stations that will be required to move off their pre-auction channels and, therefore, minimizing the number of stations that incur relocation expenses eligible for reimbursement from the Fund, the first objective will help to ensure the Fund's sufficiency. Additionally, by reducing the number of stations that must change channels, the first objective will speed the post-auction transition process for other stations and minimize disruption for stations and viewers alike. Finally, the first objective will avoid terrain losses (and potentially viewer losses) that could result from channel changes due to signal propagation differences on different frequencies, consistent with its statutory mandate to make all reasonable efforts to preserve the coverage area and population served of eligible broadcast television licensees.

269. The first objective will constrain the additional objectives; however, the Commission adopts its proposal to allow the optimization procedure to choose a final television channel assignment plan in which the number of stations that are assigned to their pre-auction channels is within 95 percent of the number found in the first objective. The Commission adopts this percentage in order to allow some flexibility to achieve greater benefit in the second and third objectives while still capturing the benefits of the first objective by mostly restricting the assignments to maintain the maximum number of stays. However, the fourth objective will constrain the number of stations that are assigned to their pre-auction channel to be at least as many as found in the third optimization.

270. The second objective of minimizing the maximum aggregate new interference that any station will incur furthers its statutory obligation to make all reasonable efforts to preserve eligible stations' population served, and fulfills its commitment in the *ISIX Order,* 79 FR 76903, December 23, 2014, to take aggregate new interference into account when establishing the final channel assignments. In the *Incentive Auction R&O,* the Commission determined that it would permit channel assignments that would not increase pairwise interference—interference from any one station to another station—by more than 0.5 percent. In response to concerns that this approach could result in stations experiencing new interference of more than 0.5 percent on an aggregate basis, in the *ISIX Order* the Commission explained that, based on staff analysis, few stations were likely to experience new interference above one percent and that any such interference was unlikely to exceed two percent. In order to address the exceptional cases, the Commission stated that it would include an optimization objective in the final television channel assignment plan optimization that would seek to minimize this issue.

271. In order to implement the second objective, the final television channel assignment plan selection procedure will minimize the maximum amount of aggregate new interference that any single station could receive. In the *Auction 1000 Comment PN* the Commission proposed the alternative of minimizing the number of stations that receive aggregate new interference above one percent; however, using that procedure could possibly result in significantly higher interference levels for some stations with minimal benefit. In order to minimize the maximum amount of aggregate new interference that any single station could receive, the procedure will determine each station's predicted aggregate new interference. The optimization procedure will use pairwise constraints to calculate aggregate new interference, which will result in some double counting of interference. This provides a conservative approach to calculating aggregate new interference, making it possible that the amount of interference will be less than predicted. It will then determine an assignment plan that minimizes the maximum aggregate new interference that any station will receive. This approach to minimizing aggregate new interference will help to ensure that no station will receive a disproportionately high amount of new interference. To the extent that any stations are predicted to receive new interference greater than one percent in the final TV channel assignment plan despite the application of the secondary objective, the Commission noted in the *ISIX Order* that stations may seek a remedy through the post-auction facilities modification processes. The Commission received only one comment directly addressing this objective, and it concluded that the approach it adopts to implementing it will best meet its commitment to minimize aggregate new interference while being the most fair to stations overall.

272. The third objective of avoiding reassignment of stations with high anticipated relocation costs will further its efforts to minimize total relocation costs. This objective is consistent with its goals of ensuring the sufficiency of the $1.75 billion TV Broadcaster Relocation Fund and disbursing the Fund as fairly and efficiently as possible.

273. In determining how to estimate relocation costs for purposes of applying the third objective, the Commission adopts a categorical approach, rather

than a station-by-station approach. Such an approach better serves the public interest by simplifying the determination and minimizing administration burdens. In the *Auction 1000 Comment PN,* the Commission proposed to determine costs for purposes of applying this objective by using publicly available data, such as the data compiled for the Media Bureau by Widelity, Inc. or the data provided by broadcasters in the Form 381 Pre-Auction Technical Certification. More specifically, the Commission adopts an approach under which each station will be assigned a weight based on a number of characteristics that generally make a station more costly to relocate to a different channel. A higher number will indicate that a station's channel change is more difficult to implement, and therefore, generally more costly. Also, generally, these more difficult and costly moves will take the greatest amount of time. Minimizing them will help speed the post-auction transition process, thus further minimizing the potential for service disruptions. The optimization software will use the categorical weights to choose a final television channel assignment plan that minimizes relocation costs by avoiding highly-weighted reassignments.

274. A channel change for a full power station will generally be more costly than for a Class A station, and channel changes for stations in the top 30 DMAs will generally be more costly than stations in the remaining DMAs. Accordingly, the Commission will use the following categorical or ''base'' weights: a weight of five for full power stations in the top 30 DMAs; a weight of three for full power stations in all other DMAs; and a weight of one for Class A stations. The Commission used the Widelity Report Case Studies as a basis for these relative values. The Commission used Case Study 1 for Full Power Top 30 DMAs: cost is approximately $2.5 million, Case Study 2 for Full Power not Top 30: cost is approximately $1.5 million, Case Study 3 for Class A stations: cost is approximately $0.5 million. In order to take account of considerations that will likely add significant costs to relocation, the Commission will also add one to a station's base weight for each of the following factors: (1) An antenna on a tower taller than 1000 feet, because work on such a tower requires a specialized crew; (2) a tower in areas with significant ice and wind threat, because such towers may need improvements to satisfy ''Rev. G'' structural standards; (3) collocation on a tower with four or more other television or radio entities; and (4) a station will encounter known extraordinary circumstances if they need to change channels. Examples of some of the more complicated station sites are described in the Widelity report. These weights are meant to reflect relative difficulty when comparing two stations and are not intended to capture all of the unique circumstances potentially encountered by each station; however, they provide a simple and non-burdensome means of estimating relocation costs accurately enough to avoid the most costly and difficult relocations. Should Commission staff determine based on additional information that consideration of additional factors could result in cost savings in keeping with its overall goals of minimizing the expense and disruption to broadcasters during the repacking process, the Commission delegates authority to the Media Bureau to modify the approach it adopts to take into account such factors and direct the Media Bureau to publicly announce the final approach that will be used by the final television channel assignment optimization procedure to minimize relocation expenses.

275. Finally, the fourth objective will seek to assign as many stations as possible that voluntarily move to the Low-VHF band—or that must be reassigned to new channels in that band to accommodate such moves—to channel 5. The Commission adopts this objective in response to the suggestions of several commenters that interest in bidding to move to the Low-VHF band would be increased if winning bidders could be assigned to as high a channel in that band as possible. These commenters assert that the technical characteristics of higher VHF channels are generally better than those of lower VHF channels. The Commission concluded that their suggestion has merit. Additionally, the fourth objective will seek to assign stations in the UHF band to a channel other than channel 14 in order to avoid coordination challenges with private land mobile radio systems (PLMRS). Because the Commission concludes that this objective should not be applied at the expense of the objectives, the fourth objective will be constrained by the second and third objectives and fully constrain the number of stations assigned to their pre-auction band to be at least as many as found after the third objective.

IX. Supplemental Final Regulatory Flexibility Act Analysis

276. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Supplemental Final Regulatory Flexibility Analysis (SFRFA) of the possible significant economic impact on small entities by the procedures and policies contained in the *Auction 1000 Bidding Procedures Public Notice* and the SFRFA.

A. Need for, and Objectives of, Public Notice

277. The *Auction 1000* Bidding *Procedures Public Notice* determines procedures necessary to carry out the broadcast television spectrum incentive auction and resolves issues raised in the *Auction 1000 Comment PN* released December 17, 2014. In the *Auction 1000 Comment PN,* the Commission sought comment on the proposals for conducting the broadcast television incentive auction, including proposed procedures for the forward auction, the reverse auction, and integration of the reverse and forward auctions, that would implement rules previously proposed in the *Incentive Auction Notice of Proposed Rulemaking* (*Incentive Auction NPRM*), 77 FR 69933, November 21, 2012, and adopted in the *Incentive Auction R&O.* In part, the *Auction 1000 Bidding Procedures Public Notice* also resolves pending petitions for reconsideration of the *Mobile Spectrum Holdings R&O.*

278. Previously, as required by the RFA, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the *Incentive Auction NPRM* and a Final Regulatory Flexibility Analysis (FRFA) in connection with the *Incentive Auction R&O.* Likewise, the Commission's *Mobile Spectrum Holdings NPRM,* 77 FR 61330, October 9, 2012, included an Initial Regulatory Flexibility Analysis (MSH IRFA) and its *Mobile Spectrum Holdings R&O* included a Final Regulatory Flexibility Analysis (MSH FRFA).

279. Following the release of the *Auction 1000 Comment PN,* a *Supplemental Public Notice,* 80 FR 4816, Jan. 29, 2015, sought comment on how the proposals in the *Auction 1000 Comment PN* could affect either the IRFA or the FRFA. This SFRFA, addresses the effect, to the extent there is any, of the *Auction 1000 Bidding Procedures Public Notice* determinations have on the IRFA and FRFA.

280. As noted in the *Supplemental Public Notice,* the proposals in the *Auction 1000 Comment PN* did not change any of the matters described in the IRFA or FRFA. More specifically, the IRFA and FRFA set forth the need for and objective of the Commission's rules for the broadcast spectrum

incentive auction; the legal basis for those rules; a description and estimate of the number of small entities to which the rules apply; a description of the projected reporting, recordkeeping, and other compliance requirements with small entities and significant alternative considered; and a statement that there are no federal rules that may duplicate, overlap, or conflict with the rules. As further noted in the *Supplemental Public Notice,* the request for comment focused on how the proposals in the *Auction 1000 Comment PN* might affect ether the IRFA or the FRFA.

281. One comment responded specifically to the *Supplemental Public Notice,* filed by the Competitive Carriers Association (CCA). CCA does not assert that any of the matters already described in the IRFA or the FRFA need to be changed in light of the proposals in the *Auction 1000 Comment PN*. Accordingly, the descriptions provided in the IRFA and the FRFA are incorporated herein without change. To the extent there is any variance and it is necessary due to the use of the average price component of the final stage rule as part of the trigger for the spectrum reserve, the MSH IRFA and MSH FRFA likewise are incorporated herein without change.

282. CCA contends, however, that three of its proposals require a ''more fulsome factual, policy, and legal analysis [than was provided in the FRFA] for these proposals for the agency to meet its requirements under the Regulatory Flexibility Act.'' The three proposals to which CCA refers are ''(1) the price per MHz-pop benchmark for determining whether the final stage rule has been satisfied; (2) the upfront payment amounts for the [forward] auction; and (3) the minimum opening bid amounts for the [forward] auction.''

283. As a preliminary matter, the factual, policy and legal analyses supporting these proposals, as well as its related decisions, have been the subject of discussion in the *Incentive Auction NPRM* and the *Incentive Auction R&O*. These topics also have been discussed in the *Auction 1000 Comment PN*. Finally, after CCA filed its comment in response to the *Supplemental Public Notice,* the Commission also addressed the reasons for the final stage rule proposal and decision in the *Second Order* on *Reconsideration* and for all three subjects in the *Auction 1000 Bidding Procedures Public Notice*. More than once, these discussions have addressed comments by CCA, often making the same substantive points that CCA makes in response to the *Supplemental Public Notice*.

284. Nonetheless, in response to CCA's submission of its arguments in response to the *Supplemental Public Notice,* this SFRFA summarizes those reasons to assure that the Commission has accounted properly for any particular impact on small businesses of those decisions.

B. Summary of Significant Issues Raised by Public Comments in Response to the Supplemental Notice

285. *The Average Price Component of the Final Stage Rule*. CCA contends that the average price component of the final stage rule is ''unnecessary, contrary to the Commission's stated purpose of the spectrum reserve, and will negatively affect smaller auction participants.'' Reversing the order in which the two components are presented and discussed by the Commission, CCA refers to the component of the final stage rule that is based on license prices in the forward auction as the second component of the final stage. The Commission maintains consistency with its prior discussions and refers to this instead as the first component. CCA argues that this component is unnecessary because the cost component of the final stage rule is sufficient to assure that forward auction bidders will pay competitive prices, that it is contrary to the Commission's purpose because it creates a risk that the auction will not close, that it is contrary to the purpose of the spectrum reserve because it may result in a lower spectrum amount of reserve spectrum, and that it harms small businesses because they are unable to influence whether it is met.

286. *Bidding Units Based on Price Weighted Population To Determine Forward Auction Upfront Payment Amounts and Minimum Opening Bids*. Although CCA describes the Commission's proposal to use population of license areas weighted by past auction prices as ''an elegant means of accounting for the historical differences in prices between markets,'' CCA ''remains concerned, however, by certain outliers . . . resulting from the Commission's methodology.'' CCA asks for additional information regarding the creation of the price index, specifically ''how results from past auctions for spectrum licensed in Economic Areas and Cellular Market Areas were adapted for use with licenses to be offered based on PEAs.'' Finally, ''CCA objects to the Commission's proposal to incorporate the final results from Auction 97 into the price index for determining bidding units (and, therefore, upfront payments and minimum opening bids), because this exercise could prejudice smaller bidders.'' The Commission finds the arguments raised by CCA to be without merit.

C. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

287. *The Average Price Component of the Final Stage Rule.* The Commission adopted the average price component of the final stage rule in order to assure that forward auction bidders pay competitive prices for licenses, in compliance with the Commission's statutory mandate to recover for the public a portion of the value of the public spectrum resource. The cost component of the final stage rule does not fulfill this mandate because the costs covered are not set in relation to the value of the public spectrum resource. Rather, the cost of paying existing licensees to relinquish spectrum usage rights based on existing broadcasting licenses to make spectrum available for new flexible use licenses, is determined by other factors, such as the value of the existing usage rights. Moreover, there is not a one-to-one relationship between the spectrum subject to the relinquished rights and the spectrum covered by new licenses, either on an individual license basis or collectively. Accordingly, despite CCA's contrary contention, the average price component serves a significant purpose not satisfied by the cost component. The effects of the average price component accordingly must be assessed against the public interest in achieving that purpose.

288. The average price component furthers the public interest in recovering a portion of the value of the public spectrum resource. The attendant risk that the average price component might preclude achieving a given spectrum clearing target is consistent with serving the public interest. All participants in the forward auction, regardless of size, bear that risk. Alternatives that would grant new licenses without recovering the value pursuant to the Commission's decision would be contrary to this purpose.

289. The link between the average price component of the final stage rule and the establishment of the spectrum reserve is similar. Satisfying the final stage rule before establishing the reserve ensures that reserve-eligible bidders pay significant prices for spectrum, that they are paying the same price as other bidders at the time that the final stage rule is met, and that the final stage rule is met before the spectrum reserve is implemented. Fundamentally, linking the reserve with satisfaction of the final

stage rule ensures that reserve-eligible bidders contribute ''*a fair share*'' of the final stage rule requirements, including ''a portion'' of the value of the spectrum for the public, given the average price component. Any alternative to using the final stage rule as a trigger for the reserve would conflict with these goals.

290. The Commission's use of the average price in the top 40 by population Partial Economic Areas (PEAs) is supported by the stated purpose of the procedure, specifically to facilitate a speedy auction by focusing on PEAs more likely to sooner reach their final prices. An alternative that would consider the average price in more areas would risk slowing down the auction and would require assessing an average price over areas for which past price data may not be as reliable as data in the top 40 PEAs. CCA contends that smaller bidders may be less likely to bid in the top 40 PEAs, and therefore less likely to directly influence whether the average price component is met. Presuming, for the sake of argument, that this is true, that also means that such bidders may win licenses despite lower average prices in other PEAs. Smaller bidders that may have relatively less influence over whether the average price component is met therefore benefit from the use of the top 40 PEAs to the extent it enables them to win licenses with lower average prices.

291. At clearing targets that license more than 70 megahertz in the 600 MHz, the gross bids of all licenses will be considered in determining whether the average price component is met, rather than the average price in the top 40 PEAs. In that case, bidders for areas other than the top 40 PEAs will influence whether the average price component is satisfied. Moreover, the effective average price of licenses in such circumstances will be lower than that set for the top 40 PEAs, thereby retaining the benefit of meeting lower average prices in areas outside the top 40 PEAs.

292. *Bidding Units Based on Price Weighted Population To Determine Forward Auction Upfront Payment Amounts and Minimum Opening Bids.* The Commission uses bidding units to determine forward auction upfront payment amounts and minimum opening bids for each PEA. More specifically, the upfront payments and the minimum opening bids are set on a dollar per bidding unit basis. The bidding units reflect the population of the respective PEA, weighted by a price index set based on data from prior spectrum license auctions. The procedure for determining the bidding units, *i.e.,* for weighting the relevant population based on price data from past auctions, is detailed in the *Auction 1000 Bidding Procedures Public Notice.*

293. The price index attempts to capture the information about relative demand and value reflected in those prices. Any change in the relative index for particular PEAs is the intended effect. Using price data from recently completed Auction 97 furthers the Commission's purpose of weighting population based on the demand from bidders for licenses in past auctions. There is no basis for an alternative that would be consistent with this purpose. ''Outliers'' in the data or differences in relative prices in different auctions, whether Auction 97 or any other auction, are reasons to incorporate the data, not reasons to selectively rejects some of it.

294. Using population weighted by a price index to set upfront payments and minimum opening bids establishes the relative amounts involved without determining the final amounts. CCA does not offer any support for its contention that the amounts set by the Commission's decision are too high. Furthermore, contrary to CCA's suggestion that upfront payments must be made without knowledge of the amount of spectrum to be offered in the forward auction, the Commission's decision provides that forward auction bidders will make upfront payments only after the determination of the initial clearing target.

D. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

295. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the *Auction 1000 Comment PN* released December 17, 2014.

List of Subjects in 47 CFR Part 20

Commercial mobile services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 615, 615a, 615b, 615c.

■ 2. Section 20.22 is amended by removing paragraph (b)(4)(vii) and adding paragraph (b)(5) to read as follows:

§ 20.22 Rules governing mobile spectrum holdings.

* * * * *

(b) * * *

(5) The following interests shall be attributable to holders, except to lessees and sublessees for the purpose of qualifying to bid on reserved licenses offered in the Incentive Auction, discussed in paragraph (c) of this section, on the basis of status as a non-nationwide provider:

(i) Long-term *de facto* transfer leasing arrangements as defined in § 1.9003 of this chapter and long-term spectrum manager leasing arrangements as identified in § 1.9020(e)(1)(ii) that enable commercial use shall be attributable to lessees, lessors, sublessees, and sublessors for purposes of this section.

(ii) [Reserved]

* * * * *

[FR Doc. 2015–25579 Filed 10–13–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,
No. 198 October 14, 2015

Part IV

The President

Proclamation 9344—Leif Erikson Day, 2015

Federal Register
Vol. 80, No. 198
Wednesday, October 14, 2015

Presidential Documents

Title 3—

The President

Proclamation 9344 of October 8, 2015

Leif Erikson Day, 2015

By the President of the United States of America

A Proclamation

Since our Nation's founding, we have been driven by strength in the face of uncertainty and by a bold spirit of adventure. These defining forces were reflected in the early discovery of our continent when Leif Erikson—a son of Iceland and grandson of Norway—and his team became the first Europeans known to land on North American shores. On Leif Erikson Day, we honor him as an important piece of our shared past with the Norwegian people, and we celebrate the perilous yet rewarding voyage he and his crew undertook one millennium ago.

Leif Erikson's discovery marks the beginning of a meaningful friendship between Norway and the United States, and we have seen reflections of his team's journey throughout history. The courage that guided these pioneers to North America was also found in the voyage of six families who braved the unforeseen in 1825 as some of the first immigrants from Norway to the United States. Fleeing religious strife in their homeland in search of liberty's light, they sailed across the same ocean Erikson traversed more than eight centuries prior. And 190 years ago, these striving newcomers began to weave their unique threads into the fabric of America.

Today, we pay tribute to those who embarked on these expeditions and recognize the role they played in shaping our legacy as a Nation of immigrants. We also reaffirm the ties that bind America and Norway and rededicate ourselves to our common goals of securing peace and prosperity around the world. On Leif Erikson Day, let us honor his spirit by celebrating our past while fearlessly reaching for the future he knew was possible.

To honor Leif Erikson and celebrate our Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President of the United States to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim October 9, 2015, as Leif Erikson Day. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs to honor our rich Nordic-American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth 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. 2015–26339
Filed 10–13–15; 11:15 am]
Billing code 3295–F6–P

Reader Aids

Federal Register

Vol. 80, No. 198

Wednesday, October 14, 2015

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, OCTOBER

59021–59548 1
59549–60026 2
60027–60274 5
60275–60510 6
60511–60794 7
60795–61086 8
61087–61272 9
61273–61716 13
61717–61974 14

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR
1500 61087
3002 59549

3 CFR
Proclamations:
9331 59547
9332 60025
9333 60249
9334 60257
9335 60259
9336 60261
9337 60263
9338 60265
9339 60267
9340 60787
9341 60789
9342 60791
9343 61085
9344 61973
Executive Orders:
10431 (superseded by EO 13709) 60793
10431 (amended by EO 13709) 60793
12829 (superseded by EO 13708) 60271
13652 (amended by EO 13708) 60271
13708 60271
13709 60793
Administrative Orders:
Memorandums:
Memorandum of September 24, 2015 60511
Memorandum of September 24, 2015 61273
Memorandum of September 29, 2015 61275

5 CFR
532 61277

7 CFR
301 59551
319 59557
354 59561
Proposed Rules:
925 ..... 59077, 60570
944 59077
1753 59080
1755 59080
3555 60298

8 CFR
1003 ..... 59500, 59503
1240 59503
1241 59503
Proposed Rules:
1001 ..... 59514, 61773
1003 ..... 59514, 61773
1103 ..... 59514, 61773
1212 ..... 59514, 61773
1292 ..... 59514, 61773

9 CFR
97 59561
130 59561

10 CFR
2 60513
Proposed Rules:
430 61131

12 CFR
600 60275
1026 59944
Proposed Rules:
Ch. I 60075
Ch. II 60075
Ch. III 60075

13 CFR
Proposed Rules:
107 60077
115 59667
120 59667
121 ..... 59667, 60300
125 60300

14 CFR
Ch. 1 60033
21 59021
25 ..... 60027, 60028, 60275
39 ..... 59032, 59568, 59570, 60030, 60281, 60284, 60795, 61088, 61091, 61093, 61098, 61717, 61719, 61720, 61722, 61725
45 59021
71 ..... 59035, 59036, 60286, 60289, 60290
73 ..... 60528, 61727
Proposed Rules:
39 ..... 59081, 59672, 60303, 60307, 61131, 61133, 61327, 61330
73 60573
93 60310
147 59674

15 CFR
730 61100
744 ..... 60529, 61100
902 ..... 59037, 60533
Proposed Rules:
774 61137

16 CFR
4 60797
1109 61729
1500 61729

Proposed Rules:
1109.....61773
1500.....61773

17 CFR

15.....59575
18.....59575
36.....59575
40.....59575
140.....59575
232.....59578
Proposed Rules:
201.....60082, 60091
210.....59083, 61332

19 CFR

4.....61278
7.....61278
10.....61278
12.....60292, 61278
18.....61278
19.....61278
24.....61278
54.....61278
102.....61278
113.....61278
123.....61278
125.....61278
128.....61278
132.....61278
134.....61278
141.....61278
142.....61278
143.....61278
144.....61278
145.....61278
146.....61278
148.....61278
151.....61278
152.....61278
158.....61278
163.....61278
174.....61278
181.....61278
191.....61278

20 CFR

422.....61733

21 CFR

107.....61293
510.....61293
520.....61293
522.....61293
524.....61293
556.....61293
558.....61293, 61298
890.....61298
Proposed Rules:
880.....60809

22 CFR

Proposed Rules:
21.....61138

23 CFR

625.....61302

24 CFR

Proposed Rules:
60.....59092
291.....59690

26 CFR

1.....60293, 61308
Proposed Rules:
1.....61332

27 CFR

555.....59580

29 CFR

20.....60797
1625.....60539
1910.....60033
1926.....60033

30 CFR

Proposed Rules:
901.....60107

31 CFR

Proposed Rules:
1010.....60575

32 CFR

236.....59581

33 CFR

117 .....60293, 60294, 61750
165 .....59049, 60802, 60803, 61309

37 CFR

380.....59588

40 CFR

9.....59593
30.....61087
31.....61087
33.....61087
35.....61087
40.....61087
45.....61087
46.....61087
47.....61087
52 .....59052, 59055, 59610, 59611, 59615, 59620, 59624, 60040, 60043, 60045, 60047, 60049, 60295, 60540, 60541, 60805, 61101, 61107, 61109, 61111, 61112, 61311, 61751, 61752
81.....59624, 60049
180 .....59627, 60545, 61118, 61122, 61125
228.....61757
261.....60052
721.....59593
Proposed Rules:
Ch. I.....60577, 60584
51.....61139
52 .....59094, 59695, 59703, 59704, 60108, 60109, 60110, 60314, 60318, 60576, 61140, 61141, 61774, 61775
60.....61139
61.....61139
63.....61139
70.....60110
81.....61775
372.....60818

41 CFR

Proposed Rules:
102–117.....59094
102–118.....59094

42 CFR

412.....59057, 60055
418.....60069
483.....60070
Proposed Rules:
414.....59102, 59386

43 CFR

1820.....59634
Proposed Rules:
50.....59113
3160.....61646
3170.....61646

44 CFR

13.....59549
64.....60071
78.....59549
79.....59549
152.....59549
201.....59549
204.....59549
206.....59549
207.....59549
208.....59549
304.....59549
360.....59549
361.....59549

45 CFR

Proposed Rules:
1370.....61890
1630.....61142

47 CFR

12.....60548
20.....61918
64.....61129
76.....59635
Proposed Rules:
1.....60825
54.....59705, 60012
69.....59705
76.....59706

48 CFR

1823.....60552
1846.....60552
1852.....60552
Proposed Rules:
2.....60832
4.....60832
13.....60832
18.....60832
19.....60832
36.....60833
202.....61333
212.....61333
215.....61333
252.....61333

49 CFR

Ch. III.....59065
350.....59065
365.....59065
375.....59065
377.....59065
381.....59065
383.....59065
384.....59065
385.....59065
387.....59065
389.....59065
390.....59065
391.....59065
393.....59065
395.....59065, 59664
396.....59065
397.....59065
541.....60555
830.....61317
Proposed Rules:
195.....61610
271.....60591
393.....60592
396.....60592
571.....59132, 60320

50 CFR

17 .....59248, 59424, 59976, 60440, 60468
223.....60560
224.....60560
300.....59037, 60533
622.....59665, 60565
635.....60566
648.....60568
660.....61318, 61765
665.....61767
679 .....59075, 60073, 60807
Proposed Rules:
17 .....59858, 60321, 60335, 60754, 60834, 60850, 60962, 60990, 61030, 61568
300.....61146
622.....60601, 60605
680.....61150

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 13, 2015

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.