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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.

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# Rules and Regulations

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 531

#### Pay Under the General Schedule

##### CFR Correction

■ In Title 5 of the Code of Federal Regulations, Parts 1 to 699, revised as of January 1, 2015, on page 399, in § 531.403, in the second column, the definition of “Next higher rate within the grade” is removed and replaced by the revised definition of “Next higher rate within the grade” from the first column.

[FR Doc. 2015-31128 Filed 12-9-15; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 738

#### Commerce Control List Overview and the Country Chart

##### CFR Correction

■ In Title 15 of the Code of Federal Regulations, Parts 300 to 799, revised as of January 1, 2015, on page 261, in Supplement No. 1 to Part 738—Commerce Country Chart, remove footnote 1 from Congo (Republic of the) and add footnote 1 to Congo (Democratic Republic of the).

[FR Doc. 2015-31132 Filed 12-9-15; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 774

#### The Commerce Control List

##### ACTION: CFR Correction

In Title 15 of the Code of Federal Regulations, Parts 300 to 799, revised as of January 1, 2015, on page 829, in supplement no. 1 to part 774, make the following two corrections:

■ 1. In Category 2, ECCN 2B008, in the List of Items Controlled section, under “Items”, correctly revise paragraph a. to read as follows:

**2B008 Assemblies or Units, Specially Designed for Machine Tools, or Dimensional Inspection or Measuring Systems and Equipment, as Follows (see List of Items Controlled)**

\* \* \* \* \*

##### List of Items Controlled

\* \* \* \* \*

Items:

a. Linear position feedback units having an overall “accuracy” less (better) than  $(800 + (600 \times L \times 10^{-3}))$  nm (L equals the effective length in mm);

N.B.: For “laser” systems see also 2B006.b.1.c and d.

■ 2. In Category 2, ECCN 2B009, in the List of Items Controlled section, under “Items”, correctly revise paragraph a. to read “a. Three or more axes which can be coordinated simultaneously for “contouring control”; and”

[FR Doc. 2015-31130 Filed 12-9-15; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Bureau of Customs and Border Protection

#### DEPARTMENT OF THE TREASURY

#### 19 CFR Part 10

#### Articles Conditionally Free, Subject to a Reduced Rate, etc.

##### CFR Correction

■ In Title 19 of the Code of Federal Regulations, Parts 0 to 140, revised as of April 1, 2015, on page 353, § 10.846 is correctly revised to read as follows:

#### § 10.846 Imported directly.

(a) *Textile and apparel articles.* To be eligible for duty-free treatment under this subpart, textile and apparel articles described in paragraphs (a) through (j) of § 10.843 of this subpart must be imported directly from Haiti or the Dominican Republic into the customs territory of the United States. For purposes of this requirement, the words “imported directly from Haiti or the Dominican Republic” mean:

(1) Direct shipment from Haiti or the Dominican Republic to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Haiti or the Dominican Republic to the United States through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the articles in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

(b) *Wiring sets.* To be eligible for duty-free treatment under this subpart, articles described in paragraph (k) of § 10.843 of this subpart must be imported directly from Haiti into the customs territory of the United States. For purposes of this requirement, the words “imported directly from Haiti” mean:

(1) Direct shipment from Haiti to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Haiti to the United States through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and



other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the articles in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

(c) *Documentary evidence.* An importer making a claim for duty-free treatment under § 10.847 of this subpart may be required to demonstrate, to CBP's satisfaction, that the articles were "imported directly" as that term is defined in paragraphs (a) and (b) of this section. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

[CBP Dec. 08–24, 73 FR 56728, Sept. 30, 2008]

[FR Doc. 2015–31129 Filed 12–9–15; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF STATE

### 22 CFR Part 102

[Public Notice: 9365]

RIN 1400–AD55

### Repeal of Civil Aviation Regulations

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** In accordance with Executive Order 13563 of January 18, 2011, which addresses agency review of existing regulations, including those that may be outmoded or ineffective, the Department of State is repealing our regulations on civil aviation. These regulations, which relate to civil aircraft accidents abroad and were promulgated in 1957, are outdated and duplicative of other authorities, including subsequent statutes, regulations, and Department of State guidance, that specify detailed, modern, comprehensive, and effective procedures for dealing with civil aircraft disasters abroad.

**DATES:** This rule is effective December 10, 2015.

**FOR FURTHER INFORMATION CONTACT:** Daniel Klimow, Attorney Adviser, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, 2201 C Street NW., SA–17, Washington, DC 20520, (202) 485–6224, *klimowda1@state.gov*.

**SUPPLEMENTARY INFORMATION:** This rule removes 22 CFR part 102, which relates to consular responsibilities regarding an aircraft accident abroad involving U.S. citizens and property. In particular, subpart A of part 102 addresses reporting, rendering assistance, safeguarding wreckage, salvage of diplomatic pouches, protective services for survivors, disposition of remains, preservation of property, limitations on expenditure of funds, and protection of U.S. interests in the case of civil aviation disasters. Subpart B addresses the Department of State's responsibility to report to the President on public comments related to decisions of the now-dissolved Civil Aeronautics Board. The Department of State is repealing part 102 because it is outdated and duplicative of other federal laws, regulations, and guidelines that provide modern, comprehensive, and detailed instructions and information for consular officers dealing with civil aviation disasters abroad involving U.S. citizens, as outlined below.

The Aviation Security Improvement Act of 1990 (AVA), 22 U.S.C. 5501 *et seq.*, was enacted to improve the response of the Department of State and missions abroad to aircraft disasters abroad in which U.S. citizens are killed. The AVA mandates a series of detailed responsibilities pertaining to the treatment of victims and their families following an aviation disaster abroad. For example:

- 22 U.S.C. 5501(b)(1)(C) directs the Departments of State and Transportation to negotiate agreements to achieve improved availability of passenger manifest information;
- 22 U.S.C. 5503 addresses notification of families of victims and sets a policy of the Department of State, pursuant to 22 U.S.C. 2715, to directly and promptly notify the families of victims of aviation disasters abroad concerning U.S. citizens directly affected by such a disaster, including timely written notice, notwithstanding notification by any other person;
- 22 U.S.C. 5504 provides that, if possible, in the event of an aviation disaster directly involving U.S. citizens abroad, the Department of State will assign a specific individual and an alternate as the Department of State

liaisons for the family of each such U.S. citizen affected, and establish a toll-free communications system to facilitate inquiries concerning the effect of any disaster abroad on U.S. citizens residing or traveling abroad;

- 22 U.S.C. 5505 addresses disaster management training for Department of State personnel;

- 22 U.S.C. 5506 addresses Department of State responsibilities and procedures at international disaster sites and provides, among other items, that not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of an international disaster involving significant numbers of U.S. citizens abroad. It also requires the Department of State to promulgate procedures for deployment of crisis response teams to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies. Crisis teams may include public affairs, forensic, and bereavement experts, and are to be sent to the site of any international disaster involving U.S. citizens abroad to augment in-country embassy and consulate staff; and

- 22 U.S.C. 5507 addresses recovery and disposition of remains and personal effects, and identifies a Department of State policy to liaise with foreign governments and persons and U.S. air carriers concerning arrangements for the preparation and transport of the remains of U.S. citizens who die abroad, as well as the disposition of their personal effects.

In addition, the Department of State updated and republished the regulations at 22 CFR part 72, entitled Deaths and Estates, in 2007, which provide detailed guidance for consular officials regarding their consular authorities and responsibilities in cases of deaths of U.S. nationals abroad. The regulations apply to deaths that occur in the course of an aircraft disaster, and further address consular reports of death abroad, circumstances and responsibilities for serving as provisional conservator of a deceased U.S. citizen's estate, disposition of remains, taking physical possession of specified personal effects, release of the deceased's personal estate to the estate's legal representative, and disposition of real estate, among other issues. 22 CFR 72.21 and 72.7 impose restrictions on the expenditure of funds and the incurring of financial obligations in connection with deaths and estates of U.S. citizens abroad. 22 CFR 71.6 provides that Foreign Service Officers

shall not expend the funds nor pledge the credit of the U.S. government to aid distressed U.S. citizens except as authorized by the Department of State. Deaths in private aviation disasters involving U.S. citizens and their property abroad as well as deaths in aircraft carriers are subject to 22 CFR part 72 titled "Reporting Deaths of United States Nationals."

Further, the Department of State has adopted detailed, comprehensive guidance in volume seven of the Foreign Affairs Manual (FAM), chapter 1800, on coordinating and managing the federal response to aviation disasters involving U.S. citizens abroad. Specific instructions, operational frameworks, and resources to guide consular officers' responses to aircraft disasters abroad involving U.S. citizens are detailed in 7 FAM 1800 on Consular Crisis Management; 7 FAM 1830 on Aviation and Other Transportation Disasters; 7 FAM 1880 entitled At the Focal Point of a Disaster; and attached appendices, in particular Appendix 7 FAM Exhibit 1830(A), Checklist of Post's Responsibilities in an Aviation Crisis. Additionally 12 FAM, in particular 12 FAM 100 and 500, provide detailed guidance for U.S. government personnel on safeguarding diplomatic pouch shipments generally, including shipments transported by aircraft.

There are other pertinent legal authorities, including the Foreign Air Carrier Family Support Act of 1997, Public Law 105-148, which require foreign air carriers to provide the National Transportation Safety Board (NTSB) with a plan addressing the needs of the families of passengers on foreign air carriers involved in aviation disasters; the 1944 Convention on International Civil Aviation (the Chicago Convention), to which the United States is a party and which addresses, among other items, aircraft disaster investigations; and 14 CFR part 243 on passenger manifests.

Subpart B of part 102 established procedures for the receipt by the Department of State of comments from private parties on possible recommendations by the Department of State to the President on decisions of the Civil Aeronautics Board submitted for the President's approval under section 801 of the Federal Aviation Act of 1958, which relates to overseas and international air transportation. This responsibility is now with the Department of Transportation. See 49 U.S.C. 41307.

These authorities render 22 CFR part 102 obsolete. It is therefore removed.

## Regulatory Analysis

### *Administrative Procedure Act*

This action is being taken as a final rule, with an immediate effective date, pursuant to the "good cause" provision of 5 U.S.C. 553(b). It is the position of the Department of State that notice and comment are not necessary in light of the fact that 22 CFR part 102, repealed by this rulemaking, is obsolete and duplicative of other authorities.

### *Regulatory Flexibility Act*

It is hereby certified that the repeal of these regulations will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by state, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

### *Executive Orders 12866 and 13563*

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this regulation justify any costs. The Department of State does not consider this rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order. The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

### *Federalism*

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders 12372 and 13132.

### *Civil Justice Reform*

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize

litigation, establish clear legal standards, and reduce burden.

### *Consultations With Tribal Governments*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

### *Paperwork Reduction Act*

This rule does not impose or revise any information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

### List of Subjects in 22 CFR Part 102

Aircraft, Foreign Service.

Accordingly, under the authority of 22 U.S.C. 2651a, the Department of State amends 22 CFR chapter I, subchapter K, by removing part 102.

Dated: December 1, 2015.

**David T. Donahue**,  
Principal Deputy Assistant Secretary, Bureau  
of Consular Affairs.

[FR Doc. 2015-31200 Filed 12-9-15; 8:45 am]

BILLING CODE 4710-06-P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 251

[Docket ID: DOD-2014-OS-0058]

RIN 0790-AJ28

### National Language Service Corps (NLSC)

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Final rule.

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**SUMMARY:** This rule establishes the National Language Services Corps (NLSC) in the Code of Federal Regulations by describing the program and its responsibilities pursuant to the National Defense Authorization Act for Fiscal Year 2013, Section 954. This Section authorized the Secretary of Defense to establish the NLSC to respond to federal agencies' needs for language skills in emergencies or surge requirements. Once a federal agency identifies a need, NLSC members are advised of the potential assignment. If an individual is interested and available, he or she will go through a screening and selection process as discussed in the rule. The decision to use NLSC rests with the requesting

agency and support agreements must be established before work can begin.

**DATES:** This final rule is effective on January 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** John Demboski, 571-256-0654.

**SUPPLEMENTARY INFORMATION:** NLSC supports DoD and other U.S. departments or agencies, in need of foreign language services, with requirements of less than one year. This rule outlines NLSC membership criteria, member recruitment, appointment, and activation and describes eligibility requirements for federal employees to participate in NLSC.

In addition to 50 U.S.C. 1913 which authorizes the Secretary of Defense to establish and maintain the National Language Service Corps, 5 U.S.C. 3109 authorizes the employment of experts and consultants on a temporary or intermittent basis; 18 U.S.C. 202 defines "special Government employee;" and 31 U.S.C. 1535 authorizes the head of an agency or major organizational unit within an agency to place an order with a major organizational unit within the same agency or another agency for services.

#### Costs and Benefits

The Department of Defense and other federal departments and agencies have benefited from NLSC support utilizing high-level language skills of members not otherwise available to meet their organizations' short-term, immediate needs. The NLSC has established a means to access and maintain contact with citizens who are highly skilled in foreign languages who are open to short term employment. Since initial efforts in fiscal year 2007, the average cost per year to build, pilot and fully operationalize the NLSC has been \$6.3 million. Current membership includes more than 5,000 members with skills in 315 foreign languages and dialects ready to serve national needs when called upon. Members include the self-employed, retirees and students just entering the workforce, who proudly want to serve their nation. As of June 2014, NLSC members have provided more than 28,000 hours of highly skilled foreign language support to 34 federal agencies and departments and their components.

#### Background

The National Defense Authorization Act for Fiscal Year 2006 authorized the Secretary of Defense to conduct a pilot on the establishment of a Civilian Linguist Reserve Corps. The pilot, named the National Language Service Corps, assessed the feasibility and

advisability of establishing a civilian linguist reserve corps comprised of U.S. citizens with advanced levels of proficiency in foreign languages who would be available to provide foreign language services.

In January 2013, President Barack Obama signed the National Defense Authorization Act for Fiscal Year 2013, which authorized the Secretary of Defense to establish the NLSC within the DoD. The NLSC is an activity within the Defense Language and National Security Education Office (DLNSEO), the responsible DoD activity providing strategic direction and programmatic oversight to the Military Departments, Defense field activities and the Combatant Commands on present and future requirements related to language, regional expertise, and culture.

The NLSC does not offer permanent full-time or part-time jobs. The NLSC responds to federal agencies' needs for language skills in emergencies or surge requirements. For this reason, the NLSC does not maintain any postings or offer any job location services. Once a federal agency identifies a need, NLSC members are advised of the potential assignment. If an individual is interested and available, he or she will go through a screening and selection process as discussed in this rule. The decision to use NLSC rests with the requesting agency, and support agreements must be established before support can begin.

The NLSC's charter is to provide short-term surge capability or to fill short-term recurrent support that other existing capabilities cannot reasonably fill. Members have filled requirements that range from 15 minutes on the phone to 60 days in the field. If needed/desired, it is possible for members to provide recurrent, short-term support, such as for periodic exercises for up to approximately six months (130 work days or 1,040 hours, whichever comes first) in the member's service year.

The NLSC uses the Federal Interagency Language Roundtable Proficiency Guidelines (<http://govtilr.org/Skills/ILRscale1.htm>) (the "ILR Scale") in speaking, reading, and listening as a basis for determining eligibility for membership. The NLSC's goal is 3/3/3 proficiency (speaking/reading/listening) in at least one foreign language and in English.

Initial non-English language proficiency is assessed by asking all NLSC applicants to complete a series of self-assessments to provide an indication of where they fall on the ILR scale. Members of the NLSC will normally undergo formal proficiency testing to verify the self-assessments

prior to participating in an assignment. Several factors may require formal proficiency testing, including the need for the NLSC and requesting agencies to have formally-tested members available for assignments.

Initial English language assessment will not normally be conducted for applicants who graduated from an accredited high school and spent at least three years in the US while attending high school. If an individual did not do so, he or she may be asked to undergo the same self-assessment process as for non-English language skills. Finally, a number of members may be asked to undergo formal proficiency testing in English.

#### Analysis of Public Comments

On February 24, 2015, the Department of Defense published a proposed rule titled "National Language Service Corps (NLSC)" (80 FR 9669-9673). The public-comment period ended on April 27, 2015. Four public comments were received.

*Comment:* I am bilingual in French and attempting to learn two other languages and wanted to express my support of this rule. On a personal level I am deeply committed to using my language skills and also in public service. Thus, this program seems to offer a tremendous opportunity for those in a similar position to serve their country. Permanently establishing the NLSC is a great way for those with language skills to work for their government while advancing the statute's purpose of providing government agencies with strong language skilled individuals.

It is important to note that this is a permanent installation of what has already proven to be a successful program. Every step of the program implementation has been meticulously thought out and driven towards the program's ultimate goal. The track record of the NLSC also demonstrates that the program works. The open application process allows those from all backgrounds to apply for NLSC membership, which ensures a wide-range of individuals can become involved. An open application process is conducive in achieving the programs goal of providing government agencies with the individuals with the best language skills when they are needed.

Once they are approved as NLSC members, these individuals will have discretion as to what assignments they take on. Allowing for this level of personal choice will make the person feel that they are truly a part of the process by showing respect for their personal schedule and willingness to

participate in that particular assignment. This again works towards the goal of providing passionate and driven individuals with language skills to the agencies that need them.

However, there are some areas that lack specificity. For one, a brief description of what “emergencies” or “surge requirements” would clarify exactly what types of situations NLSC forces would be used for. While I understand that this would have to be broad in order to encompass all the different agencies that may use NLSC members, it would be clearer to have explicit general situations laid out in the rule.

Overall I feel that the lack of extensive requirements is a positive thing, I do feel that more information could be sought in terms of criminal background and former employment. Having requirements such as these fleshed out in the actual rules of the program would narrow the number of applicants and thus lend more efficiency in the hiring system. It would also help the overall goal of ensuring well qualified and reputable people are available for the NLSC.

In conclusion, the proposed rule-making the NLSC a permanent program of the Department of Defense is an efficient and well-organized system. The proposed rules on NLSC member recruitment, including the application process, and how the program plans to provide members to the various government agencies are conducive to achieving its overall goal.

*Response:* NLSC thanks the commenter for her expressed support of this rule and commends her for mastery of a foreign language and commitment to advancing and using her language skills. The commenter notes that a brief description of “emergencies” or “surge requirements” would help clarify exactly what situations might be supported and also acknowledge that this would have to be broad in order to encompass all the different agencies that may use NLSC members. The use of both “emergency” and “surge” are, as the commenter suggests, intended for agencies to apply in relation to their organizational missions, policy and doctrine, and the events to which they must respond. For example, “emergency” as defined by the Stafford Act is “any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.” While this definition has

relevance with the Federal Emergency Management Agency, it may be restrictive and of less use for the DoD where similar events not designated by the President or outside U.S. borders could not be included. Further, examples of “emergencies” used by the Department of State relate to travel by U.S. citizens and take on a more personal connotation as experience by an individual, (*i.e.*, losing one’s passport or getting severely ill overseas) would have little or no relevance to NLSC. Thus, consistent with the commenter’s recommendation, NLSC intends the definitions for broader interpretation such requesting agencies are allowed flexibility to follow their organizational guidance in justifying support requirements and rationale for committing resources.

Also, NLSC appreciates the commenter’s concern regarding background investigations of personnel hired to support the foreign language needs of federal agencies. Reviews for criminal background and former employment are conducted during the process for appointing and activating members in accordance with the DoD, U.S.C. and CFR references identified in § 251.6(d)(3) of the rule. No change to the rule was made based on these comments.

*Comment:* As a concerned citizen of the United States, I find it crucial for agencies to be able to communicate properly with foreign entities. I am writing to express my support for the National Languages Services Corps being made into a permanent program.

The National Languages Services Corps plays a key role in meeting the demands of our modern globalized society. The United States is involved in parts of the world where language skills may be required at short notice. This organization helps fill the void and retains a reservoir of professional skills that can be invaluable in times of need. Communication with many communities can be very difficult and the National Languages Services Corps creates an organized system ensuring that our nation will be able to promptly addressing any problems that arise.

Retaining professionals on a limited basis is a great cost effective strategy. Tax payers are not burdened by frivolous spending on language experts. They are only hired when their services are needed.

The National Languages Services Corps should be a permanent organization because it is invaluable to Department of Defense’s ability respond to emergencies.

Conclusion: Restate your position and summarize how it advances important

public interests or interests of the agency, such as the agency’s stated goals or the purpose of the statutory scheme that provides the authority for the rule making.

*Response:* NLSC thanks the commenter for expressed support. In response to the comment regarding advancement of public interests, at the direction of the U.S. Congress, the U.S. Government Accountability Office (GAO) has evaluated and issued reports on the foreign language capabilities of government agencies, to include the DoD, the Department of Homeland Security, and the State Department, noting that foreign language skills are an increasingly key element to the success of diplomatic efforts and military, counterterrorism, law enforcement and intelligence missions. In all cases, GAO recommended that agencies better assess their foreign language capabilities and address potential shortfalls. The NLSC presents one means for the agencies to address shortfalls. The preamble and rule identify the purpose of the rule to enable the NLSC to provide foreign language services to U.S. departments and agencies pursuant to 50 U.S.C. 1913.

*Comment:* I agree with this rule of adding the Nation Language Service Corps as a permanent organization because of the benefits the government can obtain with volunteered people assisting in the communicating with many different countries’ people during emergencies. People are screened and go through an application process to be a member of the NLSC and are ready to be called upon for their bilingual skills. Disasters happen all the time and without warning, while this rule will allow the creation of an organization with members that will allow communications between countries to be easy. The NLSC is already successful and its open application allows many people from diverse backgrounds to apply which makes the program even more successful.

*Response:* NLSC thanks the commenter for expressed support.

*Comment:* Language skill is becoming an important role in the era of globalization, where economic and technical developments rapidly integrate individuals once separated by distance and circumstance. In a narrower perspective, there is a growing need in the U.S. for individuals with language skills, in order to serve the nation by bridging language gaps and resolving emergent situations rising out of language barriers. I support this proposed rule because establishing NLSC and the program would allow qualified individuals to assist other

agencies to respond efficiently to critical needs on a national level. In addition to my expressed support for the proposed rule, I would also like to express my personal view on some of the provisions that lack specificity and should be elaborated by the agency, because in a rulemaking procedure, the agency needs to consider all relevant factors, including but not limited to the rule's substance, coverage, conditions, and the economic effects. I suggest that the agency consider the following provisions.

I particularly found that § 251.4(a) lacks specificity. The provision states that the NLSC provides other agencies U.S. citizens with "high level of foreign language proficiency" without specifying what exactly constitutes as "high level proficiency". As explained in § 251.3, the NLSC relies on Interagency Language Roundtable (ILR) scale to determine language proficiency, out of the scale range 0–5, 4 is recognized as "Advanced Professional Proficiency", 4+ is "Advanced Professional Proficiency Plus", and "5" which is the highest level "Functional Native Proficiency". These terms would cause confusion because there is no further definition that specifies which scale would satisfy the "high level" requirement. While one individual is able to engage fluent day-to-day conversations in a foreign language, he or she might not be able to respond to situations where medical terms, chemical names or even specific legal terms are required. I believe that by specifying the exact level of language proficiency would narrow the application pool and ensure that the agency receives qualified applicants that match the agency needs.

The terms in § 251.6(a)(2) also need to be defined specifically. The NLSC's purpose is to provide foreign language assistance to other agencies with "surge or emergency requirements". The proposed rule does not further define what requirements are classified as "surge" or "emergency", my view is that although the agency may want flexibility to interpret "surge or emergency" broadly, but setting a more specific definition of "emergency requirement" would allow the NLSC to efficiently allocate resources in response to classified situations.

The member selection and response procedures in the proposed rule also require elaboration. Once accepted, NLSC members are listed in the registry and the NLSC program manager will search through the registry to find individuals for taking requests. In addition, because the selected individuals will be involved in requests

that are highly confidential, I believe that NLSC should also adopt a detailed procedure on an initial background screening process and the periodical background check of the members. I also believe that the NLSC should set forth a detailed response procedure; this would again increase the efficiency and reduce the unnecessary costs when implementing the program.

Overall, I support the idea of having broad interpretations over certain terms in the proposed rule, however, I would also recommend that the NLSC adopts necessary measures to review information or knowledge that can only be obtained post-adoption, which is referred as *ex post* learning. Because this rule is about to establish NLSC as a permanent program, it is very important that the agency conduct post-adoption review on the program's costs and benefits. Furthermore, the agency could also set contingency on some of the provisions, allowing the agency to adjust the terms and conditions after further research and review of the program.

To conclude, this proposed rule establishing the NLSC a permanent program of the Department of Defense would serve an efficient system that assists other agencies on national level needs. I do think that the rule should be more specific on NLSC member application process, and provide a detailed program plans to provide effective assistance to other government agencies.

*Response:* NLSC thanks the commenter for expressed support of the program. The commenter notes that "§ 251.4(a) lacks specificity" with regard to what constituted "high level proficiency," but caveated "specifying the exact level of language proficiency would narrow the application pool and ensure that the agency receives qualified applicants that match the agency needs." NLSC agrees with the commenter's caveat and acknowledges that the level of skill needed is defined by the requestor of support and based on that request, NLSC will identify qualified members from the membership pool. The final decision to use NLSC remains with the requestor.

The commenter also notes that the terms "surge" and "emergency requirements" are not specifically defined and indicates that an agency may want flexibility to interpret "surge or emergency" broadly, but setting a more specific definition of "emergency requirement" would allow the NLSC to efficiently allocate resources in response to classified situations. As referenced in response to a previous comment, NLSC relies upon requesting agencies to

follow their internal guidance to justify the requirement for foreign language services and the expenditure of resources to request support from NLSC.

The commenter notes a concern "that NLSC should also adopt a detailed procedure on an initial background screening process and the periodical background check of the members." Work performed in support of NLSC must be done as a DoD civilian employee and the associated federal hiring process includes background check and periodic reinvestigations as required for employees with clearances in accordance with the DoD, U.S.C. and CFR references identified in § 251.6(d)(3) of the rule.

Finally, NLSC appreciates the commenter's acknowledgement regarding post-adoption review on the program's costs and benefits. In accordance with 50 U.S.C. 1903, the National Security Education Board will assess effectiveness of the NLSC and for recommend plans to address shortfalls. No changes were made to this rule based on these comments.

## Regulatory Procedures

### *Retrospective Review*

The revisions to this rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563 completed in August 2011. DoD's full plan can be accessed at: <http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036>.

### *Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"*

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

### *Sec. 202, Public Law 104-4, "Unfunded Mandates Reform Act"*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)

(Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

*Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)*

The Department of Defense certifies that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

*Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)*

Section 251.6(c)(1) through (3) of this rule contains information collection requirements. As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), DoD has submitted an information clearance package to the Office of Management and Budget for review. In response to DoD’s invitation in the proposed rule to comment on any potential paperwork burden associated with this rule, no comments were received.

*Executive Order 13132, “Federalism”*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

**List of Subjects in 32 CFR Part 251**

Foreign languages, Manpower training programs.

■ Accordingly 32 CFR part 251 is added to read as follows:

**PART 251—NATIONAL LANGUAGE SERVICE CORPS (NLSC)**

- Sec.  
251.1 Purpose.  
251.2 Applicability.  
251.3 Definitions.  
251.4 Policy.  
251.5 Responsibilities.  
251.6 Procedures.

**Authority:** 5 U.S.C. 3109, 18 U.S.C. 202, 31 U.S.C. 1535, 50 U.S.C. 1913.

**§ 251.1 Purpose.**

This part:

(a) Implements the responsibilities of the Secretary of Defense in 50 U.S.C. 1913 by establishing the NLSC program.

(b) Establishes policy, assigns responsibilities, and provides procedures for the management of the NLSC program.

(c) Assigns responsibility to the National Security Education Board (NSEB) to oversee and coordinate the activities of the NLSC (as provided and determined by the Secretary of Defense pursuant to 50 U.S.C. 1903 and 1913 with policy and funding oversight provided by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) in accordance with DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R))” (available at <http://www.dtic.mil/whs/directives/corres/pdf/512402p.pdf>).

**§ 251.2 Applicability.**

This part applies to Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD (referred to collectively in this part as “the DoD Components”) and federal agencies.

**§ 251.3 Definitions.**

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

*Consultant.* Defined in 5 CFR part 304.

*Excepted service.* Appointments in the excepted service are civil service appointments within the Federal Government that do not confer competitive status and are excepted from competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in Senior Executive Service.

*Foreign language.* Any language other than English.

*Language proficiency.* The U.S. Government relies on the Interagency Language Roundtable (ILR) scale to determine language proficiency.

According to the ILR scale:

- (1) 0 is No Proficiency.
- (2) 0+ is Memorized Proficiency.
- (3) 1 is Elementary Proficiency.
- (4) 1+ is Elementary Proficiency, Plus.
- (5) 2 is Limited Working Proficiency.
- (6) 2+ is Limited Working Proficiency, Plus.

(7) 3 is General Professional Proficiency.

(8) 3+ is General Professional Proficiency, Plus.

(9) 4 is Advanced Professional Proficiency.

(10) 4+ is Advanced Professional Proficiency, Plus.

(11) 5 is Functional Native Proficiency.

*Special government employee (SGE).* Defined in 18 U.S.C. 202.

**§ 251.4 Policy.**

It is DoD policy that:

(a) The NLSC provides DoD, or other U.S. departments or agencies, with U.S. citizens with high levels of foreign language proficiency for short-term temporary assignments providing foreign language services.

(b) The NLSC is authorized to employ U.S. citizens as language consultants pursuant to 50 U.S.C. 1913, 5 U.S.C. 3109, and 5 CFR part 304.

(c) The NLSC is exempt from DoD Instruction 5160.71, “DoD Language Testing Program” (available at [http://www.dtic.mil/whs/directives/corres/pdf/516071\\_2009\\_ch1.pdf](http://www.dtic.mil/whs/directives/corres/pdf/516071_2009_ch1.pdf)), such that the NLSC may use tests of the Defense Language Proficiency Testing System or may use and develop other tests to assess language proficiency for the purpose of employing NLSC members as language consultants.

(d) The NLSC will be available to support DoD or other U.S. departments or agencies pursuant to 50 U.S.C. 1913.

(e) The NLSC will:

(1) Collect personally identifiable information pursuant to 50 U.S.C. 1913 from individuals interested in applying for NLSC membership.

(2) Comply with DoD Instruction 8910.01, “Information Collection and Reporting” (available at <http://www.dtic.mil/whs/directives/corres/pdf/891001p.pdf>), Volume 2 of DoD Manual 8910.01, “DoD Information Collections Manual: Procedures for DoD Public Information Collections” (available at [http://www.dtic.mil/whs/directives/corres/pdf/891001m\\_vol2.pdf](http://www.dtic.mil/whs/directives/corres/pdf/891001m_vol2.pdf)), and 32 CFR part 310.

(f) Qualified and available members with requested language skills hired in accordance with 5 U.S.C. 3109 and 5 CFR part 304 and DoD Administrative Instruction 2, “Employment of Experts and Consultants” (available at <http://www.dtic.mil/whs/directives/corres/pdf/ai002p.pdf>), will be temporarily assigned to government agencies pursuant to reimbursable agreements described in 31 U.S.C. 1535.

**§ 251.5 Responsibilities.**

(a) The USD(P&R):

(1) Provides overall policy guidance for carrying out the responsibilities and duties of the Secretary of Defense in accordance with DoD Directive 5124.02 and 50 U.S.C. 1913.

(2) Ensures appropriate resources are programmed for the administration and operation of the NLSC.

(b) Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Readiness (ASD(R)):

(1) Through the Deputy Assistant Secretary of Defense for Force Education:

(i) Develops processes and polices regarding the NLSC oversight and coordination by the NSEB in accordance with 50 U.S.C. 1903 and 1913.

(ii) Recommends and oversees the establishment and execution of policies, programs, and goals to ensure the NLSC supports the readiness of the Military Services.

(iii) Oversees, and monitors compliance with the NLSC programs and processes on behalf of the Secretary of Defense to include the procedures in § 251.6.

(iv) Ensures that functions needed to support the accomplishment of the NLSC mission are executed, including engagement with DoD Components, federal agencies, and State and local governments to identify language needs, assessment of language proficiency of its members, and skill sustainment training.

(v) Determines eligibility for NLSC membership.

(2) Hosts the annual program review identified in 50 U.S.C. 1913.

(3) Designates a program manager responsible for overseeing implementation of NLSC programs and processes.

(c) Under the authority, direction, and control of the USD(P&R), the Director, Department of Defense Human Resources Activity (DoDHRA):

(1) Implements procedures and instructions for the appointment of NLSC members in support of DoD or other U.S. departments or agencies.

(2) Authorizes and signs interagency agreements between the NLSC and organizations outside of the DoD, and delegates authority to sign such agreements as needed.

(3) Provides administrative support to the NLSC, including actions related to intra- and inter-agency agreements, the intra- and inter-agency transfer of funds, personnel actions, and travel requirements.

(4) Provides fiscal management and oversight to ensure all funds provided for the NLSC are separately and visibly accounted for in the DoD budget.

(d) DoD Components heads ensure that the use of NLSC members is considered during exercise and operational planning.

#### § 251.6 Procedures.

(a) *NLSC purpose.* (1) The purpose of the NLSC is to identify and provide U.S. citizens with foreign language skills to support DoD or other U.S. departments or agencies, in need of foreign language services, for requirements of less than one year.

(2) The NLSC will provide capable, federally-hired individuals to rapidly respond to critical national needs and assist DoD and other U.S. departments and agencies with surge or emergency requirements.

(b) *NLSC membership criteria.* NLSC members must:

(1) Be a U.S. citizen.

(2) Be at least 18 years of age.

(3) Have satisfied Selective Service requirements.

(4) Be proficient in English and any other language.

(c) *NLSC member recruitment.* The NLSC program manager will oversee recruitment of members. NLSC maintains a registry of individuals who have applied or been accepted for membership and responds to requests for foreign language services by searching the registry to identify individuals who can provide support. NLSC collects applicant information through electronically available DD forms (located at the DoD Forms Management Program Web site at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>) or comparable Web-based applications:

(1) *DD Form 2932.* Contains a brief set of screening questions and is used to determine basic eligibility for NLSC membership.

(2) *DD Form 2933.* A language screening tool to evaluate the applicant's skills with respect to specific tasks. DD Form 2933 is used in conjunction with the screening of language skills for entry into the NLSC.

(3) *DD Form 2934.* Provides an overall assessment of the applicant's foreign language ability. DD Form 2934 is also used in conjunction with the screening of detailed skills for entry into the NLSC.

(d) *NLSC member appointment as federal employees.* Where applicants meet NLSC membership criteria and are matched to foreign language services requirements, the NLSC program manager ensures actions are initiated to temporarily hire applicants and members for forecasted and actual support requests.

(1) For federal hiring, members follow excepted service hiring policies in

accordance with 5 U.S.C. 3109, 5 CFR part 304, and 32 CFR part 310, and are appointed as language consultants in advance of participating in a support request, in accordance with DoD Administrative Instruction 2.

(2) An NLSC member who is already employed by a U.S. Government agency or is under contract full-time to one agency must receive a release from the head of that agency or individual empowered to release the employee or contractor before being employed for service within the NLSC pursuant to 50 U.S.C. 1913 and must comply with applicable laws and regulations regarding compensation. Such requests will be coordinated by the NLSC with the department or agency head concerned.

(3) NLSC members will be appointed on an annual basis pursuant to 5 U.S.C. 3109, 5 CFR part 304, and 32 CFR part 310 to perform duties as language consultants. If serving less than 130 days in a consecutive 365-day period, they will be considered SGEs as defined in 18 U.S.C. 202. Concurrent appointments as an SGE may be held with other DoD Components or in another federal agency.

(4) The NLSC program manager will track the number of days each NLSC member performed services and the total amount paid to each NLSC member within the 365-day period after the NLSC member's appointment.

(e) *NLSC member activation.* Activation encompasses all aspects of matching and hiring NLSC members to perform short-term temporary assignments to provide foreign language services. Under NLSC program manager oversight:

(1) Customer requirements are matched with skills of NLSC members and support is requested from DoDHRA to process necessary agreements, funding documents, and personnel actions to provide foreign language services. In accordance with paragraph (d)(3) of this section, NLSC members are temporarily hired as DoD employees.

(2) NLSC members are prepared for activation. If members are to be mobilized out of their home area, travel order requests are initiated. During the assignment, action will be taken to coordinate with members and clients, and assess success with the requesting agency upon completion.

(3) If duty requires issuance of DoD identification (*e.g.*, Common Access Card), such identification will be issued to and maintained by activated NLSC members in accordance with Volume 1 of DoD Manual 1000.13, "DoD Identification (ID) Cards: ID Card Life-Cycle" (available at <http://www.dtic.mil/>)



*whs/directives/corres/pdf/100013\_vol1.pdf*). Upon completion of the assignment, the identification will be retrieved in accordance with Volume 1 of DoD Manual 1000.13.

(4) Upon completion of assignments, DoDHRA will provide post-assignment support to members and reconcile funding to close project orders.

Dated: December 7, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015-31152 Filed 12-9-15; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2015-1013]

#### Drawbridge Operation Regulation; Delaware River, Between Burlington, NJ and Bristol, PA

**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 Burlington-Bristol Bridge on Route 413, across the Delaware River, at mile 117.8, between Burlington, NJ and Bristol, PA. This deviation restricts the operation of the draw span in order to facilitate the replacement of the tender control house. The drawbridge will not be able to open for three days during this project.

**DATES:** This deviation is effective from 6 a.m. on April 1, 2016, to 6 a.m. on April 11, 2016.

**ADDRESSES:** The docket for this deviation, [USCG-2015-1013] is available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at telephone 757-398-6587, email [Terrance.A.Knowles@uscg.mil](mailto:Terrance.A.Knowles@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Burlington County Bridge Commission, who owns and operates this vertical-lift type drawbridge, has requested a temporary deviation from the current operating regulations set out in Title 33 Code of Federal Regulations Part 117.716 to facilitate the replacement of the Tender control house.

The Burlington-Bristol Bridge on Route 413, at mile 117.8, across the

Delaware River, between Burlington NJ and Bristol PA, has a vertical clearance in the closed position to vessels of 61 feet above mean high water.

Under this temporary deviation, the Burlington-Bristol Bridge will be closed to navigation and unable to open on signal from 6 a.m. Friday April 1, 2016 through Monday April 4, 2016 at 6 a.m. The alternate marine closure weekend period will be Friday April 8, 2016 at 6 a.m. through Monday April 11, 2016 at 6:00 a.m. At all other times, the drawbridge will operate in accordance with the operating regulations set out in 33 CFR 117.716.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass.

There are approximately four to six vessels per week from four facilities whose vertical clearance surpasses the closed bridge position, requiring an opening of the draw span. The Coast Guard has coordinated this tender house replacement work with the Delaware Pilots Association and will inform the other users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge, so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 3, 2015.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District*

[FR Doc. 2015-31114 Filed 12-9-15; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2009-0805; FRL-9939-77-Region 5]

#### Wisconsin; Disapproval of Infrastructure SIP With Respect to Oxides of Nitrogen as a Precursor to Ozone Provisions for the 2006 PM<sub>2.5</sub> NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is narrowly disapproving elements of a State Implementation Plan (SIP) submission from Wisconsin regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2006 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action pertains specifically to certain infrastructure requirements that may be satisfied if a state has a fully approved prevention of significant deterioration (PSD) permitting program that incorporates all required program requirements, including the requirement to correctly address oxides of nitrogen (NO<sub>x</sub>) as a precursor to ozone.

**DATES:** This final rule is effective on January 11, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2009-0805. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9401, [arra.sarah@epa.gov](mailto:arra.sarah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:



- I. What is the background of this SIP submission?
- II. What is our response to comments received on the proposed rulemaking?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

### **I. What is the background of this SIP submission?**

This rulemaking addresses a January 24, 2011, submission, supplemented on June 29, 2012, from the Wisconsin Department of Natural Resources (WDNR) intended to address all applicable infrastructure requirements for the 2006 PM<sub>2.5</sub> NAAQS.

The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),” and these SIP submissions are to provide for the “implementation, maintenance, and enforcement” of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA’s taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that “[e]ach such plan” submission must address.

This specific rulemaking is only taking action on the specific infrastructure requirements of CAA sections 110(a)(2)(C), (D)(i)(II), and (J), which may be satisfied if the state demonstrates that it has a fully approved PSD permitting program that incorporates all federal requirements, including, as relevant here, the requirement to properly regulate NO<sub>x</sub> as a precursor to ozone. The majority of the other infrastructure elements were approved in a rulemaking dated October 29, 2012, (77 FR 65478), including approvals and a narrow disapproval of the remaining PSD requirements in sections 110(a)(2)(C), (D)(i)(II), and (J).

### **II. What is our response to comments received on the proposed rulemaking?**

The proposed rulemaking associated with this final action was published on September 10, 2015 (80 FR 54468). During the comment period, which ended on October 13, 2015, EPA received a comment from the WDNR. A synopsis of the comment and EPA’s response to the comment are provided below.

Comment: WDNR disagrees with the proposed disapproval because the program discussed in the disapproval is

currently being implemented by the state and the state is actively working to add the needed elements to its rules. WDNR also comments that EPA previously issued the state a finding of failure to submit for the missing PSD element and more recently issued a disapproval of this element on the same basis in a final action on a separate infrastructure SIP, and argues that a second disapproval is unnecessary.

Response: EPA understands that WDNR is currently implementing the requirement to regulate NO<sub>x</sub> as a precursor to ozone as part of the state’s PSD program, and that WDNR is currently working on revisions to its SIP to incorporate this requirement. Because of this, EPA did not originally take action on this aspect of the PSD program during EPA’s evaluation of and final action on WDNR’s 2006 PM<sub>2.5</sub> infrastructure SIP, which was published on October 29, 2012 (77 FR 65478). However, the CAA requires EPA to take action on SIPs submitted by the state within 12 months of the submittal’s completion date. EPA has been sued for missing this deadline, and under a consent decree, must finalize action on the state’s SIP submission by November 30, 2015. Each time a new or revised NAAQS is promulgated, the statute requires both the state and EPA to reevaluate the adequacy of the states’ SIP to satisfy the applicable requirements of section 110(a)(2), including elements (C), (D)(i)(II), and (J). Therefore, disapproval of these elements with respect to EPA’s evaluation of the state’s 1997 ozone and PM<sub>2.5</sub> infrastructure SIPs did not remove the requirement for the EPA to evaluate these elements anew in future infrastructure SIPs, such as this one. Because the state’s PSD program does not meet all program requirements, and therefore does not fully satisfy the infrastructure requirements of CAA section 110(a)(2)(C), (D)(i)(II), and (J) with respect to the 2006 PM<sub>2.5</sub> infrastructure SIP, EPA must narrowly disapprove the state’s SIP submission as to that deficiency here.

### **III. What action is EPA taking?**

EPA is disapproving narrow portions of the 2006 PM<sub>2.5</sub> infrastructure SIP submission from Wisconsin certifying that its current SIP is sufficient to meet required infrastructure elements. Specifically, EPA is narrowly disapproving the submission with respect to the infrastructure elements under CAA sections 110(a)(2)(C), (D)(i)(II), and (J) for the 2006 PM<sub>2.5</sub> NAAQS because the state’s PSD program fails to properly regulate NO<sub>x</sub> as a precursor to ozone. This action

together with EPA’s October 29, 2012, final action partially approving and narrowly disapproving these elements with respect to other PSD requirements, completes final action on Wisconsin’s 2006 PM<sub>2.5</sub> infrastructure SIP with respect to CAA section 110(a)(2)(C), (D)(i)(II), and (J).

### **IV. Statutory and Executive Order Reviews**

#### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and, therefore, is not subject to review by the Office of Management and Budget.

#### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Regulatory Flexibility Act*

This action merely disapproves state law as not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Unfunded Mandates Reform Act*

Because this rule disapproves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because 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 the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely disapproves a state rule, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

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).

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it disapproves a state rule.

*Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

*National Technology Transfer Advancement Act*

In reviewing state submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) 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.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA’s role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain state requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

*Congressional Review Act*

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 8, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Particulate matter, Reporting and recordkeeping requirements.

Dated: November 23, 2015.

**Susan Hedman,**

*Regional Administrator, Region 5.*

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.*

■ 2. Section 52.2591 is amended by revising paragraph (c) to read as follows:

**§ 52.2591 Section 110(a)(2) infrastructure requirements.**

\* \* \* \* \*

(c) *Approval and Disapproval*—In a January 24, 2011, submittal, supplemented on March 28, 2011, and June 29, 2012, Wisconsin certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA is approving Wisconsin’s submission addressing the infrastructure SIP requirements of section 110(a)(2)(A), (B), (C) with respect to enforcement and the GHG permitting threshold PSD requirement, (D)(i)(II) with respect to the GHG permitting threshold PSD requirement and visibility protection, (D)(ii), (E) except for state board requirements, (F) through (H), (J) except for narrow prevention of significant deterioration requirements, and (K) through (M). We are not finalizing action on (D)(i)(I) and the state board requirements of (E)(ii). We will address these requirements in a separate action. We are disapproving narrow portions of Wisconsin’s infrastructure SIP submission addressing the relevant prevention of significant deterioration requirements of the 2008 NSR Rule (identifying PM<sub>2.5</sub> precursors and the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables in permits) and the requirement of NO<sub>x</sub> as a precursor to ozone with respect to section 110(a)(2)(C), (D)(i)(II), and (J).

\* \* \* \* \*

[FR Doc. 2015–31062 Filed 12–9–15; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2015-0465; FRL-9936-91]

**Polyester Polyol Polymers; Tolerance Exemption****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol when used as inert ingredients in a pesticide chemical formulation. Spring Trading Co., on behalf of Croda Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid,

1,3-propanediol and sorbitol on food or feed commodities.

**DATES:** This regulation is effective December 10, 2015. Objections and requests for hearings must be received on or before February 8, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2015-0465, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

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

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this action apply to me?*

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.ecfr.gov/cgi-bin/text->

[idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. Can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2015-0465 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 8, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2015-0465, by one of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

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

**II. Background and Statutory Findings**

In the **Federal Register** of August 26, 2015 (80 FR 51763) (FRL-9931-74), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN-10830) filed by Spring Trading Company, 203 Dogwood Trl., Magnolia, TX 77354 (on behalf of Croda,

Inc., 315 Cherry Ln., New Castle, DE 19720). The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of D-glucitol, polymer with decanedioic acid, octadecanoate (CAS Reg. No. 68562-93-6); D-glucitol, polymer with decanedioic acid, docosanoate (CAS Reg. No. 943440-33-3); D-glucitol, polymer with decanedioic acid, docosanoate (CAS Reg. No. 1681043-28-6); D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate (CAS Reg. No. 1681043-31-1); D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate (CAS Reg. No. 1681043-33-3); fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol (CAS Reg. No. 1685270-83-0); fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid (CAS Reg. No. 1685270-84-1); fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid (CAS Reg. No. 1685270-99-8); fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid (CAS Reg. No. 1685271-01-5); fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol (CAS Reg. No. 1685271-02-6); and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. No comments were received by the Agency in response to the notice of filing. Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." and specifies

factors EPA is to consider in establishing an exemption.

### III. Risk Assessment and Statutory Findings

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

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

D-Glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid

and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol conform to the definition of a polymer given in 40 CFR 723.250(b) and meet the following criteria that are used to identify low-risk polymers.

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

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

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

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

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

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

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

7. The polymer's minimum number average molecular weight is greater 1,000 Daltons. The oligomer content is less than 10% (w/w) below a number average molecular weight of 500 and less than 25% (w/w) below a number average molecular weight of 1,000.

Thus, D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol meet the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on their conformance to the criteria in

this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to these polymers.

#### IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that these polymers could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The minimum number average molecular weight of each of these polymers is 1,100 Daltons. Generally, polymers of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since these polymers conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

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

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

EPA has not found that these polymers to share a common mechanism of toxicity with any other substances, and these polymers do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that these polymers do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at <http://www.epa.gov/pesticides/cumulative>.

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

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of these polymers, EPA has not

used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

#### VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol.

#### VIII. Other Considerations

##### A. Existing Exemptions From a Tolerance

There are no existing tolerance exemptions for this polymer.

##### B. Analytical Enforcement Methodology

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

##### C. International Residue Limits

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

different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol.

#### IX. Conclusion

Accordingly, EPA finds that exempting residues of D-glucitol, polymer with decanedioic acid, octadecanoate; D-glucitol, polymer with decanedioic acid, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, docosanoate; D-glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid; fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid and sorbitol; and fatty acids, C<sub>18</sub>-unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and sorbitol; a tolerance will be safe.

#### X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under

Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress

in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

**XI. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will

submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

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

Dated: November 23, 2015.

**Susan Lewis,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

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

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

■ 2. In § 180.960, add alphabetically the polymers to the table to read as follows:

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

\* \* \* \* \*

Polymer	CAS No.
* * * * *	
D-Glucitol, polymer with decanedioic acid, docosanoate, minimum number average molecular weight (in amu) 1,100 .....	943440–33–3
D-Glucitol, polymer with decanedioic acid, docosanoate, minimum number average molecular weight (in amu) 1,100 .....	1681043–28–6
D-Glucitol, polymer with decanedioic acid, octadecanoate, minimum number average molecular weight (in amu) 1,100 .....	68562–93–6
D-Glucitol, polymer with decanedioic acid and 1,3-propanediol, minimum number average molecular weight (in amu) 1,100 ....	1681043–31–1
D-Glucitol, polymer with decanedioic acid and 1,3-propanediol, octadecanoate, minimum number average molecular weight (in amu) 1,100 .....	1681043–33–3
* * * * *	
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with docosanoic acid and sorbitol, minimum number average molecular weight (in amu) 1,100 .....	1685270–83–0
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with docosenoic acid and sorbitol, minimum number average molecular weight (in amu) 1,100 .....	1685271–02–6
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with docosenoic acid, 1,3-propanediol and sorbitol, minimum number average molecular weight (in amu) 1,100 .....	1685271–04–8
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with docosanoic acid, 1,3-propanediol and stearic acid, minimum number average molecular weight (in amu) 1,100 .....	1685270–84–1
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with 1,3-propanediol, sorbitol and stearic acid .....	1685271–01–5
Fatty acids, C <sub>18</sub> -unsatd., dimers, polymers with sorbitol and stearic acid, minimum number average molecular weight (in amu) 1,100 .....	1685270–99–8
* * * * *	

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket ID FEMA-2015-0001]

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance

and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4064, or (email) [Luis.Rodriguez3@fema.dhs.gov](mailto:Luis.Rodriguez3@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility

Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: November 18, 2015.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

Accordingly, 44 CFR part 67 is amended as follows:

**PART 67—[AMENDED]**

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
<b>Montgomery County, Pennsylvania (All Jurisdictions)</b> <b>Docket No.: FEMA-B-1175</b>			
Blair Mill Run .....	At the Pennypack Creek confluence .....	+211	Borough of Hatboro, Township of Horsham, Township of Upper Moreland.
Blair Mill Run Tributary .....	At the downstream side of County Line Road .....	+261	Borough of Hatboro.
Huntingdon Valley Creek .....	At the upstream side of West Monument Avenue .....	+228	
Huntingdon Valley Creek .....	At the downstream side of East County Line Road .....	+252	
Meadow Brook .....	Approximately 800 feet downstream of Red Lion Road .....	+120	Borough of Bryn Athyn, Township of Lower Moreland.
Meadow Brook .....	Approximately 0.9 mile upstream of Byberry Road .....	+267	Township of Abington, Township of Lower Moreland.
Meadow Brook .....	At the Pennypack Creek confluence .....	+118	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
Pennypack Creek .....	Approximately 1,000 feet upstream of the most upstream State Highway 2017 crossing. Approximately 1,200 feet downstream of Moredon Road ..	+287  +100	Borough of Bryn Athyn, Borough of Hatboro, Township of Abington, Township of Horsham, Township of Lower Moreland, Township of Upper Dublin, Township of Upper Moreland.
Pennypack Creek Branch .....	Approximately 1.0 mile upstream of Mann Road .....	+359	Township of Horsham.
Pennypack Creek Tributary No. 1.	Approximately 400 feet downstream of Witmer Road .....	+298	
Pennypack Creek Tributary No. 1.	Approximately 0.7 mile upstream of Witmer Road .....	+362	
Pine Run .....	At the Pennypack Creek confluence .....	+204	Borough of Hatboro, Township of Horsham, Township of Upper Moreland.
Pine Run .....	Approximately 0.7 mile upstream of Dresher Road .....	+341	Township of Upper Dublin.
Rapp Run .....	At the upstream side of State Highway 309 .....	+176	Township of Upper Dublin.
Sandy Run .....	Approximately 800 feet upstream of Dreshertown Road ...	+239	Township of Upper Dublin.
Sandy Run Tributary No. 1 .....	At the Pine Run confluence .....	+183	Township of Upper Dublin.
Sandy Run Tributary No. 1a (downstream).	Approximately 0.5 mile upstream of the most upstream Lexington Drive crossing.	+355	Township of Upper Dublin.
Sandy Run Tributary No. 1a (downstream).	Approximately 300 feet downstream of Bethlehem Pike ...	+159	Township of Abington, Township of Springfield, Township of Upper Dublin, Township of Whitemarsh.
Sandy Run Tributary No. 1 .....	Approximately 1,400 feet upstream of Roberta Avenue .....	+339	Township of Abington.
Sandy Run Tributary No. 1a (downstream).	Approximately 150 feet upstream of Johnston Avenue .....	+236	Township of Abington.
Sandy Run Tributary No. 1a (downstream).	Approximately 2,000 feet upstream of Johnston Avenue ...	+258	Township of Abington.
Southampton Creek .....	Approximately 250 feet upstream of Fernwood Avenue ...	+237	Township of Abington.
Southampton Creek .....	Approximately 1,100 feet upstream of Fernwood Avenue	+243	Borough of Bryn Athyn, Township of Lower Moreland, Township of Upper Moreland.
Tributary No. 2 to Pine Run .....	At the Pennypack Creek confluence .....	+177	Borough of Bryn Athyn, Township of Lower Moreland, Township of Upper Moreland.
War Memorial Creek .....	At the downstream side of County Line Road .....	+187	Township of Upper Dublin.
War Memorial Creek .....	At the Pine Run confluence .....	+202	Township of Upper Dublin.
War Memorial Creek .....	Approximately 1.1 miles upstream of the Pine Run confluence.	+232	Township of Upper Dublin.
War Memorial Creek .....	At the Pennypack Creek confluence .....	+190	Township of Upper Moreland.
War Memorial Creek .....	Approximately 700 feet upstream of Mineral Avenue .....	+267	Township of Upper Moreland.

\* National Geodetic Vertical Datum.  
 + North American Vertical Datum.  
 # Depth in feet above ground.  
 ^ Mean Sea Level, rounded to the nearest 0.1 meter.

**ADDRESSES**

**Borough of Bryn Athyn**

Maps are available for inspection at the Borough Hall, 2835 Buck Road, Bryn Athyn, PA 19009.

**Borough of Hatboro**

Maps are available for inspection at the Borough Hall, 414 South York Road, Hatboro, PA 19040.

**Township of Abington**

Maps are available for inspection at the Township Building, Engineer's Office, 1176 Old York Road, Abington, PA 19001.

**Township of Horsham**

Maps are available for inspection at the Township Municipal Building, 1025 Horsham Road, Horsham, PA 19044.

**Township of Lower Moreland**

Maps are available for inspection at the Lower Moreland Municipal Building, 640 Red Lion Road, Huntingdon Valley, PA 19006.

**Township of Springfield**

Maps are available for inspection at the Springfield Township Municipal Building, 1510 Paper Mill Road, Wyndmoor, PA 19038.

**Township of Upper Dublin**

Maps are available for inspection at the Upper Dublin Municipal Hall, 801 Loch Alsh Avenue, Fort Washington, PA 19034.

**Township of Upper Moreland**

Maps are available for inspection at the Upper Moreland Township Building, 117 Park Avenue, Willow Grove, PA 19090.



Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
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**Township of Whitmarsh**

Maps are available for inspection at the Whitmarsh Township Administrative Building, 616 Germantown Pike, Lafayette Hill, PA 19444.

[FR Doc. 2015-31017 Filed 12-9-15; 8:45 am]

**BILLING CODE 9110-12-P**

# Proposed Rules

Federal Register

Vol. 80, No. 237

Thursday, December 10, 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 THE TREASURY

### Bureau of Engraving and Printing

#### 31 CFR Part 605

#### Conduct on Bureau of Engraving and Printing Property

**AGENCY:** Bureau of Engraving and Printing, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of the Treasury, Bureau of Engraving and Printing (BEP or Bureau) is amending its regulations in order to remove certain obsolete language, clarify the rules of conduct on the property, and increase the maximum penalty amount permitted for violations to \$5,000 in accordance with the United States Code.

**DATES:** Comments must be received no later than February 8, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice of proposed rulemaking according to the instructions below. All submissions must refer to the document title. The Bureau encourages the early submission of comments. Comments may be submitted through one of these methods:

*Electronic Submission of Comments:* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make them available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public.

*Postal Mail Submission of Comments:* Comments may be sent to the Office of the Chief Counsel, United States Department of the Treasury, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228,

Room 419-A, Attention: Mark Hoggan, Amendments to 31 CFR part 605.

*Public Inspection of Public Comments:* Comments will be made available for public inspection at [www.regulations.gov](http://www.regulations.gov) or upon request. The Bureau of Engraving and Printing will make such comments available for public inspection and copying at the above listed location, on official business days between the hours of 9 a.m. and 5 p.m. Eastern time. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 874-2500.

*Additional Instructions:* All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Mark Hoggan, Attorney-Advisor, Office of the Chief Counsel, Department of the Treasury, Bureau of Engraving and Printing, by phone at (202) 874-2500.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The mission of the Bureau of Engraving and Printing is to develop and produce United States currency notes, trusted worldwide. BEP prints billions of dollars in currency—referred to as Federal Reserve notes—each year for delivery to the Federal Reserve System. Due to the sensitive nature of currency production operations, the Bureau is generally closed to the public. Limited areas of the Bureau, however, are accessible for public tours during certain authorized dates and times. Any individual entering, exiting, or on the Bureau's property is subject to the rules of conduct as prescribed within the regulations and violations may result in criminal prosecution.

This proposed rule would update the Bureau's 1994 (59 FR 41978) regulations that concern conduct on BEP property. The proposal would remove certain obsolete language, clarify the rules of conduct on the property, and increase the maximum penalty amount permitted for violations to \$5,000 in accordance with 18 U.S.C. 3571.

##### II. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Bureau certifies that these proposed

regulations will not have a significant economic impact on a substantial number of small entities because this rule primarily affects individuals accessing BEP property and is not likely to affect any small businesses.

#### III. Unfunded Mandates Reform Act of 1995

The Bureau certifies that no actions were deemed necessary under the Unfunded Mandates Reform Act of 1995. Furthermore, these proposed regulations will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments.

#### IV. Regulatory Planning and Review (Executive Orders 12866 and 13563)

This rule is not a significant regulatory action as defined in Executive Order 12866. Executive Order 13563 calls for public participation and an open exchange of ideas in the regulatory process and seeks regulations that are accessible, consistent, written in plain language, and easy to understand. The Bureau has developed these proposed regulations in a manner consistent with these principles.

#### List of Subjects in 31 CFR Part 605

Federal buildings and facilities.

For the reasons stated in the preamble, the Bureau of Engraving and Printing proposes to amend 31 CFR part 605 to read as follows:

#### PART 605—REGULATIONS GOVERNING CONDUCT IN BUREAU OF ENGRAVING AND PRINTING BUILDINGS AND ON THE GROUNDS OF WASHINGTON, DC AND FORT WORTH, TEXAS

■ 1. The authority citation for part 605 continues to read as follows:

**Authority:** 5 U.S.C. 301; Delegation, Administrator, General Services, dated December 3, 1992; Treasury Delegation, Assistant Secretary (Management), dated February 4, 1993.

■ 2. Revise § 605.1 to read as follows:

#### § 605.1 Conduct on Bureau of Engraving and Printing property.

(a) *Applicability.* These regulations apply to the buildings and grounds of the Bureau of Engraving and Printing

(BEP) located in Washington, DC, at 14th and C Streets SW., and in Fort Worth, Texas, at 9000 Blue Mound Road, and to all persons entering on such property. Unless otherwise stated, BEP buildings and grounds are referred to in these regulations as the "property."

(b) *Limited access.* (1) The property is a high-security facility and shall, in general, be closed to the public. Except as specified in this paragraph (b), access is limited to BEP employees and those persons having official business with BEP. Failure to comply with any regulations of this part may result in denial of access or removal from the property.

(2) Public tours of limited areas of the property are available during such times as the Director may prescribe.

(3) Limited areas of the property may be open to persons authorized by the Director or the Director's designee.

(4) All persons entering and exiting the property may be required to present suitable identification and may be required to sign entry logs or registers.

(5) All persons entering and exiting the property may be subject to screening devices and shall submit to screening upon request by BEP Police or authorized officials.

(6) All persons entering and exiting the property may be subject to inspection of their person, handbags, briefcases, and other handheld articles by BEP Police or authorized officials. All persons on the property may be subject to additional inspection by BEP Police or authorized officials upon entry, exit, and request.

(7) All motor vehicles entering, exiting, or located on the property are subject to inspection of the exterior and interior compartments by BEP Police or authorized officials at any time.

(8) All lockers, cabinets, closets, desks or similar storage areas on the property are subject to inspection by BEP Police or authorized officials.

(9) All computers, data storage devices, and data files owned or controlled by BEP are subject to search or inspection at any time.

(10) Any entrance onto the property without official permission is prohibited.

(c) *Video monitoring.* All persons entering, exiting, and on the property will be monitored by video. Most internal areas of the property, especially production areas, are continuously monitored by video. Any video image may be recorded.

(d) *Preservation of property.* It shall be unlawful for any person, without proper authority, to willfully destroy, damage, deface, or remove property.

(e) *Compliance with instructions and signs.* All persons on the property shall comply with the instructions of BEP Police, authorized officials, and posted signs or notices.

(f) *Nuisances.* The use of loud, abusive, or profane language, loitering, unauthorized assembly, the creation of any hazard to persons or property, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other disorderly conduct on the property is prohibited. The throwing of any articles of any kind in, upon, or from the property and climbing upon any unauthorized portion of the property is prohibited.

(g) *Gambling.* (1) Participation in games for money or other property, the operation of gambling devices, the conduct of a lottery or pool, the selling or purchasing of numbers, tickets, or any other gambling on the property is prohibited.

(2) Possession on the property of any numbers slip or ticket, record, notation, receipt or other writing of a type ordinarily used in any illegal form of gambling, unless explained to the satisfaction of the Director or the Director's designee, shall be evidence of participation in an illegal form of gambling on the property.

(h) *Intoxicating substances, illegal narcotics, and other controlled substances.* The possession, use, consumption, or being under the influence of intoxicating substances, illegal narcotics, and other controlled substances (see 21 CFR part 1308) while entering and on the property is prohibited. BEP Police may direct a person to complete a field sobriety test or breathalyzer test upon reasonable suspicion of intoxication or influence. The Director may authorize the possession, use, and consumption of alcoholic beverages on BEP property for infrequent, special occasions. Such authorization must be in writing.

(i) *Soliciting, vending, debt collection, and distribution of handbills.*

Fundraising for any cause other than the Combined Federal Campaign or other cause authorized by the Office of Personnel Management, the commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts other than as provided by law, in or on the property is prohibited. This rule does not apply to BEP concessions or notices posted by authorized employees on the bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval from the Director or the Director's designee.

(j) *Photographs and recordings.* The taking of photographs on the property is prohibited without permission of the Director or the Director's designee. The taking of voice or video recordings on the property is prohibited without the permission of the Director or the Director's designee. Note: The property includes the Tour and Visitor Center and the limited areas accessible for public tour.

(k) *Animals.* Animals, except service animals, shall not be brought on the property for other than official purposes.

(l) *Vehicular and pedestrian traffic.*

(1) Drivers of all vehicles on the property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of BEP Police and all posted traffic signs. Drivers are subject to all applicable motor vehicle laws and regulations of the surrounding jurisdiction.

(2) The blocking of entrances, driveways, walks, loading platforms, fire hydrants, or standpipes on the property is prohibited.

(3) Parking on the property is not allowed without a permit or authority. Parking without a permit or authority, not in accordance with a permit or authority, or contrary to the direction of BEP Police, authorized officials, and posted signs or notices is prohibited.

(m) *Weapons and explosives.* No person on the property shall carry firearms, explosives, or other dangerous or deadly weapons as defined by Title 18 United States Code, either openly or concealed, except for official purposes.

(n) *Smoking.* Smoking on the property is not permitted except in designated smoking areas.

(o) *Penalties and other law.* (1) Violations of this part shall be punishable by a fine of not more than \$5000 or the maximum extent allowable under the United States Code, whichever is greater, or imprisonment of not more than 30 days, or both in accordance with 40 United States Code, Section 1315.

(2) Violations of 18 United States Code, Section 930 (dangerous weapon clause) shall be punishable by a fine of \$100,000 or imprisonment for not more than a year, or both, unless there is intent to commit a crime with the weapon, in which case the punishment shall be a fine of \$250,000 or imprisonment for not more than five years, or both.

(3) Nothing contained in this part shall be construed to abrogate any other Federal, District of Columbia, or Texas law or regulations, or any Tarrant County ordinance applicable to the property.

Dated: December 3, 2015.

**Leonard R. Olijar,**

*Director.*

[FR Doc. 2015-31047 Filed 12-9-15; 8:45 am]

BILLING CODE 4840-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 20, 27, and 73

[AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269; Report No. 3036]

### Petitions for Reconsideration of Public Notice Regarding Application Procedures for Broadcast Incentive Auction

**AGENCY:** Federal Communications Commission.

**ACTION:** Petitions for reconsideration.

**SUMMARY:** Petitions for Reconsideration (Petitions) have been filed in the Commission's proceeding by: Kathleen O'Brien Ham, on behalf of T-Mobile USA, Inc.; Caressa D. Bennet, on behalf of PBP Group, LLC, Bulloch Cellular, Inc., Pineland Cellular, Inc., and Planters Rural Cellular, Inc.; and A. Wray Fitch, III, on behalf of Walker Broadcasting Company, Inc. T-Mobile USA, Inc.'s petition requests a declaratory ruling in the alternative.

**DATES:** Oppositions to the Petitions must be filed on or before December 28, 2015. Replies to an opposition must be filed on or before December 21, 2015.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

Mark Montano, Wireless Telecommunications Bureau, (202) 418-0691, email: [mark.montano@fcc.gov](mailto:mark.montano@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of Commission's document, Report No. 3036, released December 3, 2015. The Petitions are available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC 20554 or may be accessed online via the Commission's Electronic Comment Filing System at <http://apps.fcc.gov/ecfs/>. The Commission will not send a copy of this *Public Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Public Notice* does not have an impact on any rules of particular applicability.

*Subject:* Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding,

published at 80 FR 66429, October 29, 2015, in AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, Public Notice, and DA 15-1183 This *Public Notice* is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1).

*Number of Petitions Filed:* 3

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2015-31256 Filed 12-9-15; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 392

[Docket No. FMCSA-2015-0396]

RIN 2126-AB87

### Driving of Commercial Motor Vehicles: Use of Seat Belts

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM), request for comments.

**SUMMARY:** FMCSA proposes to revise the Federal Motor Carrier Safety Regulations (FMCSRs) by requiring that passengers in property-carrying commercial motor vehicles (CMVs) use the seat belt assembly whenever the vehicles are operated on public roads. This rule would hold motor carriers and drivers responsible for ensuring that passengers riding in the CMV are also using the seat belts required by the Federal Motor Vehicle Safety Standards (FMVSSs).

**DATES:** You may submit comments by January 25, 2016.

**ADDRESSES:** Comments to the rulemaking docket should refer to Docket ID Number FMCSA-2015-0396 or RIN 2126-AB87 and be submitted to the Administrator, Federal Motor Carrier Safety Administration using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. e.t.,

Monday through Friday, except Federal holidays.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

#### FOR FURTHER INFORMATION CONTACT:

Charles A. Horan, Director; Carrier, Driver, and Vehicle Safety Standards, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001 or by telephone at (202) 366-5370. FMCSA office hours are from 9 a.m. to 5 p.m., e.t. Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Public Participation and Request for Comments
- II. Executive Summary
- III. Legal Basis for the Rulemaking
- IV. Background
- V. Discussion of the Proposed Rule
- VI. Regulatory Analyses

#### I. Public Participation and Request for Comments

FMCSA invites you to participate in this rulemaking by submitting comments and related materials.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA-2015-0396), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the "Submit a Comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu, select "Rules," insert "FMCSA-2015-0396" in the "Keyword" box, and click "Search." When the new screen appears, click on "Submit a Comment" in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound

format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

#### *Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and click on the “Read Comments” box in the upper right hand side of the screen. Then, in the “Keyword” box insert “FMCSA–2015–0396” and click “Search.” Next, click the “Open Docket Folder” in the “Actions” column. Finally, in the “Title” column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### *Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

## **II. Executive Summary**

#### *Purpose and Summary of the Major Provisions*

Section 393.93(b)(2)–(3) of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 393.93) requires every truck and truck tractor manufactured after the early 1970s to comply with the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standard (FMVSS) 208 (49 CFR 571.208), relating to the installation of seat belt assemblies, as well as FMVSS 210, dealing with the installation of seat belt assembly anchorages, and FMVSS 207, addressing seating systems more generally. Under FMVSS 208, trucks and multipurpose passenger vehicles with a GVWR of more than 10,000 pounds manufactured on or after September 1, 1990, are allowed by

S4.3.2.1 an option to comply by providing a “complete passenger protection system,” but nearly all CMV manufacturers choose the second compliance option (S4.3.2.2) and install a “belt system.” This second option requires a seat belt assembly “at each designated seating position.” In short, the FMVSS and FMCSRs require seat belts at every seating position in a CMV. In addition, 49 CFR 392.16 requires that a property-carrying CMV which has a seat belt assembly installed at the driver’s seat shall not be driven unless the driver has properly restrained himself or herself with the seat belt assembly. FMCSA proposes to require that passengers riding in property-carrying CMVs also use their seat belts when the vehicle is operated on public roads.

#### *Benefits and Costs*

As indicated above, NHTSA requires vehicle manufacturers to install driver and passenger seat belts in large trucks. FMCSA already requires drivers to use their seat belts. However, the FMCSRs are silent on the use of seat belts by passengers. This NPRM would require every passenger to use a seat belt, if one was installed. The cost would be the value of the person’s time necessary to buckle the safety belt, which is negligible. The benefits of this rule would be any fatalities or injuries avoided as a result of seat belt use; these benefits are discussed later.

## **III. Legal Basis for the Rulemaking**

This NPRM is based on the Motor Carrier Act of 1935 (1935 Act) and the Motor Carrier Safety Act of 1984 (1984 Act). The 1935 Act (49 U.S.C. 31502), authorizes FMCSA to prescribe requirements for the safety of operation and equipment standards of for-hire and private motor carriers. This NPRM is directly related to safe motor carrier operations. The 1984 Act (49 U.S.C. 31136) required FMCSA to adopt regulations to ensure, among other things, that “commercial motor vehicles are maintained, equipped, loaded, and operated safely” (§ 31136(a)(1)). This proposal would increase the safety, not only of passengers, but also of CMV drivers whose control of the vehicle would not be affected by unsecured passengers potentially thrown about the cab as a result of emergency steering or braking maneuvers. A 2012 amendment to the 1984 Act requires FMCSA to ensure that CMV drivers are not coerced to violate certain provisions of the FMCSRs (§ 31136(a)(5)). Given the obvious value of this proposal, and the ease of compliance, the Agency believes that no one will be coerced *not* to wear

a seat belt. It should be noted that the 1985 Act also authorizes FMCSA to “perform any other acts [the Agency] considers appropriate” (49 U.S.C. 31133(a)(1)), which clearly covers this common sense NPRM.

## **IV. Background**

This rulemaking responds to a petition submitted by the Commercial Vehicle Safety Alliance (CVSA) on October 29, 2013 (available in the docket to this rulemaking). CVSA requested that FMCSA require all occupants in a property-carrying CMV to restrain themselves when it is being driven. The petition referred to data available from the Agency’s Report to Congress on the Large Truck Crash Causation Study (available at <http://www.fmcsa.dot.gov/research-and-analysis/research/large-truck-crash-causation-study>).

## **V. Discussion of the Proposed Rule**

Under this proposal the requirements of 49 CFR 392.16 would be revised to include requirements for seat belt usage by passengers in property-carrying CMVs. FMCSA proposes to revise the FMCSRs to prohibit the driving of a property-carrying CMV unless the driver and all other occupants have fastened their seat belts, if the vehicle is equipped with such belts.

Today’s proposal responds to CVSA’s petition, but has slightly modified some of the petitioner’s requests. FMCSA has used the word “occupant” in addition to “passenger” to make clear that the regulation would apply to any person in the property-carrying CMV. “Occupants” would include instructors, evaluators, or any other personnel who might be seated in a property-carrying CMV, regardless of their status. FMCSA also proposes this requirement be applicable only if there is a seat belt assembly installed in the property-carrying CMV.

FMCSA recognizes that section 392.60 prohibits the use of a CMV to transport unauthorized passengers. Nevertheless, we believe today’s rule fills an important safety gap by requiring the use of safety belts when the passenger seat is used by team drivers or other authorized individuals.

## **VI. Regulatory Analyses**

#### *A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

Under E.O. 12866 (58 FR 51735, Oct. 4, 1993) and DOT policies and procedures, FMCSA must determine

whether a regulatory action is “significant,” and therefore subject to OMB review and the requirements of the E.O. The Order defines “significant regulatory action” as one likely to result in a rule that may:

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

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the E.O.

FMCSA has determined that this action is not a significant regulatory action within the meaning of E.O. 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The proposals contained in this document would not result in an annual effect on the economy of \$100 million or more, lead to a major increase in costs or prices, or have significant adverse effects on the United States economy.

According to data from NHTSA’s Fatality Analysis Reporting System, available in the docket for this rulemaking, in 2013, 348 non-driver occupants were in the truck at the time the vehicle was involved in a fatal crash and were wearing a lap or shoulder belt. Seventeen of those non-driver occupants were killed in the crash. Also in 2013, 122 non-driver occupants of large trucks were involved in fatal crashes and were not wearing a lap and or shoulder belt; of these, 30 were killed. Sixteen of the 30 were totally or partially ejected from the truck. The fatality rate was thus far lower among passengers who wore seat belts. FMCSA believes that some of these fatalities could have been prevented if this regulation had been in place.

While all States but one have seat belt laws, failure to use a belt may be either a primary of secondary offense and may not apply to a truck passenger; furthermore, there may be differences in the weight threshold at which the law applies. Therefore, adopting a Federal rule applicable to non-driver occupants of CMVs, as defined in 49 CFR 390.5, will provide a uniform national standard. To maintain eligibility for Motor Carrier Safety Assistance Program

grants, States would be required to adopt compatible seat belt rules for non-driver occupants within 3 years of FMCSA’s publication of a final rule.

Admittedly, FMCSA does not know how many trucks carry passengers, or how many of those passengers fail to use existing seat belts. However, given that the only cost of the proposal is the negligible amount of time needed for occupants to buckle their seat belts, the rule would obviously benefit motor carrier employees and passengers. Seat belts have been proven to save lives, and while the specific number of CMV-related fatalities that could be avoided is unclear, FMCSA believes motor carriers’ and drivers’ compliance with a final rule requiring the use of seat belts by non-driver occupants would save lives.

The Agency believes the potential economic of this NPRM impact is positive, because it is likely that some lives will be saved at a cost that would not begin to approach the \$100 million annual threshold for economic significance. Moreover, the Agency does not expect the rule to generate substantial congressional or public interest. This proposed rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

#### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses.

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II, Pub. L. 104–121, 110 Stat. 857, March 29, 1996), FMCSA does not expect the proposed rule to have a significant economic impact on a substantial number of small entities. FMCSA believes the cost is minimal and poses no disproportionate burden to small entities.

Consequently, I certify that the proposed action will not have a significant economic impact on a substantial number of small entities.

FMCSA invites comment from members of the public who believe there will be a significant impact either on small businesses or on governmental jurisdictions with a population of less than 50,000.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section of the proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

#### *C. Unfunded Mandates Reform Act of 1995*

This proposed rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$155 million (which is the value of \$100 million in 1995 after adjusting for inflation to 2014) or more in any 1 year.

#### *D. Executive Order 12988 (Civil Justice Reform)*

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *E. Executive Order 13045 (Protection of Children)*

FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. The Agency determined that this proposed rule will not create an environmental risk to health or safety that may disproportionately affect children.

*F. Executive Order 12630 (Taking of Private Property)*

FMCSA reviewed this notice of proposed rulemaking in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not affect a taking of private property or otherwise have taking implications.

*G. Executive Order 13132 (Federalism)*

A rule has Federalism implications if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on the States. FMCSA has analyzed this proposed rule under Executive Order 13132 and determined that it does not have Federalism implications.

*H. Executive Order 12372 (Intergovernmental Review)*

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

*I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*J. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. No new information collection requirements are associated with this NPRM.

*K. National Environmental Policy Act and Clean Air Act*

FMCSA analyzed this proposed rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 (69 FR 9680,

March 1, 2004) that this action does not have any effect on the quality of the environment. Therefore, this NPRM is categorically excluded (CE) from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(bb) of Appendix 2. The CE under paragraph 6(b) addresses regulations concerning vehicle operation safety standards. A Categorical Exclusion Determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES**.

FMCSA also analyzed this proposed rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

*L. Executive Order 12898 (Environmental Justice)*

Under E.O. 12898, each Federal agency must identify and address, as appropriate, "disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

*M. Executive Order 13211 (Energy Effects)*

FMCSA has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA has determined that it is not a "significant energy action" under that executive order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, the rule does not require a Statement of Energy Effects under Executive Order 13211.

*N. E-Government Act of 2002*

The E-Government Act of 2002, Public Law 107-347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires

Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. FMCSA has not completed an assessment of the handling of PII in connection with today's proposal because the NPRM does not involve PII.

*O. National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies proposing to adopt technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. Because FMCSA does not intend to adopt its own technical standards, there is no need to submit a separate statement to OMB on this matter.

*P. Privacy Impact Assessment*

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108-447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment of a regulation that will affect the privacy of individuals. This rule would not require the collection of any personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program. This proposed rule would not result in a new or revised Privacy Act System of Records for FMCSA.

**List of Subjects in 49 CFR Part 392**

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

**PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES**

■ 1. The authority citation for part 392 continues to read as follows:

**Authority:** 49 U.S.C. 504, 13902, 31136, 31151, 31502; Section 112 of Pub. L. 103-311, 108 Stat. 1673, 1676 (1994), as amended by sec. 32509 of Pub. L. 112-141, 126 Stat. 405, 805 (2012); and 49 CFR 1.87.

■ 2. Revise § 392.16 to read as follows:

**§ 392.16 Use of Seat Belts.**

(a) *Drivers.* No driver shall operate a property-carrying commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a

property-carrying commercial motor vehicle, which has a seat belt assembly installed at the driver's seat unless the driver is properly restrained by the seat belt assembly.

(b) *Passengers*. No driver shall operate a property-carrying commercial motor vehicle, and a motor carrier shall not

require or permit a driver to operate a property-carrying commercial motor vehicle, which has seat belt assemblies installed at the seats for other occupants of the vehicle unless all other occupants are properly restrained by such seat belt assemblies.

Issued under the authority of delegation in 49 CFR 1.87 on: December 2, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015-30864 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-EX-P**



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

### Agricultural Marketing Service

[Docket No. AMS–CN–15–0061]

#### Cotton Research and Promotion Program: Determination of Whether To Conduct a Referendum Regarding the 1990 Amendments to the Cotton Research and Promotion Act

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the U.S. Department of Agriculture's (USDA) determination not to conduct a continuance referendum regarding the 1991 amendments to the Cotton Research and Promotion Order (Order) provided for in the Cotton Research and Promotion Act (Act) amendments of 1990. This determination is based on the results of a sign-up period conducted August 3 through August 14, 2015, during which eligible cotton producers and importers were provided an opportunity to request a continuance referendum.

**FOR FURTHER INFORMATION CONTACT:** Shethir M. Riva, Chief, Research and Promotion Staff, Cotton and Tobacco Program, Agricultural Marketing Service, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, telephone (540) 361–2726, facsimile (540) 361–1199, or email at [Shethir.Riva@ams.usda.gov](mailto:Shethir.Riva@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** During the period of August 3 through August 14, 2015, pursuant to Section 8(c)(1) of the Act, USDA provided an opportunity for eligible cotton producers and importers to request a continuance referendum regarding the 1991 amendments to the Order provided for in the Act. Sign-up period results showed that USDA received 46 valid requests from eligible producers and importers. The following

table depicts the number of requests for a continuance referendum.

Farm service agency state office	Total sign-up requests
Alabama .....	0
Arizona .....	0
Arkansas .....	16
California .....	0
Florida .....	1
Georgia .....	0
Illinois .....	0
Kansas .....	3
Kentucky .....	0
Louisiana .....	0
Mississippi .....	1
Missouri .....	1
Nevada .....	0
New Mexico .....	0
North Carolina .....	8
Oklahoma .....	7
South Carolina .....	0
Tennessee .....	0
Texas .....	9
Virginia .....	0
Total .....	46

Section 8(c)(2) of the Act, provides that following a sign-up period, USDA shall conduct a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum (1991). This would require 10 percent or 4,622 ( $46,220 \times .10 = 4,622$ ) of the 46,220 valid ballots cast by cotton producers and importers in the July 1991 referendum. It is further provided that, in counting such request not more than 20 percent or 924 may be from producers from any one state or importers of cotton.

USDA finds that the results of the sign-up period did not meet the criteria requiring a continuance referendum by the Act. USDA bases this determination on the fact that the 46 requests received during the sign-up period is less than the 4,622 required.

The 1991 amendments to the Order (7 CFR 1205 *et seq.*) were implemented following the July 1991 referendum. The 1990 amendments were provided for in the Act (7 U.S.C. 2101–2118). These amendments provided for: (1) Importer representation on the Cotton Board by an appropriate number of persons, to be determined by USDA, who import cotton or cotton products into the U.S. and whom USDA selects from nominations submitted by importer organization certified by USDA; (2) assessments levied on imported cotton

and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount USDA can be reimbursed for the conduct of a referendum from \$200,000 to \$300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

On July 9, 1991, (56 FR 31289) AMS issued a proposal to amend the Order to determine if a majority, 50 percent or more, of producers and importers favored implementation of the proposed amendments to the Order. USDA conducted a referendum (July 1991) among persons who had been cotton producers or cotton importers during a representative period. Results of the July 1991 referendum showed that of the 46,220 valid ballots received; 27,879 or 60 percent of the persons voting favored the amendments to the Order and 18,341 or 40 percent opposed the amendments.

Following the July 1991 referendum, AMS implemented the amendments. In addition to the previously discussed amendments to the Act and Order, USDA is required by Section 8(c)(1) to: (1) Conduct a review once every 5 years after the anniversary date of the referendum implementing the 1990 Act amendments to determine whether a referendum is necessary and (2) make public the results of such a review within 60 days after each fifth anniversary date of the 1991 implementing referendum. Should the review indicate that a referendum is needed USDA is directed to conduct the referendum within 12 months after a public announcement of review results. Should the review indicate that a referendum is not warranted, Section 8(c)(2) includes provisions for producers and importers to request a continuance referendum through a sign-up period.

In 2011–2012, the Department prepared a 5-year report that described the impact of the Cotton Research and Promotion Program on the cotton industry. The review report is available upon written request to the Chief of the Cotton Research and Promotion Staff at the address provided above. Comments were solicited from all interested parties, including persons who pay the assessments as well as from

organizations representing cotton producers and importers (76 FR 31573). Five comments, including comments from four certified producer organizations that nominate producers to the Cotton Board, claimed strong support for the continuance of the program, noting that the administration of the Act has been proper, carries out the intent and purpose in a timely and superior manner, and requires no changes or adjustment.

USDA reviewed the Cotton Research and Promotion Program major program activities and accomplishments, including third-party evaluations of advertising and marketing activities and other functional areas; the results of producer and importer awareness and satisfaction surveys; and data from the Foreign Agricultural Service. USDA also reviewed the results of the Cotton Board's 2011 independent program evaluation, which assessed the effectiveness of the Cotton Research and Promotion Program; the strength of cotton's competitive position; the ability to maintain and expand domestic and foreign markets; increases in the number of uses for cotton; and estimates of a return on investment for stakeholders and qualitative benefits and returns associated with the Cotton Research and Promotion Program. The review report concluded that the 1990 amendments to the Act were successfully implemented and are operating as intended. The report also noted that there is a general consensus within the cotton industry that the Cotton Research and Promotion Program and the 1990 amendments to the Act are operating as intended. Written comments, economic data, and results from independent evaluations support this conclusion.

USDA found no compelling reason to conduct a referendum regarding the 1990 Act amendments to the Cotton Research and Promotion Order although some program participants support a referendum. In 2013, USDA announced its view not to conduct a referendum regarding the 1991 amendments to the Order (78 FR 32228). Therefore, USDA allowed all eligible persons to request the conduct of a continuance referendum on the 1990 amendments through a sign-up period. The results of this sign-up period did not meet the criteria as established by the Act for a continuance referendum and, therefore, referenda were not conducted.

With this announcement of the results of the sign-up period, USDA has completed all requirements set forth in Section 8(c) (1) and (2) of the Act regarding the review of the Cotton Research and Promotion Program to determine if a continuance referendum

is warranted. A referendum will not be conducted, and no further actions are planned in connection with this review.

**Authority:** 7 U.S.C. 2101–2118.

Dated: December 7, 2015.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2015–31133 Filed 12–9–15; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Shoshone Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Shoshone Resource Advisory Committee (RAC) will meet via conference call. 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=001t0000002JcvXAAS](http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvXAAS).

**DATES:** The meeting will be held Wednesday, January 6, 2016 at 10:00 a.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 via conference call. Members of the public wishing to call in should contact Shoshone RAC Coordinator, Olga Troxel, for call-in information.

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 Shoshone National Forest Supervisor's Office, 808 Meadow Lane, Cody, Wyoming. Please call ahead (307–527–6241) to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Olga Troxel by phone at 307–578–5164 or via email at [otroxel@fs.fed.us](mailto:otroxel@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. To update the Shoshone Resource Advisory Committee on the status of existing Title II projects, and
2. Strategize on advertising for project proposals for the current year

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 December 30, 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 for oral comments must be sent to Olga Troxel, RAC Coordinator, 808 Meadow Lane, Cody, WY; or by email to [otroxel@fs.fed.us](mailto:otroxel@fs.fed.us), or via facsimile to 307–578–5112.

**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: December 3, 2015.

**Joe G. Alexander,**

*Forest Supervisor.*

[FR Doc. 2015–30975 Filed 12–9–15; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Indiana Advisory Committee to the U.S. Commission on Civil Rights To Hear Testimony Regarding Civil Rights Concerns Relating to School Disciplinary Policies and Their Potential Impact on Disparities in Juvenile Incarceration in Indiana

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission

on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Wednesday, January 20, 2016, at 11:00 a.m. EST for the purpose of hearing testimony regarding civil rights concerns relating to school discipline and juvenile incarceration in Indiana.

This meeting will take place via web conference and is open to the public. The audio portion of the meeting is available toll-free at: 888-417-8533, conference ID: 2138345 (audio only). Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and to provide an email address prior to placing callers into the conference room. Callers will incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Members of the public may also register for online access to the meeting at the following link: <https://cc.readytalk.com/r/kwf2s53iu6ux&eom> (visual only). The public is invited and welcomed to make statements during the open comment period at 12:10 p.m. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwest Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at [callen@usccr.gov](mailto:callen@usccr.gov).

Records and documents discussed during the meeting will be accessible for public viewing at <https://database.faca.gov/committee/committee.aspx?cid=247&aid=17>, as they become available. Click on the "Meeting Details" and "Documents" to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting.

A full-day in person hearing on this topic will follow in Indianapolis, IN in March of 2016. Persons who desire

additional information may contact the Midwest Regional Office at (312) 353-8311. Persons interested in the work of this Committee are also directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Midwest Regional Office at the above email or street address.

#### Agenda

Welcome and Introductions  
11 a.m. to 11:05 a.m.  
Panel Presentations on the School to Prison Pipeline in Indiana  
11:05 a.m. to 11:50 a.m.  
Question and Answer Session with IN Advisory Committee  
11:50 a.m. to 12:10 p.m.  
Open Comment  
12:10 p.m. to 12:25 p.m.  
Closing Remarks and Adjournment  
12:30 p.m.

**DATES:** The meeting will be held on Wednesday, January 20, 2016, at 10:00 a.m. EST.

#### Public Call Information

Dial: 888-417-8533  
Conference ID: 2138345

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at 312-353-8311 or [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov).

Dated: December 7, 2015.

**David Mussatt,**  
Chief, Regional Programs Unit.

[FR Doc. 2015-31137 Filed 12-9-15; 8:45 am]

**BILLING CODE 6335-01-P**

### COMMISSION ON CIVIL RIGHTS

#### Notice of Public Meeting of the Wisconsin Advisory Committee To Discuss a Forthcoming Draft Report on Hate Crime in the State, and Begin Consideration of Additional Civil Rights Topics for Future Committee Consideration

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Wisconsin Advisory Committee (Committee) will hold a meeting on Thursday, January 21, 2016, at 12:00 p.m. CST for the purpose of discussing a forthcoming draft report on hate crime in the state, and beginning consideration of additional civil rights topics for future Committee consideration.

This meeting is open to the public through the following toll-free call-in

number: 888-500-6950, conference ID: 469735. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also invited and welcomed to make statements during the scheduled open comment period. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at [callen@usccr.gov](mailto:callen@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (312) 353-8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at <https://database.faca.gov/committee/meetings.aspx?cid=282> and clicking on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

#### Agenda

- I. Welcome and Introductions—Naheed Bleecker, Chair
- II. Overview of USCCR FY 2016 Calendar and Statutory Enforcement Report—USCCR Staff
- III. Hate Crimes and Civil Rights in Wisconsin—WI Advisory Committee
  - Discussion of report overview; findings and recommendations

- IV. Future Plans and Actions—WI Advisory Committee
  - Wisconsin Civil Rights Topics
- V. Open Comment—Public Participation
- VI. Adjournment

**DATES:** The meeting will be held on Thursday, January 21, 2015, at 12:00 p.m. CST.

**Public Call Information**

Dial: 888-500-6950  
Conference ID: 469735

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnarowski, DFO, at 312-353-8311 or [mwojnarowski@uscrr.gov](mailto:mwojnarowski@uscrr.gov).

Dated: December 7, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015-31138 Filed 12-9-15; 8:45 am]

**BILLING CODE 6335-01-P**

**DEPARTMENT OF COMMERCE**

**Foreign-Trade Zones Board**

[B-52-2015]

**Foreign-Trade Zone (FTZ) 37—Orange County, New York; Authorization of Production Activity; Takasago International Corporation (U.S.A.) (Fragrance Compounds), Harriman, New York**

On August 7, 2015, Takasago International Corporation (U.S.A.)

submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Site 10 of FTZ 37 in Harriman, New York.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 49201, August 17, 2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: December 4, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015-31072 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Subsea and Onshore Technology Trade Mission to Brazil; October 19-21, 2016**

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:**

The United States Department of Commerce International Trade Administration's (ITA) U.S. and Foreign Commercial Service (USFCS) in Rio de Janeiro, Brazil, are organizing a Subsea & Onshore Technology Trade Mission to Rio de Janeiro, Brazil October 19-21, 2016.

The Subsea & Onshore Technology Trade Mission offers a timely and cost-effective means for U.S. firms to engage with key stakeholders and to enter the promising Brazilian oil and gas market for subsea and onshore equipment, technology, and services. The delegation will be comprised of at least 10 U.S. firms and a maximum of 15 U.S. firms representing a cross-section of U.S. oil and gas segments that have developed products and services for subsea (deep water) and onshore, oil and gas exploration and production. The mission will also be open to representatives of U.S. trade associations in the targeted industries with a commercial interest in Brazil.

**SCHEDULE**

Tuesday, October 18, 2016 .....	<ul style="list-style-type: none"> <li>■ Delegation arrives in Rio.</li> <li>■ Welcome lunch at hotel restaurant.</li> <li>■ Afternoon free.</li> </ul>
Wednesday, October 19, 2016 .....	<ul style="list-style-type: none"> <li>■ Country Team Briefing at U.S. Consulate General Rio de Janeiro by Brazil Mission team (FCS, ECON and CG).</li> <li>■ Commercial Briefing/Oil and Gas Opportunities in Brazil by Brazilian companies and key industry players.</li> <li>■ Welcome cocktail Reception.</li> </ul>
Thursday, October 20, 2016 .....	<ul style="list-style-type: none"> <li>■ U.S. companies individual matchmaking appointments at the Brazilian company's offices.</li> </ul>
Friday, October 21, 2016 .....	<ul style="list-style-type: none"> <li>■ One group meeting with Petrobras.</li> <li>■ One oil and gas site visit (afternoon)—TBD.</li> <li>■ Evening Departure.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

**Participation Requirements**

Recruitment for the mission will begin immediately and conclude no later than July 24, 2016. All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. The U.S. Department of Commerce will review applications and make selection decisions on a comparative basis starting July 25, 2016 until at least 10

participants are selected with a maximum number of 15 participants. Applications received after July 25, 2016, will be considered only if space and scheduling constraints permit.

**Fees and Expenses**

After a company or organization has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be \$2,300 for a small or medium-sized firm (SME) or industry organization, and \$2,500 for large firms. The fee for each additional

firm representative (large firm or SME/trade organization) is USD \$750.00.

**Application**

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

**Exclusions**

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings, and airport transfers during the mission), and air

transportation. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. Business or entry visas may be required to participate in the mission. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

#### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/trademissions>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than July 25, 2016. Applications received after July 25, 2016 will be considered only if space and scheduling constraints permit.

#### Conditions for Participation

Targeted mission participants are U.S. companies or organizations providing oil and gas equipment, technology, or services. The participants' products or services must be either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product/service.

The following criteria will be evaluated in selecting participants:

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

- Each applicant must also certify that the products and services it seeks to export through the mission are either

produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

- Suitability of the firm or service provider's products or services to the market.
- Firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission.
- Consistency of the firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Diversity of company or organization size and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

#### FOR FURTHER INFORMATION CONTACT:

*Name:* Julius Svoboda, Title: Senior Oil & Gas Trade Specialist, U.S. Department of Commerce, Address: 1401 Constitution Ave., Tel: +1-202-482-5430, Email: [Julius.Svoboda@trade.gov](mailto:Julius.Svoboda@trade.gov).

Mr. Mark Wells, International Trade Specialist, Trade Missions, U.S. Department of Commerce, Washington, DC 20230, Tel: (202) 482-0904, [Mark.Wells@trade.gov](mailto:Mark.Wells@trade.gov).

#### Frank Spector,

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31140 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Renewable Energy Trade Mission to Mexico; May 16-19, 2016

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce's International Trade Administration (ITA) is organizing an Executive-led Renewable Energy Trade Mission to Mexico from May 16 to 19, 2016. The Renewable Energy Trade Mission offers a timely and cost-effective means for U.S. firms to engage with key stakeholders and to enter the promising Mexican market for renewable energy equipment, technology, and services.

A senior ITA official will lead a delegation of 15 to 20 companies for a series of meetings with government officials, power sector decision makers, potential buyers and other commercial partners in Mexico City. Delegates will receive discounted access to Mexico's premier trade show and congress for the clean energy industries, MIREC WEEK, including exclusive networking opportunities facilitated by the International Trade Administration. Participating companies will also have the option for a *second-city* mission extension for solar and wind power sub-sector briefings in Monterrey; pre-screened business-to-business meetings with local agents, distributors, or potential buyers facilitated by the Commercial Service; and local networking opportunities.

The mission will target near- and medium-term opportunities for U.S. equipment suppliers, technology providers and integrators, and a wide range of service providers operating in the solar, wind, renewable fuels, geothermal, and hydro power sub-sectors. In addition to exclusive meetings with Mexican energy sector officials, delegates will benefit from exposure to the hundreds of businesses and high-level decision makers participating in MIREC WEEK. The U.S. Commercial Service in Mexico will organize a complete package of country briefings, business and government meetings, sub-sector seminars, and networking opportunities led by U.S. government officials during MIREC WEEK. Delegates participating in the Monterrey extension will also receive business-to-business services designed to capitalize on unique opportunities in the local market and connect mission delegates with potential buyers.

## SCHEDULE

Monday, May 16, 2016 .....	<ul style="list-style-type: none"> <li>■ Participants Arrive in Mexico City <i>by 4 p.m.</i></li> <li>■ Country Briefing: by U.S. Embassy staff on Mexico's renewable energy sector and business opportunities.</li> <li>■ Evening Reception: with USG officials, renewable energy stakeholders, and potential partners from Mexico's industry.</li> </ul>
Tuesday, May 17, 2016 .....	<ul style="list-style-type: none"> <li>■ Meetings and Roundtables: with government agencies and renewable energy sector decision makers, including translation services.</li> <li>■ Evening Reception: with key stakeholders at MIREC WEEK.</li> </ul>
Wednesday, May 18, 2016 ..	<ul style="list-style-type: none"> <li>■ MIREC WEEK: One-day participation in Mexico's premier trade show and congress for the clean energy industries.</li> <li>■ U.S. Government-led Networking Opportunities: delegation tour of the show and facilitated networking.</li> <li>■ Optional Second-City: Evening travel to Monterrey.</li> </ul>
Thursday, May 19, 2016 .....	<ul style="list-style-type: none"> <li>■ Monterrey Sub-Sector Roundtables: with local leaders and business community in wind and solar industries.</li> <li>■ Monterrey Business Meetings: Commercial Service facilitated business-to-business meetings in Monterrey.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

### Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below (*see Conditions for Participation*). A minimum of 15 and maximum of 20 companies will be selected to participate in the Mexico City mission from the applicant pool. For specialized business to business meetings in Monterrey, a maximum of 10 companies will be selected to participate.

### Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the basic Trade Mission, including a discounted one-day all-access pass to MIREC WEEK, will be \$1,900, for a small or medium-sized firm (SME), and \$2,250 for large firms. The additional fee for participants in the extended Mission for pre-screened business to business meetings in Monterrey will be \$1,400 for a SME and \$1,700.00 for a large firm. The fee for each additional company representative participating in the Mission will be \$1,600.00 for Mexico City and \$500 for Monterrey.

### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground

transportation (except for transportation to and from meetings), and air transportation. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms.

Business or entry visas may be required to participate on the mission. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/trademissions>), the Renewable Energy and Energy Efficiency exporter portal (<http://www.export.gov/reee/>) and newsletter, and other Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and the U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of 20 participants for Mexico City and 10 participants for Monterrey are selected. Applications received after March 4, 2016, will be considered only if space and scheduling constraints permit and participation fees must be paid by March 14, 2016.

### Conditions for Participation

Targeted mission participants are U.S. companies or trade associations providing renewable energy equipment,

technology and services with export interests in Mexico's market.

Certification of products and/or services being manufactured or produced in the United States is required, or if manufactured/produced outside of the United States, the product/service must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

The following criteria will be evaluated in selecting participants:

- Suitability of a firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) products or services to Mexico's market.
- Firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission.
- Consistency of the firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Diversity of company size and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Adam O'Malley, Office Director: Energy and Environmental Studies, U.S. Department of Commerce: International Trade Administration, 1401 Constitution Avenue NW., Suite 4053, Washington, DC 20230, Tel: 202-482-4850, [Adam.OMalley@trade.gov](mailto:Adam.OMalley@trade.gov).

Ms. Clarissa David, International Trade Specialist, Office of Trade Promotion Programs, U.S. Department

of Commerce, Washington, DC 20230, Tel: 202-482-0379, Fax: 202-482-9000, [Clarissa.David@trade.gov](mailto:Clarissa.David@trade.gov).

**Frank Spector,**

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31142 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Trade Mission to Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina in Conjunction With Trade Winds—Latin America Business Forum**

September 6–13, 2016.

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade

Administration is organizing a trade mission to Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina that will include the Trade Winds—Latin America business forum in Santiago, Chile on September 7–9, 2016. U.S. trade mission members will participate in the Trade Winds—Latin America business forum in Santiago, Chile, which is also open to U.S. companies not participating in the trade mission. Trade mission participants may also choose to participate in their choice of trade mission stops based on recommendations from the USFCS, including in Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina. Each trade mission stop will include one-on-one business appointments with pre-screened potential buyers, agents, distributors or joint-venture partners. Trade mission participants in the Trade Winds—Latin America business forum may attend regional and industry-specific sessions and consultations with USFCS Senior

Commercial Officers and other government officials representing the Western Hemisphere region during the business forum in Santiago, Chile on September 7–9, 2016.

This mission is open to U.S. companies and trade associations from a cross-section of industries with growth potential in Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina, including, but not limited to the following industries: Power generation, transmission and distribution technology and equipment; oil and gas equipment and technology; mining and construction equipment; building products; agricultural equipment and technology; information communications technology and equipment; healthcare and medical products, equipment, and services; water technologies; environmental technologies; consumer products; and safety and security products and services.

**SCHEDULE**

Monday, September 5, 2016	<ul style="list-style-type: none"> <li>▪ Arrive in Mexico City, Mexico; Santa Cruz, Bolivia; or Asuncion, Paraguay (if electing to participate in one of these mission stops).</li> </ul>
Tuesday, September 6, 2016	<ul style="list-style-type: none"> <li>▪ Mexico City, Mexico; Santa Cruz, Bolivia; or Asuncion, Paraguay (choice of one mission stop).</li> <li>▪ Business to Business meetings and networking with government and business officials.</li> <li>▪ Arrive in Santiago, Chile.</li> </ul>
Wednesday, September 7, 2016.	
Thursday and Friday, September 8–9, 2016.	<ul style="list-style-type: none"> <li>▪ Santiago, Chile: Trade Winds Business Forum and SCO Consultations.</li> </ul>
Saturday, September 10, 2016.	<ul style="list-style-type: none"> <li>▪ Market Briefings, Business to Business meetings, consultations with U.S. Government trade representatives and networking with U.S. and foreign government and business officials.</li> <li>▪ Travel Day.</li> </ul>
Sunday, September 11, 2016.	
Monday and Tuesday, September 12–13, 2016.	<ul style="list-style-type: none"> <li>▪ Arrive in Montevideo, Uruguay; Buenos Aires/Cordoba, Argentina; or Lima, Peru (if electing to participate in one of these mission stops).</li> <li>▪ Montevideo, Uruguay; Buenos Aires/Cordoba, Argentina; or Lima, Peru (choice of one mission stop).</li> <li>▪ Business to Business meetings and networking with government and business officials.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: [http://www.export.gov/eac/show\\_detail\\_trade\\_events.asp?EventID=36416&InputType=EVENT](http://www.export.gov/eac/show_detail_trade_events.asp?EventID=36416&InputType=EVENT).

**Participation Requirements**

All parties interested in participating in the trade mission to Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below.

A minimum of 30 companies and/or trade associations will be selected to participate in the mission from the applicant pool on a first-come, first-

served basis. Mission stop participation will be limited as follows: The Bolivia mission stop is limited to 15 companies; the Paraguay mission stop is limited to 5 companies; the Uruguay mission stop is limited to 15 companies; the Argentina mission stop is limited to 20 companies; Peru mission stop is limited to 10 companies; Mexico mission stop is limited to 20 companies; and the Chile mission stop is limited to 30 companies.

Additional delegates may be accepted based on available space. U.S. companies and/or trade associations already doing business in or seeking business in Chile, Peru, Bolivia, Paraguay, Uruguay, Mexico and Argentina for the first time may apply.

**Fees and Expenses**

After a company has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required.

- For one mission stop, the participation fee will be \$1,900 for a small or medium-sized enterprise (SME) and \$2,900 for large firms.
- For two mission stops, the participation fee will be \$2,900 for a small or medium-sized enterprise (SME) and \$3,900 for large firms.
- For three mission stops, the participation fee will be \$3,900 for a small or medium-sized enterprise (SME) and \$4,900 for large firms.

The above trade mission fees include the \$950 participation fee for the Trade Winds business forum to be held in Santiago, Chile on September 7–9, 2016.

An additional representative for both SMEs and large firms will require an additional fee of \$950.

#### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

#### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings), and air transportation. Participants may, however, be able to take advantage of U.S. Government rates for hotel rooms if available. Business or entry visas may be required to participate on the mission. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary visas.

#### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/trademissions>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than June 15, 2016. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning 14 DAYS AFTER PUBLICATION OF THIS FEDERAL REGISTER NOTICE, until the minimum of 30 participants is selected. After June 15, 2016, applications will be considered only if space and scheduling constraints permit.

#### Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. Applicant should specify in their application and supplemental materials which trade mission stops they are interested in participating in. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the U.S., or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content of the value of the finished product or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

The following criteria will be evaluated in selecting participants:

- Suitability of a firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) products or services to these markets.
- Firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission.
- Consistency of the firm's or service provider's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

#### FOR FURTHER INFORMATION CONTACT:

Diego Gattesco, Director, U.S. Export Assistance Center—Wheeling, WV, [Diego.Gattesco@trade.gov](mailto:Diego.Gattesco@trade.gov), Tel: 304-243-5493.

Ms. Ethel Glenn, International Trade Specialist, Office of Trade Promotion Programs, U.S. Department of Commerce, Washington, DC 20230. [Ethel.Glenn@trade.gov](mailto:Ethel.Glenn@trade.gov).

#### Frank Spector,

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31143 Filed 12-9-15; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Healthcare Trade and Investment Mission to Peru

March 7-9, 2016.

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Commerce, International Trade Administration, is organizing a healthcare trade and investment mission to Peru. The mission is designed to promote U.S. companies in the following areas: Pharmaceutical producers, medical device manufacturers, hospital operation and management services, hospital information systems, and eHealth solutions. The mission also will assist U.S. companies already doing business in Peru to expand their footprint. This mission will be executive-led.

#### SCHEDULE

Sunday, March 6 .....	<ul style="list-style-type: none"> <li>■ Arrive in Lima, Peru and hotel check-in.</li> <li>■ Welcome and overview of Mission.</li> </ul>
Monday, March 7 .....	<ul style="list-style-type: none"> <li>■ Market briefings from U.S. Embassy and Industry experts.</li> <li>■ Government meetings.</li> <li>■ Ambassador Hosted Networking reception.</li> </ul>
Tuesday, March 8 .....	<ul style="list-style-type: none"> <li>■ Meetings with Private Sector groups.</li> <li>■ Networking Luncheon with AmCham &amp; Lima Chamber.</li> <li>■ Group Mission ends.</li> </ul>



## SCHEDULE—Continued

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 Wednesday, March 9 ..... ■ One-on-one business matchmaking meetings (optional).
 

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*Web site:* Please visit our official mission Web site for more information: <http://export.gov/tradeamericas/trademissionperu2016/>.

### Participation Requirements

All parties interested in participating in the healthcare trade and investment mission to Peru must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 20 companies or trade associations will be selected to participate in the mission from the applicant pool.

Peru's local healthcare-related manufacturing is limited to consumables, basic electro diagnostics and hospital furniture, which explains Peru's low export volumes. Regional governments and private companies look towards foreign medical equipment and device suppliers to fulfill the demand. This market trend creates vast opportunities for U.S. businesses that specialize in state of the art equipment such as computed tomography (CT) scanners, robotic radiosurgery system, and gamma knives.

### Fees and Expenses

After an applicant has been selected to participate in the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. Upon notification of acceptance to participate, those selected have five (5) business days to submit payment or the acceptance may be revoked.

The participation fee for the trade mission to Peru is \$1,500 for small- or medium-sized enterprises (SME\*) and \$2,800 for large companies and/or trade associations. The fee for each additional representative (large firm or SME or trade association/organization) is \$500. Companies that opt for the additional day of one-on-one business matchmaking appointments will pay an additional fee of \$1,500 (includes related expenses like transportation and interpretation) separately.

### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings), and air transportation. Participants may, however, be able to take advantage of U.S. Government rates for hotel rooms if available. Business or entry visas may be required to participate on the mission. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary visas.

### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the U.S. Commerce Department trade mission calendar (<http://www.export.gov/trademissions/>) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for this mission will begin immediately and conclude no later than February 1, 2016. The U.S. Department of Commerce will review applications and make selection decisions as quickly as possible after the February 1, 2016 deadline. Applications received after February 1, 2016 will be considered only if space and scheduling constraints permit.

### Conditions for Participation

Applicants must submit a completed and signed mission application and supplemental application materials, including information on their products and/or services, primary market objectives, and goals for participation by February 1, 2016. If the U.S. Department of Commerce receives an incomplete application, the Department may either: Request additional information/clarification, take the lack of information into account when evaluating the application, or reject the application.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. company and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. company and have at least fifty-one percent U.S. content.

In addition, each applicant must:

- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified any matter pending before any bureau or office in the U.S. Department of Commerce;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the U.S. Department of Commerce;
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials; and
- Certify that it meets the minimum requirements as stated in this announcement.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

### FOR FURTHER INFORMATION CONTACT:

Diego Gattesco, Trade Americas Team Leader, U.S. Commercial Service—Wheeling, WV, Tel: 304-243-5493, Email: [Diego.Gattesco@trade.gov](mailto:Diego.Gattesco@trade.gov).

Ms. Anne Novak, International Trade Specialist, Office of Trade Promotion Programs, U.S. Department of Commerce, Washington, DC 20230, Tel:

202-482-8178, Fax: 202-482-9000,  
Anne.Novak@trade.gov.

**Frank Spector,**

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31147 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 99-10A005]

#### Export Trade Certificate of Review

**ACTION:** Notice of Issuance of an amended Export Trade Certificate of Review to the California Almond Export Association, LLC (“CAEA”) (Application No. 99-10A005).

**SUMMARY:** The Secretary of Commerce, through the Office of Trade and Economic Analysis (“OTE”), issued an amended Export Trade Certificate of Review to the California Almond Export Association on November 24, 2015. The Certificate has now been amended ten times. The most recent previous amendment was issued to CAEA on August 17, 2015, and a notice of its issuance was published in the **Federal Register** on September 1, 2015 (80 FR 52738).

**FOR FURTHER INFORMATION CONTACT:** Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number) or email at [etca@trade.gov](mailto:etca@trade.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions.

The regulations implementing Title III are found at 15 CFR part 325 (2015).

OTE is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary’s determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the

determination on the ground that the determination is erroneous.

#### Description of Amended Certificate

*CAEA’s Export Trade Certificate of Review has been amended to:*

Add the following new Member of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): California Gold Almonds, Modesto, CA.

*CAEA’s Export Trade Certificate of Review complete amended Membership is listed below:*

Almonds California Pride, Inc.,  
Caruthers, CA  
Baldwin-Minkler Farms, Orland, CA  
Blue Diamond Growers, Sacramento, CA  
California Gold Almonds, Modesto, CA  
Campos Brothers, Caruthers, CA  
Chico Nut Company, Chico, CA  
Del Rio Nut Company, Inc., Livingston, CA  
Fair Trade Corner, Inc., Chico, CA  
Fisher Nut Company, Modesto, CA  
Hilltop Ranch, Inc., Ballico, CA  
Hughson Nut, Inc., Hughson, CA  
Mariani Nut Company, Winters, CA  
Nutco, LLC d.b.a. Spycher Brothers, Turlock, CA  
Paramount Farms, Inc., Los Angeles, CA  
P-R Farms, Inc., Clovis, CA  
Roche Brothers International Family Nut Co., Escalon, CA  
RPAC Almonds, LLC, Los Banos, CA  
South Valley Almond Company, LLC, Wasco, CA  
Sunny Gem, LLC, Wasco, CA  
Western Nut Company, Chico, CA

Dated: December 4, 2015.

**Joseph E. Flynn,**

*Director, Office of Trade and Economic Analysis.*

[FR Doc. 2015-31191 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 9th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference in Vienna, Austria; September 18-21, 2016

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce’s (DOC) International Trade Administration (ITA), with participation from the U.S. Departments of Energy and State, is organizing the 9th Annual U.S. Industry Program at the International Atomic Energy Agency

(IAEA) General Conference, to be held September 18-21, 2016, in Vienna, Austria. The IAEA General Conference is the premier global meeting of civil nuclear policymakers and typically attracts senior officials and industry representatives from all 162 Member States. The U.S. Industry Program is part of the Department of Commerce-led Civil Nuclear Trade Initiative, a U.S. Government effort to help U.S. civil nuclear companies identify and capitalize on commercial civil nuclear opportunities around the world. The purpose of the program is to help the U.S. nuclear industry promote its services and technologies to an international audience, including senior energy policymakers from current and emerging markets as well as IAEA staff.

Representatives of U.S. companies from across the U.S. civil nuclear supply chain are eligible to participate. In addition, organizations providing related services to the industry, such as universities, research institutions, and U.S. civil nuclear trade associations, are eligible for participation. The mission will help U.S. participants gain market insights, make industry contacts, solidify business strategies, and identify or advance specific projects with the goal of increasing U.S. civil nuclear exports to a wide variety of countries interested in nuclear energy.

The schedule includes: (1) Meetings with foreign delegations; (2) briefings from senior U.S. Government officials and IAEA staff on important civil nuclear topics including regulatory, technology and standards issues; liability, public acceptance, export controls, financing, infrastructure development, and R&D cooperation; and (3) networking events. Past U.S. Industry Programs have included participation by the U.S. Secretary of Energy, the Chairman of the U.S. Nuclear Regulatory Commission (NRC) and senior U.S. Government officials from the Departments of Commerce, Energy, State, the U.S. Export-Import Bank and the National Security Council.

There are significant opportunities for U.S. businesses in the global civil nuclear energy market. With 172 nuclear plant projects planned in 30 countries over the next 8-10 years, this translates to a market demand for equipment and services totaling \$500-740 billion over the next ten years. This mission contributes to the President’s National Export Initiative NEXT (<http://www.trade.gov/neinext>) and DOC’s Civil Nuclear Trade Initiative (<http://export.gov/civilnuclear>), by assisting U.S. businesses in entering or expanding in international markets, and

enhancing opportunities for U.S. exports.

**FOR FURTHER INFORMATION CONTACT:**  
Jonathan Chesebro, Industry & Analysis,  
Office of Energy and Environmental

Industries, Washington, DC, Tel: (202) 482-1297, Email: [jonathan.chesebro@trade.gov](mailto:jonathan.chesebro@trade.gov).

Mr. Robert McEntire, Project Officer—  
Office of Trade Promotion Programs,

U.S. Department of Commerce,  
Washington, DC, Tel: (202) 482-5226,  
Email: [Robert.McEntire@trade.gov](mailto:Robert.McEntire@trade.gov).

**SUPPLEMENTARY INFORMATION:**

SCHEDULE

Sunday, September 18 .....	<ul style="list-style-type: none"> <li>■ U.S. Industry Delegation Welcome Reception and Program Orientation/Major Nuclear Markets Overview.</li> <li>■ Industry Program breakfast meeting begins.</li> </ul>
Monday, September 19 .....	<ul style="list-style-type: none"> <li>■ U.S. Policymakers Roundtable.</li> <li>■ Break.</li> <li>■ USG Dialogue with Industry.</li> <li>■ IAEA Side Events.</li> <li>■ Break.</li> <li>■ Industry Program Meetings: one-on-one meetings with ITA Commercial Service staff and Ex-Im Bank staff over lunch.</li> <li>■ Country &amp; IAEA Briefings for Industry Delegation (foreign delegates &amp; IAEA staff).</li> <li>■ IAEA Director General Reception.</li> <li>■ U.S. Mission to the IAEA Reception.</li> </ul>
Tuesday, September 20 .....	<ul style="list-style-type: none"> <li>■ USG Industry Roundtable briefings.</li> <li>■ Country &amp; IAEA Briefings for Industry (presented by foreign delegates &amp; IAEA staff).</li> <li>■ IAEA Side Event Meetings.</li> <li>■ U.S. Industry Reception (America Lounge).</li> </ul>
Wednesday, September 21	<ul style="list-style-type: none"> <li>■ Country &amp; IAEA Briefings for Industry (presented by foreign delegates &amp; IAEA staff).</li> <li>■ IAEA Side Events.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

**Participation Requirements**

U.S. companies, U.S. trade associations, and U.S. academic and research institutions interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Applications will be reviewed on a rolling basis in the order that they are received. A minimum of 15 and maximum of 50 companies and/or trade associations and/or U.S. academic and research institutions will be selected to participate in the mission from the applicant pool.

**Fees and Expenses**

After a company or organization has been selected to participate on the mission, a payment to the DOC in the form of a participation fee is required. Participants will be able to take advantage of U.S. Embassy rates for hotel rooms.

The fee to participate in the event is \$3,500 for a large, small or medium-sized company (SME), a trade association, or a U.S. university or research institution. The fee for each additional representative (large company, trade association, university/research institution, or SME) is \$2,400.

**Application**

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

**Exclusions**

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, except as stated in the proposed agenda, and air transportation from the United States to the mission site and return to the United States.

**Timeline for Recruitment and Applications**

Recruitment for participation in the U.S. Industry Program as a representative of the U.S. nuclear industry will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the DOC trade mission calendar, notices to industry trade associations and other multiplier groups. Recruitment will begin 2 weeks after publication in the **Federal Register** and conclude no later than June 24, 2016. The ITA will review applications and make selection decisions on a rolling basis. Applications received after June 24, 2016, will be considered only if space and scheduling permit.

**Conditions for Participation**

Applicants must submit a completed mission application signed by a company, trade association, or academic or research institution official, together with supplemental application materials, including adequate

information on the organization's products and/or services, primary market objectives, and goals for participation. If the DOC receives an incomplete application, the DOC may reject the application, request additional information, or take the lack of information into account in its evaluation.

Each applicant also must certify that the products or services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have demonstrable U.S. content as a percentage of the value of the finished product or service. In the case of a trade association, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have demonstrable U.S. content. In the case of an academic or research institution, the applicant must certify that as part of its activities at the event, it will represent the interests of constituents that meet the criteria above.

Applicants from a company, organization or institution that is majority owned or controlled by a foreign government entity will not be considered for participation in the U.S. Industry Program.

**Frank Spector,**

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31149 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE****International Trade Administration****Third Japan-U.S. Decommissioning and Remediation Fukushima Recovery Forum; February 24–25, 2016**

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Commerce's International Trade Administration (ITA), in partnership with the U.S. Department of Energy, is organizing the third Japan-United States Decommissioning and Remediation Fukushima Recovery Forum ("Fukushima Recovery Forum") on February 24–25, 2016 in Tokyo, Japan. Building on the second Fukushima Recovery Forum held in April 2015, the third Fukushima Recovery Forum aims to continue to develop U.S.-Japanese cooperation on Fukushima recovery efforts, the decommissioning of other Japanese reactors, and the restart of Japan's reactor fleet. The event will be a venue for U.S. firms to hear from Japanese Ministries, utilities, and commissioning entities on the status of Japan's civil nuclear energy program. In

addition, the event will be a forum for U.S. and Japanese firms to share experiences, expertise, and lessons learned in remediation and decommissioning, including work underway at Fukushima Dai-ichi Nuclear Power Station, and in Tohoku, the area affected by the accident at Fukushima. The event also aims to address interest in cooperation in areas related to nuclear power as Japan moves forward with its plan for decommissioning or restarting its nuclear reactors. U.S. firms will also be given an opportunity to network with Japanese firms and identify potential business partners.

ITA is seeking the participation of a maximum of 25 U.S. companies that produce technology or provide services in the decommissioning or remediation sector as well as in areas related to nuclear restarts. Staff from the U.S. Department of Commerce's Global Markets, Industry & Analysis (I&A), and U.S. & Foreign Commercial Service (CS) units will also be available in Tokyo to provide export counseling and civil nuclear trade policy guidance to participating companies.

Support for the Fukushima Recovery Forum was confirmed at meetings of the U.S.-Japan Bilateral Commission on Civil

Nuclear Cooperation. The Bilateral Commission serves as a senior-level, forum for consultations on mutual issues of concern to further strengthen bilateral cooperation and advance shared interests in the area of civil nuclear cooperation. The Bilateral Commission is chaired by the Department of Energy and Japan's Ministry of Economy, Trade, and Industry (METI). There are five working groups under the Bilateral Commission that coordinate bilateral cooperation in the areas of civil nuclear energy research and development, the decommissioning of the Fukushima Dai-ichi Nuclear Power Station, environmental management, emergency management, nuclear security, and safety and regulatory issues.

The Decommissioning and Environmental Management Working Group (DEMWG) under the Bilateral Commission addresses the long-term consequences of the Fukushima accident, including facility decommissioning, spent fuel storage, decontamination, and remediation of contaminated areas. The Fukushima Recovery Forum is under the auspices of the DEMWG to further industry cooperation in support of Fukushima recovery efforts.

**SCHEDULE**

Wednesday, February 24 .....	<ul style="list-style-type: none"> <li>■ Participate in discussions with U.S. and Japanese firms consisting of presentations and dialogues on specific aspects of Fukushima Recovery, including decommissioning, remediation, waste management, and water management.</li> <li>■ Participate in networking opportunities with Japanese firms.</li> <li>■ Attend a networking reception with senior leaders from Japan's Government and industry hosted by a senior U.S. Government representative from the U.S. Embassy in Tokyo.</li> </ul>
Thursday, February 25 .....	<ul style="list-style-type: none"> <li>■ Participate in briefings by Japanese Government officials and other entities on the status of the situation at the Fukushima Dai-ichi Nuclear Power Station and surrounding area.</li> <li>■ Participate in networking activities coordinated by ITA staff.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

**Participation Requirements**

U.S. companies, U.S. trade associations, and U.S. academic and research institutions interested in participating in the Fukushima Recovery Forum must submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated based on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 25 entities will be selected to participate in the Forum from the applicant pool. U.S. companies already doing business in Japan as well as U.S. companies seeking to enter to the Japanese market for the first time may apply. Applications will

be reviewed on a rolling basis in the order they are received.

**Fees and Expenses**

After a U.S. company, U.S. trade association, or U.S. academic and research institutions has been selected to participate in the Forum, a participation fee is required. The participation fee is \$1,130 for a large firm, a trade association, or a U.S. university or research institution and \$860 for small or medium-sized firms or non-profit educational institution. The fee for each additional representative is \$600. As space permits, up to four additional representatives can be accommodated per company, trade association, or university or research institution. Fees will cover the cost for interpreters, a booklet containing

information about participating U.S. and Japanese firms, and reception costs.

**Application**

All interested firms and associations may register via the following link: <http://export.gov/japan/fukushima/forum/>.

**Exclusions**

The participation fee does not include personal travel expenses such as airfare, lodging, most meals, incidentals, and local ground transportation and personal interpreters used during the networking sessions. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms. Business visas may be required. Government fees and processing expenses to obtain visas are also not included in the Fukushima Recovery

Forum costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

### Timeline for Recruitment and Applications

Recruitment for the Fukushima Recovery Forum will be conducted in an open and public manner, including publication in the **Federal Register**, posting on CS Japan's Web site, notices by industry trade associations and other multiplier groups, and publicity through the ITA network. Recruitment will begin immediately and conclude no later than January 8, 2016. The U.S. Department of Commerce will review applications on a rolling basis beginning on January 8, 2016 until the maximum of 25 participants is selected. Applications received after January 15, 2016 will be considered only if space and scheduling constraints permit.

### Conditions for Participation

Applicants must submit a completed mission application signed by a company official, together with supplemental application materials, including adequate information on the company's products and/or services, interest in doing business in Japan, and goals for participation by January 8, 2016. If the U.S. Department of Commerce receives an incomplete application, it may reject the application, request additional information, or take the lack of information into account in its evaluation.

Each applicant must also certify that the products or services it seeks to export through its participation in the Fukushima Recovery Forum are either produced in the United States, or, if not, marketed under the name of a U.S. firm and that the promotion of the products or services the applicant seeks to export would be consistent with ITA's mission to strengthen the international competitiveness of U.S. industry and promote U.S. exports. In the case of a trade association, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under

the name of a U.S. firm and that the promotion of the products or services the applicant seeks to export would be consistent with ITA's mission to strengthen the international competitiveness of U.S. industry and promote U.S. exports. In the case of an academic or research institution, the applicant must certify that as part of its activities at the event, it will represent the interests of the organization's staff that meet the criteria above. Applicants from a company, organization or institution that is majority owned or controlled by a foreign government entity will not be considered for participation.

### FOR FURTHER INFORMATION CONTACT:

Mr. Jonathan Chesebro, Senior Nuclear Trade Specialist, Industry & Analysis | Office of Energy and Environmental Industries, U.S. Department of Commerce | International Trade Administration, Phone: (202) 482-1297, Email: [jonathan.chesebro@trade.gov](mailto:jonathan.chesebro@trade.gov).

Mr. Robert McEntire, Project Officer—Office of Trade Promotion Programs, U.S. Department of Commerce, Washington, DC, Tel: (202) 482-5226, Email: [Robert.McEntire@trade.gov](mailto:Robert.McEntire@trade.gov).

### Frank Spector,

Acting Director, Trade Missions Program.

[FR Doc. 2015-31148 Filed 12-9-15; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Transportation Technologies, Equipment & Systems Trade Mission to Turkey; September 26–30, 2016

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce International Trade Administration's (ITA) U.S. and Foreign Commercial Service (US&FCS) in Turkey is organizing a Transportation Technologies, Equipment & Systems Trade Mission to Turkey on September 26–30, 2016.

The U.S.-Turkey Transportation Industry Trade Mission is intended to include representatives from a variety of

U.S. transportation industry hi-tech equipment, systems and technology suppliers and service providers. The mission will introduce these suppliers to Turkish business partners, industry representatives, and to the Turkish municipal/government officials to learn about and benefit from various transportation project opportunities in the country. Participating in an official U.S. industry delegation, rather than traveling to Turkey on their own, will enhance the companies' ability to secure meetings in Ankara, Istanbul, and Izmir. The influence of the transportation sector is expected to increase more in the future, as a large number of transportation related projects, including rail, air, sea, and land, are either already underway or expected to accommodate for an increasingly industrialized country in the years to come. Further in the horizon, due to the increased infrastructural partnership between private and government enterprises, marine and railway freightage will have a big role in cargo moving for combined transportation. The Government of Turkey has committed to new investments in this industry to keep up with future demand which is expected to reach targets in 2023, the centennial of the Turkish Republic. GoT spells out investments totaling almost \$250 billion with the distribution as follows: Land transportation: \$110 billion; rail: \$50; marine: \$35; and aviation: \$50. The trade mission offers a timely and cost effective way of engaging with key stakeholders in the transportation sector which covers a wide range of players from air to sea, land to rail industries. Trade mission participants will have the opportunity to interact extensively with Commercial Service (CS) Turkey specialists as well as USEAC offices to discuss industry developments, opportunities, and sales strategies.

The trade mission will also include a regional program for introductions to private sector and government officials from the partnership posts of Turkey, namely Uzbekistan, Azerbaijan, Turkmenistan and Georgia. The meetings will take place in Istanbul, with the participation of the partnership posts and possibly other countries in the region.

## SCHEDULE

Sunday, September 25, 2016 .....	<ul style="list-style-type: none"> <li>■ Mission Welcome and orientation—early evening at the TM hotel in Ankara.</li> </ul>
Monday, September 26, 2016 .....	<ul style="list-style-type: none"> <li>■ Country Team Briefing with U.S. Embassy officials.</li> <li>■ Meeting and Briefing with Ministry of Transportation (Each official department will be able to talk about upcoming projects and tenders on presentations).</li> <li>■ State Railway Officials &amp; Projects.</li> </ul>

## SCHEDULE—Continued

Tuesday, September 27, 2016 .....	<ul style="list-style-type: none"> <li>▪ State Highways Officials and Projects.</li> <li>▪ Marine Officials and Projects.</li> <li>▪ Airways Officials and Projects.</li> <li>▪ Business Matchmaking Meetings with private companies and government officials in Ankara.</li> <li>▪ Networking Reception with U.S. and Turkish Government and Private Sector Representatives.</li> <li>▪ Fly to Izmir.</li> <li>▪ Site visits (tunnel/bridge under/over the Izmir Bay).</li> <li>▪ 1–1 Business Matchmaking Meetings with private companies and municipal officials in the Aegean region.</li> </ul>
Wednesday, September 28, 2016 ..	<ul style="list-style-type: none"> <li>▪ Fly to Istanbul.</li> <li>▪ Site visits (new metro, 3rd airport, 3rd bridge, Marmaray).</li> </ul>
Thursday, September 29, 2016 .....	<ul style="list-style-type: none"> <li>▪ Morning: 1–1 Business Matchmaking Meetings with private companies and municipal officials in Istanbul.</li> <li>▪ Afternoon: 1–1 Business Matchmaking Meetings with private companies and municipal officials in Istanbul.</li> </ul>
Friday, September 30, 2016 .....	<ul style="list-style-type: none"> <li>▪ Industry Reception.</li> <li>▪ Morning: 1–1 Business Matchmaking Meetings with Partnership Posts and Public and Private Sector representatives from these countries.</li> <li>▪ Noon: program ends.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

### Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 25 companies will be selected to participate in the mission.

### Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be \$3700 for a small or medium-sized firm (SME), and \$4700 for large firms. The fee for each additional firm representative (large firm or SME/trade organization) is \$750. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings, and airport transfers during the mission), and air transportation. Participants will, however, be able to take advantage of

U.S. Government rates for hotel rooms. Electronic visas are required to participate on the mission, which are easily obtainable online. Applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/trademissions>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than July 29, 2016. The U.S. Department of Commerce will review applications and make selection decisions on a comparative basis starting on June 24, 2016 until the maximum number of participants is selected. Applications received after July 29, 2016, will be considered only if space and scheduling constraints permit.

### Conditions for Participation

Targeted mission participants are U.S. companies providing material/equipment, technology and services to any of the four transportation industries, air, rail, land, and marine that have an

interest in learning more about the Turkish and regional markets. Target sectors holding high potential for U.S. exporters/contractors include: Material/equipment/technology/services providers in the transportation industry, including airports.

Certification of products and/or services being manufactured or produced in the United States or if manufactured/produced outside of the United States, the product/service is marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

The following criteria will be evaluated in selecting participants:

- Suitability of a firm's or service provider's products or services to these markets.
- Firm's or service provider's potential for business in the markets, including likelihood of exports resulting from the mission.
- Consistency of the firm's or service provider's goals and objectives with the stated scope of the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kent Campbell, International Trade Specialist, Office of Trade Promotion Programs, U.S. Department of Commerce, Washington, DC 20230, Tel: 202-482-7426, Fax: 202-482-9000, [Kent.Campbell@trade.gov](mailto:Kent.Campbell@trade.gov).

### Frank Spector,

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31141 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[C-122-854]

**Supercalendered Paper From Canada: Countervailing Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Department) and the International Trade Commission (ITC), the Department is issuing a countervailing duty order on supercalendered paper (SC paper) from Canada.

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

**FOR FURTHER INFORMATION CONTACT:**

Dana Mermelstein or Toby Vandall, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1391 and (202) 482-1664, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On October 20, 2015, the Department published its final affirmative determination in the countervailing duty investigation of SC paper from Canada.<sup>1</sup> On December 3, 2015, the ITC notified the Department of its final determination pursuant to section

705(b)(1)(A)(i) of the Tariff Act of 1930, as amended (Act), that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from Canada.<sup>2</sup>

**Scope of the Order**

The product covered by this order is SC paper. For a complete description of the scope of the order, *see* Appendix 1 to this notice.

**Countervailing Duty Order**

In accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC has notified the Department of its final determination that the industry in the United States producing SC paper is materially injured by reason of subsidized imports of SC paper from Canada. Therefore, in accordance with section 705(c)(2) of the Act, we are publishing this countervailing duty order.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, countervailing duties on unliquidated entries of SC paper from Canada entered, or withdrawn from warehouse, for consumption on or after August 3, 2015, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**,<sup>3</sup> and before December 1, 2015, the date on which the Department instructed CBP to

discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of SC paper made on or after December 1, 2015, and prior to the date of publication of the ITC's final determination in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective December 1, 2015, of the suspension of liquidation.

**Suspension of Liquidation**

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation of SC paper from Canada, effective the date of publication of the ITC's notice of final determination in the **Federal Register**, and to assess, upon further instruction by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below:

Company	Subsidy rate (percent)
Port Hawkesbury Paper LP, 6879900 Canada Inc., Port Hawkesbury Investments Ltd., Port Hawkesbury Paper GP, Port Hawkesbury Paper Holdings Ltd., Port Hawkesbury Paper Inc., and Pacific West Commercial Corporation (collectively, Port Hawkesbury) .....	20.18
Resolute FP Canada Inc., Fibrek General Partnership, Forest Products Mauricie LP, Produits Forestriers Petit-Paris Inc., and Société en Commandite Scierie Opitciwan (collectively, Resolute) .....	17.87
All Others .....	18.85

This notice constitutes the countervailing duty order with respect to SC paper from Canada pursuant to section 706(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B8024 of the main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: December 4, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix 1****Scope of the Order**

The merchandise covered by this order is supercalendered paper (SC paper). SC paper is uncoated paper that has undergone a calendering process in which the base sheet, made of pulp and filler (typically, but not

limited to, clay, talc, or other mineral additive), is processed through a set of supercalenders, a supercalender, or a soft nip calender operation.<sup>1</sup>

<sup>1</sup> See *Supercalendered Paper From Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015).

<sup>2</sup> See *Supercalendered Paper from Canada* (Investigation No. 701-TA-530 (Final), USITC Publication 4583, December 2015).

<sup>3</sup> See *Supercalendered Paper From Canada: Preliminary Affirmative Countervailing Duty Determination*, 80 FR 45951 (August 3, 2015).

<sup>1</sup> Supercalendering and soft nip calendering processing, in conjunction with the mineral filler

The scope of this order covers all SC paper regardless of basis weight, brightness, opacity, smoothness, or grade, and whether in rolls or in sheets. Further, the scope covers all SC paper that meets the scope definition regardless of the type of pulp fiber or filler material used to produce the paper.

Specifically excluded from the scope are imports of paper printed with final content of printed text or graphics.

Subject merchandise primarily enters under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4802.61.3035, but may also enter under subheadings 4802.61.3010, 4802.62.3000, 4802.62.6020, and 4802.69.3000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

[FR Doc. 2015-31196 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Safety and Security Trade Mission to Saudi Arabia and Kuwait; November 12-18, 2016**

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce (DOC), International Trade Administration (ITA), U.S. and Foreign Commercial Service (CS), is organizing an executive-led Safety and Security Trade Mission to Kuwait and Saudi Arabia scheduled for November 12-18, 2016. The objective of the mission is to introduce U.S. firms to Kuwait and Saudi Arabia's homeland security market and to assist U.S. companies pursue export opportunities in this sector. The mission is intended to include representatives from leading U.S. companies that provide state-of-the-art security and safety equipment. The mission will visit Kuwait City, Riyadh and Dhahran, where participants

will receive market briefings and participate in customized meetings with key safety and security officials and prospective partners in the private and public sector. The trade mission will coincide with the IFSEC exhibition scheduled in Riyadh from November 14-16, 2016.

Trade mission participants will begin their business mission in Kuwait City, where CS Kuwait will arrange meetings with private and public sector officials that would include the procurement division of the Ministry of Interior.

The mission will aid participating firms to gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Kuwait and Saudi Arabia. The mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; possible meetings with government officials; and networking events. Participating in an official U.S. industry delegation will enhance the companies' ability to secure meetings with senior officials in Kuwait and Saudi Arabia.

**SCHEDULE**

Saturday, November 12, 2016 .....	<ul style="list-style-type: none"> <li>▪ Delegates arrive in Kuwait City check-in, participate in ice-breaker event, and rest overnight.</li> </ul>
Sunday, November 13, 2016 .....	<ul style="list-style-type: none"> <li>▪ Briefing with CS.</li> <li>▪ Business matchmaking sessions.</li> <li>▪ Networking Reception.</li> </ul>
Monday, November 14, 2016 .....	<ul style="list-style-type: none"> <li>▪ Meetings with Kuwaiti Government officials.</li> <li>▪ Travel to Riyadh.</li> <li>▪ Ice Breaker event.</li> </ul>
Tuesday, Nov. 15, 2016 .....	<ul style="list-style-type: none"> <li>▪ Business matchmaking sessions.</li> <li>▪ Optional visit to IFSEC.</li> <li>▪ Networking Dinner at Ambassador residence.</li> </ul>
Wednesday, Nov. 16, 2016 .....	<ul style="list-style-type: none"> <li>▪ Optional visit to IFSEC.</li> <li>▪ Business matchmaking sessions.</li> <li>▪ Evening travel to Dhahran.</li> </ul>
Thursday, Nov. 17, 2016 .....	<ul style="list-style-type: none"> <li>▪ Briefing with U.S. Consulate in Dhahran.</li> <li>▪ Business matchmaking sessions.</li> <li>▪ Site visits to Aramco and Jubail.</li> <li>▪ Networking reception.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

**Participation Requirements**

All parties interested in participating in the trade mission must complete and submit an application package for consideration by DOC. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. U.S. companies already doing business with Saudi Arabia as well as U.S. companies seeking to enter to the Saudi market for

the first time may apply. A minimum of 15 and a maximum of 20 companies will be selected for participation in this mission.

**Fees and Expenses**

After a company has been selected to participate on the mission, a payment to the DOC in the form of a participation fee is required. (The participation fee is \$3,300 for large firms and \$2,900 for a small or medium-sized enterprise (SME), which covers one representative. The fee for each additional

representative is \$750) this is just a suggestion.

Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

**Application**

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

contained in the base paper, are performed to enhance the surface characteristics of the paper by

imparting a smooth and glossy printing surface.

Supercalendering and soft nip calendering also increase the density of the base paper.



**Exclusions**

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, and air transportation from the U.S. to the mission sites, between mission sites, and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

**Timeline for Recruitment and Applications**

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://www.ita.doc.gov/doctm/tmcal.html>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will conclude no later than April 30, 2016. All applicants will be vetted by the Department of Commerce after September 1, 2016. Applications received after September 1, 2016 will be considered only if space and scheduling constraints permit.

**Conditions for Participation**

An applicant must submit a completed and signed mission application and supplemental

application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Douglas Wallace, U.S. Commercial Service, Riyadh, Saudi Arabia, Tel: +966 11 488-3800, Email: [douglas.wallace@trade.gov](mailto:douglas.wallace@trade.gov).

Ms. Jessica Dulkadir, International Trade Specialist, Trade Missions, U.S. Department of Commerce, Washington, DC 20230, Tel: 202-482-2026, Fax: 202-482-9000, [Jessica.Dulkadir@trade.gov](mailto:Jessica.Dulkadir@trade.gov).

**Frank Spector,**

*Acting Director, Trade Missions Program.*  
[FR Doc. 2015-31146 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Information and Communication Technology Trade Mission to Turkey; November 28, 2016–December 1, 2016**

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA), is organizing an Information and Communication Technology Trade Mission to Istanbul, Turkey and Ankara from November 28th–December 1st, 2016. The trade mission will focus on Cyber Security and e-Commerce as a sub sector.

The purpose of the mission is to introduce U.S. firms and trade associations to Turkey information and communication technology (ICT) security and critical infrastructure protection markets and to assist U.S. companies to find business partners and export their products and services. The mission will visit Istanbul and Ankara in Turkey where U.S. firms will have access to business development opportunities, participating firms will gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of products and services to Turkey. The mission will include customized one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with state and local government officials and industry leaders; and networking events.

**SCHEDULE**

Sunday, November 27 .....	<ul style="list-style-type: none"> <li>▪ Trade Mission Participants Arrive in Istanbul.</li> <li>▪ Visit the city (Optional).</li> <li>▪ Mission Welcome Meet-up.</li> </ul>
Monday, November 28 .....	<ul style="list-style-type: none"> <li>▪ Welcome to Istanbul and Country Briefing (Turkey).</li> <li>▪ One-on-One business matchmaking appointments.</li> <li>▪ Networking Lunch.</li> <li>▪ One-on-One business matchmaking appointments.</li> <li>▪ Networking Reception (TBC).</li> </ul>
Tuesday, November 29 .....	<ul style="list-style-type: none"> <li>▪ One-on-One business matchmaking appointments.</li> <li>▪ Networking Lunch.</li> <li>▪ One-on-One business matchmaking appointments.</li> <li>▪ Travel to Ankara.</li> </ul>
Wednesday, November 30 .....	<ul style="list-style-type: none"> <li>▪ Welcome to Ankara.</li> <li>▪ One-on-One business matchmaking appointments.</li> <li>▪ Networking Lunch.</li> <li>▪ Site visits to Cyber Security Centers.</li> <li>▪ Networking Reception.</li> </ul>
Thursday, December 1 .....	<ul style="list-style-type: none"> <li>▪ Ministry Meetings.</li> <li>▪ Networking Lunch.</li> <li>▪ Ministry Meetings.</li> <li>▪ Trade Mission Ends.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://www.export.gov/trademissions/>.

### Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 firms and/or trade associations will be selected to participate in the mission from the applicant pool.

### Fees and Expenses

After a firm or trade association has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Business Development Mission will be \$2970.63 for small or medium-sized enterprises (SME); and \$3937.50 for large firms or trade associations. The fee for each additional firm representative (large firm or SME/trade organization) is \$500. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, and air transportation from the U.S. to the mission sites, between mission sites, and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission

calendar (<http://export.gov/trademissions>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than September 6, 2016. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning immediately until the maximum of 20 participants is selected. Applications received after September 6, 2016 will be considered only if space and scheduling constraints permit.

### Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Companies must provide certification of products and/or services being manufactured or produced in the United States or if manufactured/produced outside of the United States, the product and/or service is marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

The following criteria will be evaluated in selecting participants:

- Suitability of the company's (or in the case of a trade association/organization, represented companies') products or services to the mission goals and the markets to be visited as part of this trade mission.
- Company's (or in the case of a trade association/organization, represented companies') potential for business in each of the markets to be visited as part of this trade mission.
- Consistency of the applicant's (or in the case of a trade association/organization, represented companies')

goals and objectives with the stated scope of the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gemal Brangman, Project Officer, U.S. Department of Commerce, Washington, DC, Tel: 202-482-3773, Fax: 202-482-9000, [Gemal.Brangman@trade.gov](mailto:Gemal.Brangman@trade.gov).

**Frank Spector,**

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31145 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### U.S. Safety and Security Trade Mission to the Northern Triangle (Honduras, Guatemala, and El Salvador)

May 16-20, 2016.

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA), is organizing a Trade Mission to Honduras, Guatemala, and El Salvador from May 16 to 20, 2016. The purpose of this mission is to assist U.S. companies in launching or increasing exports of U.S. safety and security goods or services to Guatemala, El Salvador, and Honduras. Participating firms will gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of products and services to the Northern Triangle of Central America. The mission will include customized one-on-one business appointments with pre-screened potential buyers, agents, distributors, and joint venture partners; meetings with industry leaders, market briefings, and networking events.

#### Target Sub-Sectors for U.S. Exporters Include

Burglar and motion alarms, sensors, intrusion detection systems, CCTV cameras, metal detectors, access control equipment, biometrics, electronic surveillance, remote monitoring, sensors, perimeter security, fire and smoke detection systems and alarms, body armor, uniforms and tactical gear, commercial personal defense products,

security training services, retail security systems, sensor tags.

### SCHEDULE

Sunday, May 15, 2016, San Pedro Sula, Honduras ...	<ul style="list-style-type: none"> <li>■ Travel Day/Arrival in San Pedro Sula, Honduras Welcome Reception.</li> <li>■ Market Briefing.</li> <li>■ Business-to-Business (B2B) Matchmaking Appointments.</li> </ul>
Monday, May 16, 2016, San Pedro Sula, Honduras ..	
Tuesday, May 17, 2016, Guatemala City, Guatemala	<ul style="list-style-type: none"> <li>■ Site Visit in San Pedro Sula (TBD).</li> <li>■ Travel to Guatemala City.</li> <li>■ Market Briefing and Networking Reception.</li> <li>■ Business-to-Business (B2B) Matchmaking Appointments.</li> </ul>
Wednesday, May 18, 2016, Guatemala City, Guatemala.	
Thursday, May 19, 2016, San Salvador, El Salvador	<ul style="list-style-type: none"> <li>■ Travel to San Salvador, El Salvador.</li> <li>■ Market Briefing and Networking Reception.</li> <li>■ Business-to-Business (B2B) Matchmaking Appointments.</li> </ul>
Friday, May 20, 2016, San Salvador, El Salvador .....	
Saturday, May 21, 2016 .....	<ul style="list-style-type: none"> <li>■ Depart for the United States/Travel Day.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: [http://export.gov/eac/show\\_detail\\_trade\\_events.asp?EventID+36399&InputType=EVENT](http://export.gov/eac/show_detail_trade_events.asp?EventID+36399&InputType=EVENT).

#### Participation Requirements

All parties interested in participating in the Safety and Security Trade Mission to Guatemala, El Salvador, and Honduras must complete and submit an application for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 10 U.S. companies and/or trade associations and a maximum of 12 companies and/or trade associations will be selected to participate in the mission from the applicant pool. U.S. companies or trade associations already doing business with Guatemala, El Salvador, and Honduras, as well as U.S. companies or trade associations seeking to enter these countries for the first time may apply.

#### Fees and Expenses

After a company and/or trade association has been selected to participate on the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee will be US\$3,800 for a small or medium-sized enterprise (SME) and US\$4,800 for a large firm.

The fee for each additional representative is US\$450.

Expenses for travel to and from the mission, lodging, most meals, and incidentals will be the responsibility of each mission participant.

#### Application

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

#### Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, except as stated in the proposed agenda, and air transportation from the United States to the mission site and return to the United States.

#### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the U.S. Department of Commerce trade mission calendar ([www.export.gov/trademissions](http://www.export.gov/trademissions)) and other Internet Web sites, press releases to general and trade media, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment will begin immediately and conclude no later than Friday, March 4, 2016. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of participants is reached. We will inform all applicants of selection decisions as soon as possible after applications are reviewed. Applications received after the deadline will be considered only if space and scheduling constraints permit.

#### Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional

information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

#### FOR FURTHER INFORMATION CONTACT:

Ms. April Redmon, Industry & Analysis, Safety and Security Team, Arlington, VA, Tel: (703) 235-0103, Email: [april.redmon@trade.gov](mailto:april.redmon@trade.gov).

Ms. Jessica Dulkadir, International Trade Specialist, Trade Missions, U.S. Department of Commerce, Washington, DC 20230, Tel: 202 482 2026, Fax: 202-482-9000, [Jessica.Dulkadir@trade.gov](mailto:Jessica.Dulkadir@trade.gov).

#### Frank Spector,

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31139 Filed 12-9-15; 8:45 am]

BILLING CODE 3510-DR-P

### DEPARTMENT OF COMMERCE

#### International Trade Administration

#### U.S. Education Mission to Central America: Panama and Honduras (Optional Stop to Guatemala)

May 2-5, 2016.

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration, is organizing an education mission to Panama and Honduras with an optional stop to Guatemala. The Department of Commerce is partnering with the Department of State's EducationUSA Advising Centers. This trade mission is designed to emphasize U.S. higher education, focusing on, in order of importance, intensive English language programs, community colleges, summer, undergraduate and graduate programs. The trade mission follows a successful trade mission to El Salvador, Honduras and Nicaragua in March 2015 and was of high demand given the previous successes.

This mission will seek to connect U.S. higher education institutions to

potential students and university/institution partners in Central America. The mission will include student fairs organized by EducationUSA, embassy briefings, site visits, and networking events. Panama City, San Pedro Sula and Guatemala City, are three of the top cities for recruiting students from Central America to the United States. Participating in the Education Mission, rather than traveling to these markets independently, will enhance the participants ability to secure appropriate meetings, especially in light of the high level engagement and support of U.S. education by the U.S. ambassadors in Panama and Honduras.

Certain criteria must be fulfilled by schools attending this trade mission. Summer programs seeking to participate should be appropriately accredited by

an accreditation body recognized by the U.S. Department of Education. Intensive English language programs seeking to participate should be accredited by the Commission on English Language Programs Accreditation (CEA) or appropriately accredited by an accreditation body recognized by the U.S. Department of Education. Community colleges, undergraduate and graduate programs seeking to participate should be accredited by a recognized accreditation body listed in Council for Higher Education Accreditation (CHEA) or Accrediting Council for Education and Training (ACCET), in the Association of Specialized and Professional Accreditors (ASPA), or any accrediting body recognized by the U.S. Department of Education.

**SCHEDULE**

Monday, May 2 .....	<ul style="list-style-type: none"> <li>■ Arrive in Panama City.</li> <li>■ Check into hotel.</li> </ul>
Tuesday, May 3 .....	<ul style="list-style-type: none"> <li>■ Welcome Dinner and Embassy Briefing.</li> <li>■ Group departure to secondary school and university visits.</li> <li>■ Group lunch with American Chamber of Commerce/Panama.</li> <li>■ Group return to hotel for one-on-one appointments and networking opportunities.</li> <li>■ Afternoon: Student Information Sessions and Education Fair organized by EducationUSA in conjunction with the Commercial Service.</li> </ul>
Wednesday, May 4 .....	<ul style="list-style-type: none"> <li>■ Group departs Panama City for San Pedro Sula.</li> <li>■ Arrive in San Pedro Sula; Check into hotel.</li> <li>■ Group Lunch and Country Briefing with U.S. and Foreign Commercial Service, EducationUSA and U.S. Embassy Public Affairs Officer.</li> <li>■ Networking coffee with local universities.</li> <li>■ Afternoon: Student Information Sessions and Education Fair organized by EducationUSA in conjunction with the Commercial Service.</li> </ul>
Thursday, May 5 .....	<ul style="list-style-type: none"> <li>■ Group departs to Guatemala City.</li> <li>■ Arrive in Guatemala City; Check into Hotel.</li> <li>■ Lunch and Embassy Briefing with U.S. and Foreign Commercial Service and Public Affairs.</li> <li>■ One-on-one opportunities with local institutions.</li> <li>■ Afternoon: Student Information Sessions and Education Fair organized by a local contractor in conjunction with the Commercial Service.</li> </ul>

*Web site:* Please visit our official mission Web site for more information: <http://export.gov/industry/education/centralamericamission/>.

**Participation Requirements**

All parties interested in participating in the mission to Central America must submit a complete application package for consideration to the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Participants in the mission will be selected on a rolling basis to a minimum of 14 and a maximum of 20 appropriately accredited U.S. educational institutions. Both, U.S. educational institutions already recruiting students and developing partnerships in the region and those who are new to recruiting and developing partnerships in the region

may apply. The optional stop of Guatemala City will also be available on a rolling basis up to a maximum of 10 participants.

**Fees and Expenses**

After an institution has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee is \$2,550 for one principal representative from each non-profit educational institution or educational institution with less than 500 employees and \$2,939 for for-profit universities with over 500 employees. An institution can choose to participate in the optional stop in Guatemala for an additional \$1,646 for one principal representative from each non-profit educational institution or educational institution with less than 500 employees and \$1,872 for for-profit

universities with over 500 employees. The fee for each additional representative is \$500. Expenses for lodging, some meals, incidentals, and all travel (except for transportation to and from airports in-country, previously noted) will be the responsibility of each mission participant. The U.S. Department of Commerce can facilitate government rates in some hotels. The cost of participating in the student fairs at each location will be included in the registration fee.

**Application**

All interested firms and associations may register via the following link: <http://emenuapps.ita.doc.gov/ePublic/TM/6R0R>.

**Exclusions**

The mission fee does not include any personal travel expenses such as

lodging, most meals, local ground transportation, except as stated in the proposed agenda, and air transportation from the United States to the mission site and return to the United States.

### Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://export.gov/industry/education/>) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than March 1, 2016. Applications for the mission will be accepted on a rolling basis. Applications received after March 1, 2016, will be considered only if space and scheduling constraints permit.

### Conditions for Participation

An applicant must submit a timely, completed and signed mission application and supplemental application materials, including adequate information on course offerings, primary market objectives, and goals for participation. The institution must have appropriate accreditation as specified per paragraph one above. The institution must be represented at the student fair by an employee. No agents will be allowed to represent a school on the mission or participate at the student fair. Agents will also not be allowed into the fairs to solicit new partnerships. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Participants must travel to both stops in Panama and Honduras on the mission. Guatemala is the only optional stop.

Each applicant must certify that the services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the service.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Goldberg, Industry & Analysis, Office of Trade Promotion Programs,

Washington, DC, Tel: (202) 482-1706, Email: [jeffrey.goldberg@trade.gov](mailto:jeffrey.goldberg@trade.gov).

**Frank Spector,**

*Acting Director, Trade Missions Program.*

[FR Doc. 2015-31144 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-501]

#### **Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On June 5, 2015, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on welded carbon steel standard pipe and tube products (welded pipe and tube) from Turkey.<sup>1</sup> The period of review (POR) is May 1, 2013 through April 30, 2014. The review covers the following producers/exporters of the subject merchandise: Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (collectively, Borusan);<sup>2</sup> Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. (collectively, Toscelik);<sup>3</sup> and ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan). Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled, "Final Results of the Review." Further, we find that one of the companies covered by this review had no shipments of subject merchandise during the POR.

**DATES:** *Effective date:* December 10, 2015.

<sup>1</sup> See *Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32090 (June 5, 2015) (*Preliminary Results*).

<sup>2</sup> As explained in the *Preliminary Results*, the Department treats Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as the same legal entity. See *Preliminary Results*, 80 FR at 32090 and n. 3.

<sup>3</sup> As explained in the *Preliminary Results*, the Department treats Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. as the same legal entity. *Id.*

**FOR FURTHER INFORMATION CONTACT:** Fred Baker, Deborah Scott, or Robert James AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2924, (202) 482-2657, and (202) 482-0649, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On June 5, 2015, the Department published the *Preliminary Results* of this review in the **Federal Register**. We invited parties to comment on the *Preliminary Results*. On July 26, 2015, we received a case brief from Toscelik. On July 27, 2015, we received case briefs from Allied Tube & Conduit and TMK IPSCO (petitioner) and from Borusan. On August 10, 2015, we received rebuttal briefs from petitioner, Borusan, and Toscelik. The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The merchandise subject to the order is welded pipe and tube. The welded pipe and tube subject to the order is currently classifiable under subheading 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only. The written description is dispositive.<sup>4</sup>

#### Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily determined that Erbosan had no shipments during the POR.<sup>5</sup> Following publication of the *Preliminary Results*, we received no comments from interested parties regarding this company. As a consequence, and because the record contains no evidence to the contrary, we continue to find that Erbosan made no

<sup>4</sup> A full written description of the scope of the order is contained in the memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Welded Carbon Steel Standard Pipe and Tube Products from Turkey; 2013-2014," (Issues and Decision Memorandum), dated concurrently with this notice and which is incorporated herein by reference.

<sup>5</sup> See *Preliminary Results*, 80 FR at 32091 and the accompanying preliminary decision memorandum at 3-4.

shipments during the POR. Accordingly, consistent with the Department's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by Erbosan, but exported by other parties without their own rate, at the all-others rate.<sup>6</sup>

**Analysis of the Comments Received**

All issues raised in the case and rebuttal briefs submitted in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted with this notice. A list of the issues raised is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of the comments received, we made certain changes to the *Preliminary Results*. For a discussion of these changes, see Issues and Decision Memorandum.

**Final Results of the Review**

As a result of this review, we determine that the following weighted-average dumping margins exist for the period May 1, 2013 through April 30, 2014:

Producer or exporter	Weighted-average dumping margin (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S. <sup>7</sup> .....	3.16
Toscelik Profil ve Sac Endustrisi A.S. <sup>8</sup> .....	0.00

<sup>6</sup> See, e.g. *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

**Disclosure**

We intend to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

**Assessment**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).

For Borusan, because its weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), the Department has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific *ad valorem* antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment rate is not zero or *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis*.

For Toscelik, we will instruct CBP to liquidate its entries during the POR imported by the importers identified in its questionnaire responses without regard to antidumping duties because its weighted-average dumping margin in these final results is zero.<sup>9</sup> Consistent with the Department's assessment practice, for entries of subject merchandise during the POR produced by Borusan, Erbosan, or Toscelik for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.<sup>10</sup>

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

<sup>7</sup> Also includes Borusan Istikbal Ticaret T.A.S. See footnote 3.

<sup>8</sup> Also includes Tosyali Dis Ticaret A.S. See footnote 2.

<sup>9</sup> See *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8103, 8103 (February 14, 2012).

<sup>10</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for Borusan and Toscelik will be equal to the weighted-average dumping margins established in the final results of this review; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.74 percent, the all-others rate established in the LTFV investigation.<sup>11</sup> These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final 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 could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Administrative Protective Orders**

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply

<sup>11</sup> See *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products From Turkey*, 51 FR 17784 (May 15, 1986).

with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 2, 2015.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

Summary  
Background  
Scope of the Order  
Discussion of the Issues

#### General Comments

1. Duty Drawback
2. Duty Drawback and Treatment of the Resource Utilization Support Fund
3. Deducting Certain Expenses from the Duty Drawback Calculation
4. Making a Duty Drawback Adjustment to Normal Value and/or Capping the U.S. Duty Drawback Adjustment
5. Treatment of Duty Drawback in the Cash Deposit Rate and Assessment Rate
6. Other Arguments Related to Duty Drawback
7. Differential Pricing Analysis Should Not Be Used Because the Cohen's *d* Test Does Not Measure Targeted or Masked Dumping
8. Differential Pricing Analysis Reasoning for Use of Average-to-Transaction Comparison Methodology is Arbitrary and Unlawful

#### Company-Specific Comments

##### Borusan

9. Duty Drawback and Treatment of the Yield Loss Factor
10. Home Market Sales of Overruns and the Ordinary Course of Trade
11. Domestic Inland Freight Expenses
12. International Freight Expenses

##### Toscelik

13. Billing Adjustments
14. Duty Drawback
15. Duty Drawback Adjustment to Cost
16. Toscelik's Net Financial Expense Recommendation

[FR Doc. 2015-31188 Filed 12-9-15; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2015-1]

### Emergency Preparedness and Response at the Pantex Plant

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Notice, recommendation; correction.

**SUMMARY:** The Defense Nuclear Facilities Safety Board (Board) published a notice of a recommendation to the Secretary of Energy in the **Federal Register** of December 3, 2015, (80 FR 75665), concerning emergency preparedness at the Pantex Plant. The Board corrects that notice by providing the additional information as set forth below.

**FOR FURTHER INFORMATION CONTACT:** Mark Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004-2901, or telephone number (202) 694-7000.

#### Correction

In the **Federal Register** of December 3, 2015, in FR Doc. 2015-30562, on page 75673, in the first column, after line 37, add the following information:

#### CORRESPONDENCE FROM THE SECRETARY

Department of Energy  
Under Secretary for Nuclear Security  
Administrator, National Nuclear Security Administration  
Washington, DC 20585  
November 4, 2015

The Honorable Joyce L. Connery  
Chairman  
Defense Nuclear Facilities Safety Board  
65 Indiana Avenue NW., Suite 700  
Washington, DC 20004  
Dear Madam Chairman:

On behalf of the Secretary, thank you for the opportunity to review the Defense Nuclear Facilities Safety Board (DNFSB) Draft Recommendation 2015-1, *Emergency Preparedness and Response at the Pantex Plant*. The National Nuclear Security Administration (NNSA) has established specific performance goals for the Pantex Emergency Management Program, to include improvements in the three areas highlighted by the Draft Recommendation 2015-1. These goals are consistent with the mutually agreed-upon benefits of implementing the DNFSB Recommendation 2014-1.

The draft Recommendation's risk assessment states: "it is not possible to do a quantitative assessment of the risk of these [the Pantex Emergency Management Program] elements to provide adequate protection of the

workers and the public." As a point of clarification, the Department of Energy (DOE) demonstrates adequate protection of workers, the public and the environment as an integral part of operating a nuclear facility like that situated at the Pantex Plant. To this end, the Department has put in place a system of requirements, standards, policies and guidance that, when effectively implemented, not only provide reasonable assurance of adequate protection, but takes a very conservative approach to ensure such protection. Functions such as emergency management provide that additional conservatism and margin of protection. We are confident that, even with deficiencies identified by the DNFSB, the Pantex Emergency Management Program can perform its role to ensure this protection. Accordingly, DOE recommends removing the phrase: "in order to provide an adequate protection to the public and the workers" in justifying the need for the draft recommendation.

To increase protection assurances and drive improvement in an effective and efficient manner, I suggest that the best approach to address the concerns identified in your Draft Recommendation is to incorporate ongoing NNSA performance improvement initiatives and enhancements into the existing implementation plans for Recommendation 2014-1. This approach would enable the Department to take a holistic, integrated approach to making the needed improvements at Pantex.

We appreciate the DNFSB's perspective and look forward to continued positive interactions with you and your staff to include Pantex-specific actions and milestones in the existing Implementation Plan for Recommendation 2014-1.

If you have any questions, please contact me or Mr. Geoffrey Beausoleil, Manager, NNSA Production Office, at 865-576-0752.

Sincerely,  
Frank G. Klotz

## DISPOSITION OF DOE COMMENTS ON DRAFT RECOMMENDATION 2015-1

DOE comment	Board response	Revised wording
<p>The draft Recommendation's risk assessment states: "it is not possible to do a quantitative assessment of the risk of these [the Pantex Emergency Management Program] elements to provide adequate protection of the workers and the public." As a point of clarification, the Department of Energy (DOE) demonstrates adequate protection of workers, the public and the environment as an integral part of operating a nuclear facility like that situated at the Pantex Plant. To this end, the Department has put in place a system of requirements, standards, policies and guidance that, when effectively implemented, not only provide reasonable assurance of adequate protection, but takes a very conservative approach to ensure such protection. Functions such as emergency management provide that additional conservatism and margin of protection. We are confident that, even with deficiencies identified by the DNFSB, the Pantex Emergency Management Program can perform its role to ensure this protection. Accordingly, DOE recommends removing the phrase: "in order to provide an adequate protection to the public and the workers" in justifying the need for the draft recommendation.</p>	<p>Upon review of Draft Recommendation 2015-1, in the noted phrase the word "provide" was used, whereas, in similar references to adequate protection in other parts of Draft Recommendation 2015-1, the word "ensure" was used. The Board voted to amend the language to reflect that the Recommendation is intended to ensure adequate protection.</p>	<p>Original wording of last sentence in first paragraph of the text of the Recommendation: "We believe that DOE and National Nuclear Security Administration (NNSA) must address these concerns in order to provide an adequate protection to the public and the workers at the Pantex Plant." Revised wording: "We believe that DOE and the National Nuclear Security Administration (NNSA) must address these concerns in order to ensure the adequate protection of the public and the workers at the Pantex Plant."</p>
<p>To increase protection assurances and drive improvement in an effective and efficient manner, I suggest that the best approach to address the concerns identified in your Draft Recommendation is to incorporate ongoing NNSA performance improvement initiatives and enhancements into the existing implementation plans for Recommendation 2014-1. This approach would enable the Department to take a holistic, integrated approach to making the needed improvements at Pantex.</p>	<p>As noted in the "Findings, Supporting Data, and Analysis" document of Draft Recommendation 2015-1, the problems identified in Draft Recommendation 2015-1 will not be adequately addressed by the Board's Recommendation 2014-1, <i>Emergency Preparedness and Response</i>.</p>	<p>No change.</p>

Dated: December 4, 2015.

**Joyce L. Connery,**  
Chairman.

[FR Doc. 2015-31093 Filed 12-9-15; 8:45 am]

**BILLING CODE 3670-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2015-ICCD-0137]

### Agency Information Collection Activities; Comment Request; Evaluation of Effectiveness of the Scholarships for Opportunity and Results (SOAR) Program

**AGENCY:** Institute of Education Sciences (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before February 8, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-

2015-ICCD-0137. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Meredith Bachman, 202-219-2014.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize

the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Evaluation of Effectiveness of the Scholarships for Opportunity and Results (SOAR) Program.

*OMB Control Number:* 1850-0800.

*Type of Review:* An extension of an existing information collection.



*Respondents/Affected Public:*  
Individuals or households.

*Total Estimated Number of Annual Responses:* 3,666.

*Total Estimated Number of Annual Burden Hours:* 867.

**Abstract:** The foundation of this evaluation is a randomized control trial (RCT) comparing outcomes of eligible applicants (students and their parents) assigned by lottery to receive or not receive a scholarship. This design is consistent with the requirement for a rigorous evaluation as well as the need to fairly allocate the scholarships if the program is oversubscribed. Because the law also specified other kinds of comparisons and analyses, the planned evaluation study includes both quantitative and qualitative components.

In order for the evaluation to have sufficient statistical power to detect policy relevant impacts, the sample consists of 1,771 eligible program applicants in spring 2012 (cohort 1; n=536), spring 2013 (cohort 2; n=718), and in spring 2014 (cohort 3, n=517). This is an extension of an approved information collection. The extension is requested to cover follow up data collection for cohort 2 as well as the addition of cohort 3 needed to obtain the sample size needed for the evaluation. There are no changes to the study design, data collection plans and instruments from what is approved by OMB in the current collection.

Evaluation data will be collected for the three cohorts of program applicants from a variety of sources listed below. Each cohort will have baseline data as well as three years of follow up (post-lottery) data collection; 2013–2015 for cohort 1, 2014–2016 for cohort 2, and 2015–2017 for cohort 3. In addition to estimating program impact, we will use this experimental study to conduct research about interim outcomes.

Data sources include:

—Student assessments: The Terra Nova assessment will be administered each spring following the lotteries for 3 years (spring 2013–2015 for the 2012 cohort, spring 2014–2016 for the 2013 cohort, and spring 2015–2017 for the 2014 cohort). The follow up assessments will be administered in students' school and will provide the primary outcome measure for the impact evaluation. School records Administrative records will be collected from DCPS, the District of Columbia Public Charter School Board and participating private schools in the fall of each year to obtain data on prior year attendance, persistence, disciplinary actions, and

grades for members of the treatment and control groups.

—Parent surveys: Annual surveys of evaluation sample members' parents in each follow up year. These surveys will examine such issues as reasons for continued participation or withdrawal, involvement in school, satisfaction with school choices, and perceptions of school safety, leadership, and offerings. The survey will be mixed mode. (Web with phone or paper follow up).

Student surveys: The surveys will be administered to each evaluation sample student in grades four and above in each of the follow up years at the same time (and place) as the student assessments.

—Principal surveys: Surveys to be administered to principals in the DC traditional public school, charter school, and private school systems in 2013–2017. Data from principals of students in the treatment and control groups will provide information about school organization and offerings for descriptive analyses of students' school environments and for use as mediators in the impact analysis. The web-based principal surveys will also be used to examine how aware public and private schools are of the DC Opportunity Scholarship Program and whether they are making any changes in response to it.

Dated: December 4, 2015.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–31082 Filed 12–9–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0138]

### Agency Information Collection Activities; Comment Request; Enterprise Complaint System

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection. **DATES:** Interested persons are invited to submit comments on or before February 8, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2015–ICCD–0138. Comments submitted

in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Enterprise Complaint System.

*OMB Control Number:* 1845–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 43,200.

*Total Estimated Number of Annual Burden Hours:* 7,344.

*Abstract:* This is a request for a new information collection. On March 10, 2015, the White House issued a Student Aid Bill of Rights. Among the objectives identified was the creation of a centralized complaint system. The purpose of the Enterprise Complaint System is to meet the objective: "Create a Responsive Student Feedback System: The Secretary of Education will create a new Web site by July 1, 2016, to give students and borrowers a simple and straightforward way to file complaints and provide feedback about federal student loan lenders, servicers, collections agencies, and institutions of higher education. Students and borrowers will be able to ensure that their complaints will be directed to the right party for timely resolution, and the Department of Education will be able to more quickly respond to issues and strengthen its efforts to protect the integrity of the student financial aid programs." The Department of Education has charged Federal Student Aid with the development and oversight of this new collection.

Dated: December 4, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015-31060 Filed 12-9-15; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2015-ICCD-0136]

### Agency Information Collection Activities; Comment Request; Client Assistance Program (CAP)

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before February 8, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2015-ICCD-0136. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail,

commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Jim Doyle, (202) 245-6630.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Client Assistance Program (CAP).

*OMB Control Number:* 1820-0520.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 57.

*Total Estimated Number of Annual Burden Hours:* 9.

*Abstract:* This form is used by states to request funds to establish and carry out Client Assistance Programs (CAP). CAP is mandated by the Rehabilitation Act of 1973, as amended (Rehabilitation

Act), to assist consumers and applicants in their relationships with projects, programs and services provided under the Rehabilitation Act including the Vocational Rehabilitation program.

Dated: December 4, 2015.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015-31081 Filed 12-9-15; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice Of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER04-1164-001.

*Applicants:* NRG Wholesale Generation LP.

*Description:* Informational Filing of NRG Wholesale Generation LP regarding planned transfer of the Seward Generating Station.

*Filed Date:* 11/25/15.

*Accession Number:* 20151125-5423.

*Comments Due:* 5 p.m. ET 12/16/15.

*Docket Numbers:* ER10-2331-049; ER14-630-025; ER10-2319-040; ER10-2317-040; ER13-1351-022; ER10-2330-047.

*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 JPMorgan Sellers.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5143.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-98-002.

*Applicants:* Windom Transmission, LLC.

*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5000.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-100-001.

*Applicants:* Windom Transmission, LLC.

*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5001.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-101-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5002.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-102-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5003.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-103-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5004.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-104-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5005.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-105-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5006.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-106-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5007.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-107-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.

*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5008.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-108-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5010.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-109-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5011.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-110-001.  
*Applicants:* Windom Transmission, LLC.  
*Description:* Tariff Amendment: Amendments to Filings of Transmission and Interconnection Agreements to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5009.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-213-001.  
*Applicants:* Midcontinent Independent System Operator, Inc.  
*Description:* Tariff Amendment: 2015-12-03 Amended RSG/RNU Netting Filing to be effective 1/15/2016.  
*Filed Date:* 12/3/15.  
*Accession Number:* 20151203-5196.  
*Comments Due:* 5 p.m. ET 12/14/15.  
*Docket Numbers:* ER16-460-000.  
*Applicants:* Southwest Power Pool, Inc.  
*Description:* § 205(d) Rate Filing: 3131 Prairie Breeze Wind Energy III GIA to be effective 11/5/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5060.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-461-000.  
*Applicants:* Southwest Power Pool, Inc.  
*Description:* § 205(d) Rate Filing: 2014 Southwestern Power Administration Amendatory Agreement Second Extension to be effective 12/1/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5087.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-462-000.  
*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.  
*Description:* § 205(d) Rate Filing: MR1 Revisions to Cost Allocation Rules of

the Winter Reliability Program to be effective 12/15/2015.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5096.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-463-000.  
*Applicants:* Midcontinent Independent System Operator, Inc., Ameren Illinois Company.  
*Description:* § 205(d) Rate Filing: 2015-12-04\_SA 2765 MidAmerican-Ameren Illinois 1st Rev TIA to be effective 12/31/9998.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5128.  
*Comments Due:* 5 p.m. ET 12/28/15.  
*Docket Numbers:* ER16-464-000.  
*Applicants:* Border Winds Energy, LLC.  
*Description:* Notice of Cancellation of Market-Based Rate Tariff and Tariff ID of Border Winds Energy, LLC.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5138.  
*Comments Due:* 5 p.m. ET 12/28/15.  
 Take notice that the Commission received the following electric securities filings:  
*Docket Numbers:* ES16-8-000.  
*Applicants:* Southwestern Electric Power Company.  
*Description:* Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwestern Electric Power Company.  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5139.  
*Comments Due:* 5 p.m. ET 12/28/15.  
 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: December 4, 2015.

**Nathaniel J. Davis, Sr.,**  
 Deputy Secretary.

[FR Doc. 2015-31120 Filed 12-9-15; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 14677-001]

**Clark Canyon Hydro, LLC; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, Intent To Waive Parts of the Pre-Filing Three Stage Consultation Process, and Intent To Waive Scoping and Establish an Expedited Schedule for Processing**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original License for a Major Water Power Project at an Existing Dam, 5 Megawatts or Less.

b. *Project No.:* 14677-001.

c. *Date filed:* November 23, 2015.

d. *Applicant:* Clark Canyon Hydro, LLC.

e. *Name of Project:* Clark Canyon Dam Hydroelectric Project.

f. *Project Description:* The Clark Canyon Dam Hydroelectric Project would utilize the U.S. Bureau of Reclamation's Clark Canyon Dam and outlet works including an intake structure and concrete conduit in the reservoir. The project would also consist of the following new facilities: (1) A 360-foot-long, 8-foot-diameter steel penstock within the existing concrete conduit, ending in a trifurcation; (2) two 35-foot-long, 8-foot-diameter penstocks extending from the trifurcation to the powerhouse, transitioning to 6-foot-diameter before entering the powerhouse; (3) a 10-foot-long, 8-foot-diameter steel penstock leaving the trifurcation and ending in a 7-foot-diameter cone valve and reducer to control discharge into the existing outlet stilling basin; (4) a 65-foot-long, 46-foot-wide reinforced concrete powerhouse containing two vertical Francis-type turbine/generator units with a total capacity of 4.7 megawatts; (5) two 25-foot-long steel draft tubes transitioning to concrete draft tube/tailrace section; (6) a 17-foot-long, 15-foot-diameter tailrace channel connecting with the existing spillway stilling basin; (7) a 45-foot-long, 10-foot-wide aeration basin downstream of the powerhouse with three frames containing 330 diffusers; (8) a 1,100-foot-long, 4.16-kilovolt (kV) buried transmission line from the powerhouse to a substation; (9) a substation containing step-up transformers and switchgear; (10) a 7.9-mile-long, 69-kV transmission line extending from the project substation to the Peterson Flat substation (the point of

interconnection); and (11) appurtenant facilities. The estimated annual generation of the Clark Canyon Dam Project would be 15.4 gigawatt-hours. All project facilities would be located on federal lands owned by the U.S. Bureau of Reclamation and the U.S. Bureau of Land Management. The applicant proposes to operate the project as run-of-release.

g. *Location:* The project is located on Beaverhead River near the town of Dillon, Beaverhead County, Montana. The project would occupy 62.1 acres of land owned by the U.S. Bureau of Reclamation and 0.2 acres of land owned by the U.S. Bureau of Land Management.

h. *Filed Pursuant to:* 18 CFR 4.61 of the Commission's regulations.

i. *Applicant Contact:* John Gangemi, (406) 249-3972, email at [john.gangemi@erm.com](mailto:john.gangemi@erm.com).

j. *FERC Contact:* Kelly Wolcott, (202) 502-6480, email at [kelly.wolcott@ferc.gov](mailto:kelly.wolcott@ferc.gov).

k. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document (P-14677). For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY (202) 502-8659.

Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

l. *Cooperating Agencies:* We are asking Federal, state, and local agencies and Indian tribes with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item n below.

Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

m. *Deadline for filing additional study requests:* Because the current proposal is substantially the same as the applicant's previously licensed but unconstructed project (P-12429), the applicant's close coordination with tribal, state, and federal agencies during the preparation of the application, and

the lack of comments on the draft application, we are waiving the 60-day timeframe specified in 18 CFR 4.32(b)(7) for filing additional study requests and requiring all additional study requests to be filed 30 days from the date the license application was filed.

All documents may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov/docs-filing/ferconline.asp>) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov); call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

n. The applicant requested that the Commission only solicit competing applications for 30 days, and not notices of intent to file competing applications. For the reasons noted in item m and to expedite the licensing process, we intend to solicit competing applications for 30 days, but will allow notices of intent to be filed to ensure sufficient opportunity for competing applications to be filed.

o. *Preliminary procedural schedule:* Commission staff has determined that the issues that need to be addressed in its environmental analysis pursuant to the National Environmental Policy Act (NEPA) have been adequately identified in the previous licensing proceeding and during the applicant's public meeting and site visit, and no new issues are likely to be identified through additional scoping. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period as satisfying our requirements for the standard 3-stage consultation process under 18 CFR 4.38 and for National Environmental Policy Act scoping and prepare a single environment assessment. To further expedite the licensing process, once we have found the application acceptable and ready for environmental analysis, we also intend to waive 4.34(b) of the Commission's regulations to require the filing of comments, terms and conditions or prescriptions within 30 days of the notice and the reply comments with 45 days of the notice. The application will be processed according to the following preliminary

procedural schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Additional study requests and comments on waivers due .....	December 23, 2015.
Issue notice of acceptance and ready for environmental analysis .....	January 5, 2016.
Comments, recommendations, and terms and conditions due .....	February 4, 2016.
Reply comments due .....	February 19, 2016.
Notice of the availability of the EA .....	May 1, 2016.

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015-31127 Filed 12-9-15; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL01-10-139]

#### **Puget Sound Energy, Inc. v. All Jurisdictional Sellers of Energy and/or Capacity at Wholesale Into Electric Energy and/or Capacity Markets in the Pacific Northwest, Including Parties to the Western Systems Power Pool Agreement; Notice of Filing**

Take notice that on December 3, 2015, Idaho Power Company and IDACORP Energy Services Company submitted a compliance filing pursuant to the Commission's November 3, 2015 Order.<sup>1</sup>

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

<sup>1</sup> *Puget Sound Energy, Inc. v. All Jurisdictional Sellers of Energy*, 153 FERC ¶ 61,136 (2015).

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](mailto: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 December 24, 2015.

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015-31122 Filed 12-9-15; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### **Combined Notice of Filings #2**

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG16-26-000.

*Applicants:* FTS Project Owner 1, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator (EWG) Status of FTS Project Owner 1, LLC.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5176.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* EG16-27-000.

*Applicants:* FTS Master Tenant 1, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator (EWG) Status of FTS Master Tenant 1, LLC.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5177.

*Comments Due:* 5 p.m. ET 12/28/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16-336-001.

*Applicants:* Pure Energy, Inc.

*Description:* Compliance filing:

Revised Compliance Filing to be effective 11/17/2015.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5193.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-465-000.

*Applicants:* Duke Energy Progress, LLC.

*Description:* § 205(d) Rate Filing:

Amended RS No. 185—Town of Waynesville to be effective 1/1/2016.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5165.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-466-000.

*Applicants:* Anahau Energy, LLC.

*Description:* Compliance filing:

Notification of Change in Status and Tariff Amendment to be effective 12/5/2015.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5211.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-467-000.

*Applicants:* Midcontinent

Independent System Operator, Inc., WPPI Energy.

*Description:* § 205(d) Rate Filing: 2015-12-04\_WPPI Cost Recovery Filing to be effective 1/1/2016.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5212.

*Comments Due:* 5 p.m. ET 12/28/15.

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: December 4, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31121 Filed 12-9-15; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2179-043—California; Project No. 2467-020—California]

#### Merced Irrigation District; Pacific Gas and Electric Company; Notice of Availability of the Final Environmental Impact Statement for the Merced River and Merced Falls Hydroelectric Projects

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects has reviewed the applications for license for the Merced River Hydroelectric Project (FERC No. 2179), and the Merced Falls Hydroelectric Project (FERC No. 2467) and prepared a final multi-project environmental impact statement (EIS) for the projects.

Both projects are located on the Merced River. The Merced River Project is located at river mile (RM) 62.5 and 56.3, respectively, about 23 miles northeast of the city of Merced in Mariposa County, California. The Merced River Project occupies 3,154.9 acres of federal land administered by the U.S. Department of the Interior, Bureau of Land Management (BLM). The Merced Falls Project is located at RM 55 on the border of Merced and Mariposa Counties, California. The Merced Falls Project occupies 1.0 acre of federal land administered by BLM.

The final EIS contains staff evaluations of the applicants' proposals and the alternatives for relicensing the Merced River and Merced Falls projects. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicants, and Commission staff.

A copy of the final EIS is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "e-Library" link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-

free at (866) 208-3676, or for TTY, contact (202) 502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, please contact Matt Buhyoff at (202) 502-6824 or at [matt.buhyoff@ferc.gov](mailto:matt.buhyoff@ferc.gov).

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31126 Filed 12-9-15; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. OR16-6-000]

#### Chevron Products Company, HollyFrontier Refining & Marketing LLC, US Airways, Inc., Valero Marketing and Supply Company, and Western Refining Company, L.P. v. SFPP, L.P.; Notice of Complaint

Take notice that on December 4, 2015, pursuant to section 13(1) of the Interstate Commerce Act (ICA),<sup>1</sup> Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission),<sup>2</sup> and the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings,<sup>3</sup> Chevron Products Company, HollyFrontier Refining & Marketing LLC, US Airways, Inc., Valero Marketing and Supply Company and Western Refining Company, L.P. (Joint Complainants) filed a formal complaint (Complaint) against SFPP, L.P. (Respondent) alleging that Respondent has violated and continues to violate the ICA by charging unjust and unreasonable rates for Respondent's jurisdictional East Line interstate service, all as more fully explained in the Complaint.

The Joint Complainants stated that copies of the complaint have been served on the Respondent as listed on the Commission's list of corporate officials.

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

<sup>1</sup> 49 U.S.C. App. 13(1).

<sup>2</sup> 18 CFR 385.206.

<sup>3</sup> 18 CFR 343.2.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 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](mailto: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 January 4, 2016.

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31125 Filed 12-9-15; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the New York Independent System Operator, Inc.

*The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting*

December 8, 2015, 10:00 a.m.—4:30 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: [http://www.nyiso.com/public/markets\\_operations/services/planning/index.jsp](http://www.nyiso.com/public/markets_operations/services/planning/index.jsp).

*The New York Independent System Operator, Inc. Business Issues Committee Meeting*

December 9, 2015, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: [http://www.nyiso.com/public/markets\\_operations/committees/meeting\\_materials/index.jsp?com=bic](http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=bic).

*The New York Independent System Operator, Inc. Operating Committee Meeting*

December 10, 2015, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: [http://www.nyiso.com/public/markets\\_operations/committees/meeting\\_materials/index.jsp?com=oc](http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc).

*The New York Independent System Operator, Inc. Inter-Regional Planning Stakeholder Advisory Committee Teleconference*

December 14, 2015, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: <http://www.pjm.com/committees-and-groups/meeting-center.aspx>.

*The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting*

January 6, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: [http://www.nyiso.com/public/markets\\_operations/services/planning/index.jsp](http://www.nyiso.com/public/markets_operations/services/planning/index.jsp).

*The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting*

January 21, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: [http://www.nyiso.com/public/markets\\_operations/services/planning/index.jsp](http://www.nyiso.com/public/markets_operations/services/planning/index.jsp).

The discussions at the meeting described above may address matters at issue in the following proceedings:

- New York Independent System Operator, Inc., Docket No. ER13–102.
- ISO New England Inc., et al., Docket Nos. ER13–1957, et al.
- ISO New England Inc., Docket Nos. ER13–193 and ER13–196.
- New York Independent System Operator, Inc., Docket No. ER15–2059.
- New York Power Authority, Docket No. ER15–2102.
- New York Transco, LLC, Docket No. ER15–572.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or [James.Eason@ferc.gov](mailto:James.Eason@ferc.gov).

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31124 Filed 12–9–15; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Notice of Technical Conference**

	Docket Nos.
PJM Interconnection, L.L.C .....	ER15–2562–000. ER15–2563–000.
Consolidated Edison Company of New York, Inc. v. PJM Interconnection, L.L.C .....	EL15–18–001.
Linden VFT, LLC v. PJM Interconnection, L.L.C .....	EL15–67–000.
Delaware Public Service Commission and Maryland Public Service Commission v. PJM Interconnection, L.L.C .....	EL15–95–000.
PJM Interconnection, L.L.C .....	ER14–972–003.
PJM Interconnection, L.L.C .....	ER14–1485–005.
	Not Consolidated.

By order dated November 24, 2015,<sup>1</sup> the Commission directed Commission staff to conduct a technical conference in the above-referenced proceedings. The technical conference is scheduled for January 12, 2016, at the Commission’s headquarters at 888 First Street NE., Washington, DC 20426 between 10:00 a.m. and 4:00 p.m. (Eastern Time).

In the November 2015 Order, the Commission found that the assignment of cost allocation for the projects in the filings and complaints listed in the caption using PJM’s solution-based distribution factor (DFAX) cost

allocation method had not been shown to be just and reasonable and may be unjust, unreasonable, or unduly discriminatory or preferential. The Commission directed its staff to establish a technical conference to explore both whether there is a definable category of reliability projects within PJM for which the solution-based DFAX cost allocation method may not be just and reasonable, such as projects addressing reliability violations that are not related to flow on the planned transmission facility, and whether an alternative just and reasonable *ex ante* cost allocation method could be established for any such category of projects.

Parties wishing to speak or make presentations regarding the two issues discussed above must submit their requests on or before December 18, 2015 to <https://www.ferc.gov/whats-new/registration/01-12-16-speaker-form.asp>. Parties with similar interests are encouraged to agree on a single representative for their interests. Speakers and presentations will be selected so that relevant interests are represented and to accommodate time constraints. An agenda with the list of selected speakers and presentations will be available prior to the event on the web calendar on the Commission’s Web site, [www.ferc.gov](http://www.ferc.gov).

Pre-technical conference comments (with a ten page limit) on these issues

<sup>1</sup> *PJM Interconnection, L.L.C., et al.*, 153 FERC ¶ 61,245 (2015) (November 2015 Order).



should be filed in all the dockets listed above no later than January 6, 2016. A schedule for post-technical conference comments will be established at the technical conference.

The technical conference is open to the public. The Chairman and Commissioners may attend and participate in the technical conference.

Pre-registration through the Commission's Web site <https://www.ferc.gov/whats-new/registration/01-12-16-form.asp> is encouraged by December 18, 2015, to help ensure sufficient seating is available.

This conference will also be transcribed. Interested persons may obtain a copy of the transcript for a fee by contacting Ace-Federal Reporters, Inc. at (202) 347-3700.

In addition, there will be a free audio cast of the conference. Anyone wishing to listen to the meeting should send an email to Sarah McKinley at [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov) by January 5, 2016, to request call-in information. Please reference "call information for PJM cost allocation technical conference" in the subject line of the email. The call-in information will be provided prior to the meeting.

Persons listening to the technical conference may participate by submitting questions, either prior to or during the technical conference, by emailing [PJMDFAXconfDL@ferc.gov](mailto:PJMDFAXconfDL@ferc.gov).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free 1-866-208-3372 (voice) or 202-502-8659 (TTY); or send a fax to 202-208-2106 with the required accommodations.

For more information about this technical conference, please contact [PJMDFAXconfDL@ferc.gov](mailto:PJMDFAXconfDL@ferc.gov); or Sarah McKinley, 202-502-8368, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov), regarding logistical issues.

Dated: December 4, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31123 Filed 12-9-15; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2014-0798; FRL-9939-92-OAR]

### California State Nonroad Engine Pollution Control Standards; Portable Diesel-Fueled Engines Air Toxics Control Measure; Notice of Decision

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

**ACTION:** Notice of Decision.

**SUMMARY:** The Environmental Protection Agency ("EPA") is granting the California Air Resources Board's ("CARB") request for authorization of amendments to its Portable Diesel-Fueled Engines Air Toxics Control Measure ("Portable Engine Amendments"). EPA is also confirming that certain Portable Engine Amendments are within the scope of a prior EPA authorization. CARB's Portable Engine Amendments apply to in-use, portable, off-road<sup>1</sup> diesel-fueled engines rated 50 brake horsepower (bhp) and greater. This decision is issued under the authority of the Clean Air Act ("CAA" or "Act").

**DATES:** Petitions for review must be filed by February 8, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID EPA-HQ-OAR-2014-0798. All documents relied upon in making this decision, including those submitted to EPA by CARB, are contained in the public docket. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open to the public on all federal government working days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566-1744. The Air and Radiation Docket and Information Center's Web site is <http://www.epa.gov/oar/docket.html>. The electronic mail (email) address for the Air and Radiation Docket is: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), the telephone number is (202) 566-1742, and the fax number is (202) 566-9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may

access EPA dockets at <http://www.regulations.gov>. After opening the [www.regulations.gov](http://www.regulations.gov) Web site, enter EPA-HQ-OAR-2014-0798 in the "Enter Keyword or ID" fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information ("CBI") or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality ("OTAQ") maintains a Web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to prior waiver **Federal Register** notices, some of which are cited in today's notice; the page can be accessed at <http://www.epa.gov/otaq/cafr.htm>.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

California initially adopted its Portable Engine regulations on February 26, 2004 as part of a broad California program to reduce emissions of diesel particulate matter. The regulations applied to in-use, portable, off-road diesel-fueled engines rated 50 brake horsepower (bhp) and greater. "Portable engines" are engines that may be moved easily from location to location.<sup>2</sup> Subject engines were required to be certified to certain emission standards by January 1, 2010, unless the engines were designated as low-use engines or as engines exclusively used in emergency applications. Fleets of in-use diesel-fueled portable engines were required to meet fleet-average standards for diesel PM emissions that become increasingly more stringent in 2013, 2017, and 2020. The initial Portable Engine air toxic control measure (ATCM) became operative under state law on March 11, 2005<sup>3</sup> and EPA authorized the regulations on November 29, 2012.<sup>4</sup>

CARB adopted the 2007 amendments on July 31, 2007, and they became effective on September 12, 2007. The 2007 amendments were designed to extend temporary, emergency provisions CARB had adopted to address the inability of owners and operators to permit or register older

<sup>2</sup> 77 FR 72846, 72847 (December 6, 2012).

<sup>3</sup> The Portable Engine ATCM is set forth at 17 CCR 93116 *et seq.*

<sup>4</sup> 77 FR 72846 (December 6, 2012).

<sup>1</sup> The federal term "nonroad" and the California term "off-road" may be used interchangeably herein.



engines that did not satisfy the Portable Engine certification requirement to meet the most stringent federal or California emission standards. The 2007 amendments addressed this issue by (i) granting discretion to local air districts to permit or register uncertified portable engines that were operated in California within a designated time period prior to October 1, 2006, or that were low-use engines or used exclusively in emergency applications, (ii) allowing Tier 1 and Tier 2 engines that were in operation within a designated time period prior to October 1, 2006, but did not meet the most stringent emission requirements, to be permitted or registered until December 31, 2009, and (iii) otherwise providing additional compliance flexibility.

In 2008, CARB adopted an In-Use Off-Road regulation<sup>5</sup> and a Truck and Bus regulation.<sup>6</sup> CARB then amended the Portable Engine regulations to exempt certain engines (viz., secondary engines on two-engine cranes and two-engine sweepers, and on lattice boom cranes) that instead became subject to either the In-Use Off-Road regulation or the Truck and Bus regulation. CARB formally adopted the amendments to the Portable Engine ATCM on October 19, 2009 (the 2009 amendments).

California formally approved the 2010 amendments to the Portable Engine ATCM regulations on October 19, 2010 and January 20, 2011. The 2010 amendments became operative under state law on February 19, 2011. The 2010 amendments provided further compliance flexibility, and clarified or modified other aspects of the regulations. For example, some entities were allowed to operate a limited number of non-certified engines for an additional year, through December 31, 2010. Additional regulatory relief was provided for engines that were permitted or registered prior to January 1, 2010. The amendments provided for permitting of portable engines that were certified to standards for new on-road engines. Auxiliary deck engines on water well drilling rigs were exempted and instead made subject to CARB's In-Use Off-Road Regulation. Portable engines used exclusively on dedicated snow removal vehicles were also exempted. Low-use and emergency use engines were required to be removed or replaced with a current tier engine by January 1, 2017. The 2010 amendments also deleted the provision that had allowed local air districts, in their

discretion, to permit non-certified engines that had operated between March 1, 2004 and October 1, 2006. The amendments specified particulate matter (PM) emission factors for certain engines, which are used to help determine fleet average standards. Finally, the 2010 amendments provided relief for certified engines that lost their permit exemption due to changes in local air district rules.

By letter dated September 15, 2014, CARB submitted a request to EPA pursuant to section 209(e) of the Act for confirmation that the 2007, 2009, and 2010 amendments fall within the scope of EPA's previous authorization, or, in the alternative, that EPA grant a full authorization for those amendments.

#### A. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts any state, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles.<sup>7</sup> For all other nonroad engines (including "non-new" engines), states generally are preempted from adopting and enforcing standards and other requirements relating to the control of emissions, except that section 209(e)(2)(A) of the Act requires EPA, after notice and opportunity for public hearing, to authorize California to adopt and enforce such regulations unless EPA makes one of three enumerated findings. Specifically, EPA must deny authorization if the Administrator finds that (1) California's protectiveness determination (*i.e.*, that California standards will be, in the aggregate, as protective of public health and welfare as applicable federal standards) is arbitrary and capricious, (2) California does not need such standards to meet compelling and extraordinary conditions, or (3) the California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

On July 20, 1994, EPA promulgated a rule interpreting the three criteria set forth in section 209(e)(2)(A) that EPA must consider before granting any California authorization request for nonroad engine or vehicle emission

standards.<sup>8</sup> EPA revised these regulations in 1997.<sup>9</sup> As stated in the preamble to the 1994 rule, EPA historically has interpreted the consistency inquiry under the third criterion, outlined above and set forth in section 209(e)(2)(A)(iii), to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) of the Act.<sup>10</sup>

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests under section 209(b)(1)(C). That provision provides that the Administrator shall not grant California a motor vehicle waiver if she finds that California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures will be found to be inconsistent with section 202(a) if (1) there is inadequate lead time to permit the development of the necessary technology, giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.

In light of the similar language of sections 209(b) and 209(e)(2)(A), EPA has reviewed California's requests for authorization of nonroad vehicle or engine standards under section 209(e)(2)(A) using the same principles that it has historically applied in reviewing requests for waivers of preemption for new motor vehicle or new motor vehicle engine standards

<sup>8</sup> See "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards," 59 FR 36969 (July 20, 1994).

<sup>9</sup> See "Control of Air Pollution: Emission Standards for New Nonroad Compression-Ignition Engines at or Above 37 Kilowatts; Preemption of State Regulation for Nonroad Engine and Vehicle Standards; Amendments to Rules," 62 FR 67733 (December 30, 1997). The applicable regulations are now found in 40 CFR part 1074, subpart B, section 1074.105.

<sup>10</sup> See *supra* note 8. EPA has interpreted 209(b)(1)(C) in the context of section 209(b) motor vehicle waivers.

<sup>5</sup> The California In-Use Off-Road regulation is set forth at 13 CCR 2449 *et seq.*

<sup>6</sup> The California Truck and Bus regulation is set forth at 13 CCR 2025 *et seq.*

<sup>7</sup> States are expressly preempted from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from new nonroad engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower. Such express preemption under section 209(e)(1) of the Act also applies to new locomotives or new engines used in locomotives.

under section 209(b).<sup>11</sup> These principles include, among other things, that EPA should limit its inquiry to the three specific authorization criteria identified in section 209(e)(2)(A),<sup>12</sup> and that EPA should give substantial deference to the policy judgments California has made in adopting its regulations. In previous waiver decisions, EPA has stated that Congress intended EPA's review of California's decision-making be narrow. EPA has rejected arguments that are not specified in the statute as grounds for denying a waiver:

The law makes it clear that the waiver requests cannot be denied unless the specific findings designated in the statute can properly be made. The issue of whether a proposed California requirement is likely to result in only marginal improvement in California air quality not commensurate with its costs or is otherwise an arguably unwise exercise of regulatory power is not legally pertinent to my decision under section 209, so long as the California requirement is consistent with section 202(a) and is more stringent than applicable Federal requirements in the sense that it may result in some further reduction in air pollution in California.<sup>13</sup>

This principle of narrow EPA review has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit.<sup>14</sup> Thus, EPA's consideration of all the evidence submitted concerning an authorization decision is circumscribed by its relevance to those questions that may be considered under section 209(e)(2)(A).

If California amends regulations that were previously authorized by EPA, California may ask EPA to determine that the amendments are within the scope of the earlier authorization. A within-the-scope determination for such amendments is permissible without a full authorization review if three conditions are met. First, the amended regulations must not undermine California's previous determination that

its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 209 of the Act, following the same criteria discussed above in the context of full authorizations. Third, the amended regulations must not raise any "new issues" affecting EPA's prior authorizations.<sup>15</sup>

#### B. Deference to California

In previous waiver and authorization decisions, EPA has recognized that the intent of Congress in creating a limited review based on the section 209(b)(1) criteria was to ensure that the federal government did not second-guess state policy choices. As the agency explained in one prior waiver decision:

It is worth noting . . . I would feel constrained to approve a California approach to the problem which I might also feel unable to adopt at the federal level in my own capacity as a regulator. The whole approach of the Clean Air Act is to force the development of new types of emission control technology where that is needed by compelling the industry to "catch up" to some degree with newly promulgated standards. Such an approach . . . may be attended with costs, in the shape of reduced product offering, or price or fuel economy penalties, and by risks that a wider number of vehicle classes may not be able to complete their development work in time. Since a balancing of these risks and costs against the potential benefits from reduced emissions is a central policy decision for any regulatory agency under the statutory scheme outlined above, I believe I am required to give very substantial deference to California's judgments on this score.<sup>16</sup>

Similarly, EPA has stated that the text, structure, and history of the California waiver provision clearly indicate both a congressional intent and appropriate EPA practice of leaving the decision on "ambiguous and controversial matters of public policy" to California's judgment.<sup>17</sup> This interpretation is supported by relevant discussion in the House Committee Report for the 1977 amendments to the Clean Air Act.<sup>18</sup> Congress had the opportunity through the 1977 amendments to restrict the preexisting waiver provision, but elected instead to expand California's flexibility to adopt a complete program of motor vehicle emission controls. The report explains

that the amendment is intended to ratify and strengthen the preexisting California waiver provision and to affirm the underlying intent of that provision, that is, to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare.<sup>19</sup>

#### C. Burden and Standard of Proof

As the U.S. Court of Appeals for the DC Circuit has made clear in *MEMA I*, opponents of a waiver request by California bear the burden of showing that the statutory criteria for a denial of the request have been met:

[T]he language of the statute and its legislative history indicate that California's regulations, and California's determinations that they must comply with the statute, when presented to the Administrator are presumed to satisfy the waiver requirements and that the burden of proving otherwise is on whoever attacks them. California must present its regulations and findings at the hearing and thereafter the parties opposing the waiver request bear the burden of persuading the Administrator that the waiver request should be denied.<sup>20</sup>

The same logic applies to authorization requests. The Administrator's burden, on the other hand, is to make a reasonable evaluation of the information in the record in coming to the waiver decision. As the court in *MEMA I* stated: "here, too, if the Administrator ignores evidence demonstrating that the waiver should not be granted, or if he seeks to overcome that evidence with unsupported assumptions of his own, he runs the risk of having his waiver decision set aside as 'arbitrary and capricious.'" <sup>21</sup> Therefore, the Administrator's burden is to act "reasonably."<sup>22</sup>

With regard to the standard of proof, the court in *MEMA I* explained that the Administrator's role in a section 209 proceeding is to:

[. . .] consider all evidence that passes the threshold test of materiality and . . . thereafter assess such material evidence against a standard of proof to determine whether the parties favoring a denial of the waiver have shown that the factual circumstances exist in which Congress intended a denial of the waiver.<sup>23</sup>

With regard to the protectiveness finding, the court upheld the Administrator's position that, to deny a waiver, there must be "clear and compelling evidence" to show that

<sup>11</sup> See *Engine Manufacturers Association v. EPA*, 88 F.3d 1075, 1087 (D.C. Cir. 1996): "... EPA was within the bounds of permissible construction in analogizing § 209(e) on nonroad sources to § 209(a) on motor vehicles."

<sup>12</sup> See *supra* note 7, at 36983.

<sup>13</sup> "Waiver of Application of Clean Air Act to California State Standards," 36 FR 17458 (Aug. 31, 1971). Note that the more stringent standard expressed here, in 1971, was superseded by the 1977 amendments to section 209, which established that California must determine that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. In the 1990 amendments to section 209, Congress established section 209(e) and similar language in section 209(e)(1)(i) pertaining to California's nonroad emission standards which California must determine to be, in the aggregate, at least as protective of public health and welfare as applicable federal standards.

<sup>14</sup> See, e.g., *Motor and Equip. Mfrs. Assoc. v. EPA*, 627 F.2d 1095 (D.C. Cir. 1979) ("*MEMA I*").

<sup>15</sup> See "California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waiver of Federal Preemption," 46 FR 36742 (July 15, 1981).

<sup>16</sup> 40 FR 23102, 23103-23104 (May 28, 1975).

<sup>17</sup> *Id.* at 23104; 58 FR 4166 (January 13, 1993).

<sup>18</sup> *MEMA I*, 627 F.2d at 1110 (citing H.R. Rep. No. 294, 95th Cong., 1st Sess. 301-302 (1977)).

<sup>19</sup> *Id.*

<sup>20</sup> *MEMA I*, *supra* note 17, at 1121.

<sup>21</sup> *Id.* at 1126.

<sup>22</sup> *Id.* at 1126.

<sup>23</sup> *Id.* at 1122.

proposed enforcement procedures undermine the protectiveness of California's standards.<sup>24</sup> The court noted that this standard of proof also accords with the congressional intent to provide California with the broadest possible discretion in setting regulations it finds protective of the public health and welfare.<sup>25</sup>

With respect to the consistency finding, the court did not articulate a standard of proof applicable to all proceedings, but found that the opponents of the waiver were unable to meet their burden of proof even if the standard were a mere preponderance of the evidence. EPA's past waiver decisions have consistently made clear that: "[E]ven in the two areas concededly reserved for Federal judgment by this legislation—the existence of 'compelling and extraordinary' conditions and whether the standards are technologically feasible—Congress intended that the standards of EPA review of the State decision to be a narrow one."<sup>26</sup>

#### *D. EPA's Administrative Process in Consideration of California's Portable Engine ATCM Amendment Request for Authorization*

On November 21, 2014, EPA published a **Federal Register** notice announcing its receipt of California's authorization request. In that notice, EPA invited public comment on each of the Portable Engine ATCM amendments and an opportunity to request a public hearing.<sup>27</sup>

First, EPA requested comments on whether California's 2007, 2009, or 2010 Portable Engine ATCM amendments: (1) Undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards; (2) affect the consistency of California's requirements with section 209 of the Act; or (3) raise any other new issues affecting EPA's previous authorization determinations. EPA also requested comments on whether the 2007, 2009, or 2010 Portable Engine ATCM amendments meet the criteria for a full authorization should any party believe that the

amendments are not within the scope of the previous authorization.

EPA received no comments and no requests for a public hearing. Consequently, EPA did not hold a public hearing.

## **II. Discussion**

### *A. Within-the-Scope Discussion*

CARB maintains that the amendments noted above meet all three within-the-scope criteria, *i.e.*, that the amendments: (1) Do not undermine the original protectiveness determination underlying California's Portable Engine ATCM regulations; (2) do not affect the consistency of the Portable Engine ATCM regulations with section 209, and (3) do not raise any new issues affecting the prior authorization.<sup>28</sup> We received no adverse comments or evidence suggesting a within-the-scope analysis is inappropriate, or that these Portable Engine ATCM amendments fail to meet any of the three criteria for within-the-scope confirmation.

With regard to the first within-the-scope prong, CARB maintains that the stringency of its emission standards is, in the aggregate, at least as protective of public health and welfare as applicable federal standards, especially since there are no federally applicable standards regulating in-use nonroad engines.<sup>29</sup> No comments presented otherwise, and EPA agrees that there are no federally applicable standards for in-use nonroad engines and that no evidence exists in the record to demonstrate that CARB's Portable Engine ATCM regulations, in the aggregate, are less protective than applicable federal standards. Therefore, we find that the Portable Engine ATCM amendments, as noted, do not undermine the protectiveness determination made with regard to the original Portable Engine ATCM authorization.

With regard to the second within-the-scope prong (consistency with section 209), CARB first maintains that the Portable Engine ATCM amendments do not regulate new motor vehicles or motor vehicle engines and so are consistent with section 209(a).<sup>30</sup> Likewise the Portable Engine ATCM amendments do not regulate any of the

permanently preempted categories of engines or vehicles (*e.g.*, new locomotives, engines for new locomotives, or new nonroad engines less than 175 horsepower used in farm and construction equipment and vehicles), and so are consistent with section 209(e)(1).<sup>31</sup> CARB maintains that the Portable Engine ATCM amendments do not cause any technological feasibility issues or cause inconsistency between state and federal test procedures, per section 209(b)(1)(C). Finally, CARB maintains that none of the 2007, 2009 or 2010 Amendments alter the test procedures specified for certifying engines, so there is no effect on the consistency with federal test procedures.<sup>32</sup> As mentioned above, no comments were received showing otherwise on any of these contentions. Because there is no evidence in the record to indicate that CARB's Portable Engine amendments are inconsistent with section 209, we cannot find that the noted Portable Engine amendments are inconsistent with section 209.

Regarding the third prong, California states that it is "not aware of any new issues affecting the previously granted authorization for the Portable Engine ATCM."<sup>33</sup> There were also no comments arguing that any new issues have been raised affecting the previously granted authorization. CARB's 2007 Amendments and 2009 Amendments provide compliance flexibilities and regulatory relief that would not appear to raise any new issues affecting the previously granted authorization. Thus, we cannot find that the 2007 or 2009 Amendments raise any new issues affecting the previously granted authorization.

CARB's 2010 Amendments, however, include some new or stricter regulatory requirements, such as (i) requiring low-use and emergency use engines to be removed or replaced with a current tier engine by January 1, 2017 (which is earlier than originally required for some engine sizes), (ii) no longer allowing local air districts to permit non-certified engines that had operated between March 1, 2004 and October 1, 2006, and (iii) specifying PM emission factors for certain engines in order to help determine fleet average standards. These amendments will be referred to herein as the "New 2010 Requirements." Because these New 2010 Requirements raise new issues affecting the authorization previously granted for the

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *See, e.g.*, "California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption," 40 FR 23102 (May 28, 1975), at 23103.

<sup>27</sup> *See* "California State Nonroad Engine Pollution Control Standards; Portable Diesel-Fueled Engines Air Toxics Control Measure; Request for Confirmation That Amendments Are Within-the-Scope of Previous Authorization; Opportunity for Public Hearing and Comment," 79 FR 69462 (November 21, 2014).

<sup>28</sup> "Request for Authorization Action Pursuant to Clean Air Act Section 209(e) for 2007, 2009, and 2010 Amendments to California's Airborne Toxic Control Measure for Portable Diesel Engines 50 Horsepower and Greater" (September 15, 2014), ("California Authorization Support Document"), at 10–14 [publicly available at [www.regulations.gov](http://www.regulations.gov) Web site, docket number EPA-HQ-OAR-2014-0798-0002].

<sup>29</sup> California Authorization Support Document, at 11.

<sup>30</sup> California Authorization Support Document, at 11.

<sup>31</sup> California Authorization Support Document, at 11.

<sup>32</sup> California Authorization Support Document, at 14.

<sup>33</sup> California Authorization Support Document, at 14.

Portable Engine ATCM, the New 2010 Requirements are not considered within the scope of the prior authorization, and will need to be evaluated for a full authorization.<sup>34</sup>

In summary, for the 2007 and 2009 Amendments, we find that California has met the three criteria for a within-the-scope authorization approval, and these amendments are thus confirmed as within the scope of the previous EPA authorization of California's Portable Engine ATCM regulations. For the 2010 Amendments, while most of the 2010 amendments are within the scope of the previous authorization, the New 2010 Requirements are not within the scope of the prior authorization, and we will proceed to determine whether the New 2010 Requirements qualify for full authorization.

### *B. Full Authorization Discussion for the New 2010 Requirements*

As described in the background section, the CAA directs EPA to grant authorization, unless EPA makes one of three possible findings: (1) That California's protectiveness determination is arbitrary and capricious, (2) that California does not need state standards to meet compelling and extraordinary conditions, or (3) that the California standards and accompanying enforcement procedures are not consistent with section 209 of the Act. As mentioned above, the New 2010 Requirements to be evaluated for full authorization include the amendments requiring low-use and emergency use engines to be removed or replaced with a current tier engine by January 1, 2017, the amendments no longer allowing local air districts to permit non-certified engines that had operated between March 1, 2004 and October 1, 2006, and the amendments specifying PM emission factors for certain engines in order to help determine fleet average standards.

Regarding the first possible finding, it is clear that California's standards are at least as protective of public health and welfare as applicable federal standards, especially since there are no federally applicable standards to regulate in-use

nonroad engines.<sup>35</sup> No comments presented otherwise, and the New 2010 Requirements at issue make the standards more protective, not less. Therefore, we find that California's protectiveness determination is not arbitrary and capricious.

Regarding the second possible finding, California reasserts its longstanding position that the State continues to need its own nonroad engine program to meet serious air pollution problems.<sup>36</sup> CARB points out that California, particularly in the South Coast and San Joaquin Valley Air Basins, continues to experience some of the worst air quality in the nation.<sup>37</sup> We further note that the relevant inquiry under section 209(e)(2)(A)(ii) is whether California needs its own emission control program to meet compelling and extraordinary conditions, not whether any given standard is necessary to meet such conditions.<sup>38</sup> CARB's emission control program is a central part of California's efforts to improve its air quality, to meet its air quality goals and satisfy its State Implementation Plan obligations. No comments were submitted otherwise. Therefore, we cannot find that California does not need its state standards to meet compelling and extraordinary conditions in California.

The third and final possible finding upon which authorization could be denied is if the New 2010 Requirements are not consistent with "this section." As discussed above, this requires evaluation of consistency with sections 209(a), 209(e)(1), and 209(b)(1)(C). To be consistent with section 209(a), the amendments must not apply to new motor vehicles or motor vehicle engines. CARB states that none of its Portable Engine ATCM requirements apply to new motor vehicles or motor vehicle engines.<sup>39</sup> No evidence has been received to the contrary. Second, to be

consistent with section 209(e)(1) of the Act, the regulations must not attempt to regulate vehicles and engines permanently preempted from state regulation by section 209(e)(1), including new nonroad engines below 175 horsepower used in farm and construction equipment and vehicles, or new locomotives or locomotive engines. CARB states that none of its Portable Engine ATCM requirements apply to these preempted vehicles or engines.<sup>40</sup> Again, we received no evidence to the contrary. We therefore cannot find that the New 2010 Requirements are inconsistent with sections 209(a) and 209(e)(1).

Third, to be consistent with section 209(b)(1)(c), there must be adequate lead time to permit technological development for compliance with the new standards, and the state test procedures must not be made inconsistent with federal test procedures.

Regarding test procedures, CARB maintains that the amendments do not alter any test procedures, and EPA does not have comparable in-use standards and test procedures; thus, by definition, there is no inconsistency with federal test procedures.<sup>41</sup> No comments were received otherwise. We therefore cannot find that the New 2010 Requirements are inconsistent with federal test procedures.

Regarding the existence of adequate lead time, CARB maintains that the New 2010 Requirements do not require development of new technologies, and that EPA has already previously determined that California's applicable Tier 1 through Tier 4 off-road compression ignition engine standards are technically feasible,<sup>42</sup> thus there is no consistency issue presented with regard to lead time. As mentioned above, we received no comment or evidence contesting California's positions regarding the consistency criterion under section 209(b)(1)(c). The compliance date for low use and emergency use engines is nearly the same as the original compliance date, and the two other changes (*i.e.*, elimination of discretionary permits by local air districts, and specification of PM emission factors used to calculate fleet average standards) likewise do not raise feasibility issues. Thus, we cannot find any evidence indicating that the New 2010 Requirements do not provide adequate lead time or are otherwise not

<sup>35</sup> California Authorization Support Document, at 11.

<sup>36</sup> California Authorization Support Document, at 14–16.

<sup>37</sup> California Authorization Support Document, at 15.

<sup>38</sup> Final 209(e) Rule, 59 FR at 36982. The Administrator has recognized that even if such a standard by standard test were applied to California, it "would not be applicable to its fullest stringency due to the degree of discretion given to California in dealing with its mobile source pollution problems." (41 FR 44209, 44213, (October 7, 1976); 49 FR 18887, 18892 (May 3, 1984).); *see also* EPA's 2009 GHG Waiver Decision wherein EPA rejected the suggested interpretation of section 209(b)(1)(B) as requiring a review of the specific need for California's new motor vehicle greenhouse gas emission standards as opposed to the traditional interpretation (need for the program as a whole) applied to local or regional air pollution problems.

<sup>39</sup> California Authorization Support Document, at 11.

<sup>40</sup> California Authorization Support Document, at 11.

<sup>41</sup> California Authorization Support Document, at 14.

<sup>42</sup> California Authorization Support Document, at 13, *citing* 75 FR 8056, 8060 (February 23, 2010).

<sup>34</sup> Because the New 2010 amendments create both new and more stringent emission requirements on the regulated parties, which are the type of requirements otherwise preempted under section 209(e)(1), EPA considers such amendments to create "new issues" which require a full consideration of the authorization criteria under section 209(e)(2)(A). Minor amendments to previously waived standards that do not create additional burdens on the regulated parties are considered under the within-the-scope criteria by EPA. *See* 37 FR 14831 (July 25, 1972).

technically feasible. We therefore cannot find that the New 2010 Requirements that we analyzed under the full authorization criteria are inconsistent with section 209 of the Act.

Having found that the New 2010 Requirements satisfy each of the criteria for full authorization, and having received no contrary evidence to contradict this finding, we cannot deny authorization of the amendments.

### III. Decision

The Administrator has delegated the authority to grant California section 209(e) authorizations to the Assistant Administrator for Air and Radiation. After evaluating CARB's amendments to its Portable Engine ATCM regulations described above and CARB's submissions for EPA review, EPA is granting a within-the-scope authorization for the Portable Engine ATCM 2007, 2009, and 2010 Amendments, other than the New 2010 Requirements (as specified above). In addition, EPA is granting a full authorization for the New 2010 Requirements.

This decision will affect persons in California and those manufacturers and/or owners/operators nationwide who must comply with California's requirements. In addition, because other states may adopt California's standards for which a section 209(e)(2)(A) authorization has been granted if certain criteria are met, this decision would also affect those states and those persons in such states. See CAA section 209(e)(2)(B). For these reasons, EPA determines and finds that this is a final action of national applicability, and also a final action of nationwide scope or effect for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by February 8, 2016. Judicial review of this final action may not be obtained in subsequent enforcement proceedings, pursuant to section 307(b)(2) of the Act.

### IV. Statutory and Executive Order Reviews

As with past authorization and waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory

flexibility analysis addressing the impact of this action on small business entities.

Further, the Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Dated: December 1, 2015.

**Janet G. McCabe,**

*Acting Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2015-31043 Filed 12-9-15; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the notices must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 28, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *State Bankshares, Inc.*, Fargo, North Dakota to acquire an additional 51 percent of the voting shares of Discovery Benefits, Inc., Fargo, North Dakota, and indirectly acquire additional voting shares of Discovery Benefits, Inc., Fargo, North Dakota, and thereby engage in providing consulting services to employee benefit, compensation and

insurance plans, including designing plans, assisting in the implementation of plans, providing administrative services to plans, and developing employee communication programs for plans, pursuant to sections 225.28(b)(5), (b)(6)(ii), (b)(9)(ii) and (b)(14)(i), respectively.

Board of Governors of the Federal Reserve System, December 7, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015-31109 Filed 12-9-15; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Sunshine Act; Notice of Meeting/Correction—Addition of #6

**TIME AND DATE:** 10:00 a.m. (Eastern Time) December 14, 2015 (Telephonic)

**PLACE:** 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

**STATUS:** Parts will be open to the public and parts will be closed to the public.

#### MATTERS TO BE CONSIDERED:

##### Open to the Public

1. Approval of the Minutes for the November 25, 2015 Board Member Meeting
2. Monthly Reports
  - (a) Monthly Participant Activity Report
  - (b) Monthly Investment Performance Report
  - (c) Legislative Report
3. Quarterly Metrics Report
4. OGC Report and Annual Presentation

##### Closed to the Public

5. Security
6. Personnel

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly Weaver, Director, Office of External Affairs, (202) 942-1640.

Dated: December 8, 2015.

**James Petrick,**

*General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. 2015-31268 Filed 12-8-15; 4:15 pm]

**BILLING CODE 6760-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day-16-0307]

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the

following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) 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; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570 or send an email to [omb@cdc.gov](mailto:omb@cdc.gov). Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395-5806. Written comments should be received within 30 days of this notice.

### Proposed Project

The Gonococcal Isolate Surveillance Project (GISP, OMB No. 0920-0307 exp. 08/31/2016) – Extension – National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

The objectives of GISP are: (1) To monitor trends in antibiotic resistance

of *Neisseria gonorrhoeae* strains in the United States and (2) to characterize resistant specimens. Surveillance of *N. gonorrhoeae* antibiotic resistance is important because: (1) Nearly all gonococcal infections are treated empirically (meaning that healthcare providers have to decide how to treat their patients without having resistance testing results for individual patients upon which to base clinical decision-making) and susceptibility/resistance testing data are not routinely available in clinical practice; (2) *N. gonorrhoeae* has consistently demonstrated the ability to develop resistance to the antibiotics used for treatment; (3) effective treatment of gonorrhea is a critical component of gonorrhea control and prevention, and (4) untreated or inadequately treated gonorrhea can cause serious reproductive health complications.

GISP is the only source in the United States of national, regional, and site-specific gonococcal antibiotic resistance information. GISP provides information to support informed and scientifically-based treatment recommendations.

GISP was established in 1986 as a voluntary surveillance project and now involves 5 regional laboratories and 30 publicly funded sexually transmitted disease (STD) clinics around the country. The STD clinics submit up to 25 gonococcal specimens (or isolates) per month to the regional laboratories, which measure the ability of the specimens to resist the effects of multiple antibiotics. Limited demographic and clinical information corresponding to the isolates (and that do not allow identification of the patient) are submitted directly by the clinics to CDC.

During 1986–2015, GISP has demonstrated the ability to effectively achieve its objectives. GISP has tracked penicillin and tetracycline resistance and identified the emergence of fluoroquinolone resistance. Increased prevalence of fluoroquinolone-resistant *N. gonorrhoeae* (QRNG), as documented by GISP data, prompted CDC to update treatment recommendations for gonorrhea in CDC's Sexually Transmitted Diseases Treatment Guidelines, 2006 and to release an MMWR article stating that CDC no longer recommended fluoroquinolones for treatment of gonococcal infections.

Information from GISP thus allowed public health officials to change treatment recommendations before resistance became widespread, ensuring that patients were able to be successfully treated. Recently, GISP isolates demonstrated increasing minimum inhibitory concentrations of cefixime, which can be an early warning of impending resistance. This worrisome trend prompted CDC to again update treatment recommendations and no longer recommend the use of cefixime as first-line treatment for gonococcal infections.

Under the GISP protocol, each of the 30 clinics submit an average of 20 isolates per clinic per month (i.e. 240 times per year) recorded on Form 1: Demographic/Clinical Data. The estimated time for clinical personnel to abstract data for Form 1: Demographic/Clinical Data is 11 minutes per response.

Each of the 5 Regional laboratories receives and processes approximately 20 isolates from each referring clinic per month (i.e. 121 isolates per regional laboratory per month [based on 2011 specimen volume]) using Form 2: Antimicrobial Susceptibility Testing. For Form 2: Antimicrobial Susceptibility Testing, the annual frequency of responses per respondent is 1452 (121 isolates x 12 months). Based on previous laboratory experience, the estimated burden of completing Form 2 for each participating laboratory is 1 hour per response, which includes the time required for laboratory processing of the patient's isolate, gathering and maintaining the data needed, and completing and reviewing the collection of information. For Form 3: Control Strain Susceptibility Testing, a "response" is defined as the processing and recording of Regional laboratory data for a set of 7 control strains. It takes approximately 12 minutes to process and record the Regional laboratory data on Form 3 for one set of 7 control strains, of which there are 4 sets. The number of responses per respondent is 48 (4 sets x 12 months).

The total estimated annual burden hours are 8,628. Respondents receive federal funds to participate in this project. There are no additional costs to respondents other than their time.

## ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Clinic .....	Demographic Clinical Data Form 1 .....	30	240	11/60
Laboratory .....	Antimicrobial Susceptibility Testing Form 2 ...	5	1,452	1
	Control Strain Susceptibility Testing Form 3	5	48	12/60

**Leroy A. Richardson,**

Chief, Information Collection Review Office,  
Office of Scientific Integrity, Office of the  
Associate Director for Science, Office of the  
Director, Centers for Disease Control and  
Prevention.

[FR Doc. 2015-31104 Filed 12-9-15; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day-16-0488]

#### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) 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; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570 or send an email to [omb@cdc.gov](mailto:omb@cdc.gov). Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395-5806. Written comments should be received within 30 days of this notice.

#### Proposed Project

Restrictions on Interstate Travel of Persons (42 CFR part 70) (OMB Control No. 0920-0488, expiration, 3/31/2016)—Revision—Division of Global Migration and Quarantine, National Center for Emerging Zoonotic and Infectious Diseases, Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

This revision to an existing information collection request is intended to ensure that CDC can continue collect pertinent information related to communicable disease or deaths that occur aboard conveyances during interstate travel within the United States, as authorized under 42 Code of Federal Regulations (CFR) part 70. Additionally, CDC is requesting approval to use the Passenger Locator Form in the event that travelers on domestic flights within the United States need to be contacted for public health follow-up.

The intended use of the information is to ensure that CDC can assess and respond to reports of communicable disease or death that occur on conveyances engaged in interstate travel, and assist state and local health authorities if an illness or death occurs that poses a risk to public health. Generally, the primary source of this information is aircraft and travelers moving within the United States.

This revision makes several modification to this information collection. They are as follows: In current practice, CDC does not process applications for travel permits using the Restriction On Travel Of Persons Multipurpose Application Form Under

the Provisions of 42 CFR part 70 (aka Ill Person Travel Permit); therefore the information collections under 42 CFR 70.3, Application to the State of destination for a permit, Copy of material submitted by applicant and permit issued by State health authority (Attending physician), and Copy of material submitted by applicant and permit issued by State health authority (State health authority) are being removed. Similarly, information collections under 42 CFR 70.5, Application for a permit to move from State to State while in the communicable period (Attending physician) and Application for a permit to move from State to State while in the communicable period (Traveler) are also being removed. The issuance of travel restrictions is a collaborative process between public health partners, e.g. state health departments, the Department of Homeland Security, and CDC. There is no standardized collection of information involved. This change results in the removal of the information collections under 42 CFR 70.3 and 70.5 from the list of information collections as well as the removal of the associated burden. Reports of communicable disease or death from domestic conveyances are almost always submitted electronically to meet requirements of 42 CFF 70.4, so the current hard copy Master of Vessel or Conveyance Illness Report, which was constructed to be used by masters of vessels to comply with 42 CFR 70.4, has been rendered obsolete. In addition, CDC has issued guidance stating that reports to CDC, instead of local health authorities, regarding domestic reports of communicable disease or death on board conveyances meet the requirements of the regulation; therefore, information collections related to copies of the report sent by masters of vessels to state health departments are no longer necessary. The only remaining information collection under 42 CFR 70.4 is Report by the master of a vessel or person in charge of conveyance of the incidence of a communicable disease occurring while in interstate travel.



CDC is also requesting an adjustment to the burden associated with reports of communicable disease or death from domestic conveyances. CDC is reducing the burden from 15 minutes per report to 7 minutes. This is due to the facilitation of reporting using electronic means, *i.e.* Air Traffic Control and the Domestic Events Network for domestic flights, rather than the hard copy Master of Vessel or Conveyance Illness Report.

Finally, CDC is requesting the addition of the Passenger Locator Form to this information collection. CDC currently has approval to collect the Passenger Locator Form from travelers aboard international flights under OMB Control Number 0920-0134. CDC is requesting approval to collect passenger contact and locating information for travelers aboard domestic flights within the United States.

The resulting change in burden is a reduction of 3,611 hours.

*Estimated Annualized Burden Hours*

CDC anticipates this information collection will result in 90 total burden hours from 1,000 respondents. There is no burden to respondents other than the time required to complete and send the requested information to CDC. The estimated annualized burden is 90 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Master of a vessel or person in charge of a conveyance.	42 CFR 70.4 Report by the master of a vessel or person in charge of conveyance of the incidence of a communicable disease occurring while in interstate travel.	200	1	7/60
Traveler .....	Passenger Locator Form .....	800	1	5/60

**Leroy A. Richardson,**  
*Chief, Information Collection Review Office,  
 Office of Scientific Integrity, Office of the  
 Associate Director for Science, Office of the  
 Director, Centers for Disease Control and  
 Prevention.*  
 [FR Doc. 2015-31105 Filed 12-9-15; 8:45 am]  
**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket Nos. FDA-2014-E-0308 and FDA-2014-E-0309]

**Determination of Regulatory Review Period for Purposes of Patent Extension; FULYZAQ**

**AGENCY:** Food and Drug Administration, HHS.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for FULYZAQ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 8, 2016.

Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 7, 2016. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

**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 Nos. FDA-2014-E-0308 and FDA-2014-E-0309 for “Determination of Regulatory Review Period for Purposes of Patent Extension; FULYZAQ.” Received comments will be placed in the dockets 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:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product’s regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts

with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA’s determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product FULYZAQ (crofelemer). FULYZAQ is indicated for the symptomatic relief of non-infectious diarrhea in adult patients with HIV/AIDS on anti-retroviral therapy. Subsequent to this approval, the USPTO received a patent term restoration application for FULYZAQ (U.S. Patent No. 7,323,195) from Napo Pharmaceuticals, Inc., and the USPTO requested FDA’s assistance in determining this patent’s eligibility for patent term restoration. In a letter dated May 23, 2014, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of FULYZAQ represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product’s regulatory review period.

##### II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for FULYZAQ is 7,784 days. Of this time, 7,391 days occurred during the testing phase of the regulatory review period, while 393 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* September 11, 1991. The applicant claims August 14, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 11, 1991, which was 30 days after FDA receipt of the first IND from the sponsor for this new drug.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* December 5, 2011. The applicant claims December 16, 2011, as the date the new drug

application (NDA) for FULYZAQ (NDA 202292) was initially submitted. However, FDA records indicate that NDA 202292 was submitted on December 5, 2011.

3. *The date the application was approved:* December 31, 2012. FDA has verified the applicant’s claim that NDA 202292 was approved on December 31, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension.

##### III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <http://www.regulations.gov> at Docket No. FDA-2013-S-0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Petitions that have not been made publicly available on <http://www.regulations.gov> may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015-31097 Filed 12-9-15; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2014-E-0265]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; SIRTURO

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for SIRTURO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (in the

**SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 8, 2016.

Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 7, 2016. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

**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-2014-E-0265 for "Determination of Regulatory Review Period for Purposes of Patent Extension; SIRTURO". 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 and 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:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product SIRTURO (bedaquiline). SIRTURO is indicated for combination therapy in adults ( $\geq 18$  years) with pulmonary multi-drug resistant tuberculosis. Subsequent to this approval, the USPTO received a patent term restoration application for SIRTURO (U.S. Patent No. 7,498,343) from Janssen Pharmaceutica, N.V., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 27, 2014, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of SIRTURO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO

requested that FDA determine the product's regulatory review period.

## II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for SIRTURO is 2,213 days. Of this time, 2,030 days occurred during the testing phase of the regulatory review period, while 183 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:*

December 9, 2006. The applicant claims November 9, 2006, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 9, 2006, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* June 29, 2012. FDA has verified the applicant's claim that the new drug application (NDA) for SIRTURO (NDA 204384) was initially submitted on June 29, 2012.

3. *The date the application was approved:* December 28, 2012. FDA has verified the applicant's claim that NDA 204384 was approved on December 28, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 741 days of patent term extension.

## III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see DATES). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see DATES) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <http://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–

305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Petitions that have not been made publicly available on <http://www.regulations.gov> may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–31098 Filed 12–9–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2014–E–0279]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; ELIQUIS

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for ELIQUIS and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 8, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 7, 2016. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

**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–2014–E–0279 for “Determination of Regulatory Review Period for Purposes of Patent Extension; ELIQUIS.” 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:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory

review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product ELIQUIS (apixaban). ELIQUIS is indicated to reduce the risk of stroke and systemic embolism in patients with nonvalvular atrial fibrillation. Subsequent to this approval, the USPTO received a patent term restoration application for ELIQUIS (U.S. Patent No. 6,967,208) from Bristol-Myers Squibb Company, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 27, 2014, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of ELIQUIS represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

##### II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ELIQUIS is 3,685 days. Of this time, 3,227 days occurred during the testing phase of the regulatory review period, while 458 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:*

November 28, 2002. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on November 28, 2002.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* September 28, 2011. FDA has verified the applicant's claim that the new drug application (NDA) for ELIQUIS (NDA 202155) was initially submitted on September 28, 2011.

3. *The date the application was approved:* December 28, 2012. FDA has verified the applicant's claim that NDA 202155 was approved on December 28, 2012.

This determination of the regulatory review period establishes the maximum

potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,424 days of patent term extension.

##### III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <http://www.regulations.gov> at Docket No. FDA-2013-S-0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Petitions that have not been made publicly available on <http://www.regulations.gov> may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015-31096 Filed 12-9-15; 8:45 am]

**BILLING CODE 4164-01-P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

[Docket No. FDA-2014-E-0271]

##### Determination of Regulatory Review Period for Purposes of Patent Extension; ARGUS II VISUAL STIMULATION SYSTEM

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for ARGUS II VISUAL STIMULATION SYSTEM and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and

Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that medical device.

**DATES:** Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 8, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 7, 2016. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

**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-2014-E-0271 for Determination of Regulatory Review Period for Purposes of Patent Extension; ARGUS II VISUAL STIMULATION SYSTEM. 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>. 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:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device ARGUS II VISUAL STIMULATION SYSTEM. ARGUS II VISUAL STIMULATION SYSTEM is indicated for patients aged 25 years and older with bare or no light perception vision caused by advanced retinitis pigmentosa. Subsequent to this approval, the USPTO received a patent term restoration application for ARGUS II VISUAL STIMULATION SYSTEM (U.S. Patent No. 7,668,599) from Second Sight Medical Products, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 22, 2014, FDA advised the USPTO that this medical device had undergone a regulatory review period and that the approval of ARGUS II VISUAL STIMULATION SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

## II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ARGUS II VISUAL STIMULATION SYSTEM is 2,282 days. Of this time, 1,630 days occurred during the testing phase of the regulatory review period, while 652 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(g)) involving this device became effective:* November 17, 2006. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the FD&C act for human tests to begin became effective on December 31, 2004. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on November 17, 2006, which represents the IDE effective date.

2. *The date an application was initially submitted with respect to the device under section 515 of the FD&C Act (21 U.S.C. 360e):* May 4, 2011. The applicant claims May 3, 2011, as the date the humanitarian device exemption (HDE) for Argus II Visual Stimulation System (HDE H110002) was initially submitted. However, FDA records indicate that HDE H110002 was submitted on May 4, 2011.

3. *The date the application was approved:* February 13, 2013. The applicant claims that HDE H110002 was approved on February 14, 2013. However, FDA records indicate that ARGUS II VISUAL STIMULATION SYSTEM was approved on February 13, 2013.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,735 days of patent term extension.

## III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see DATES). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see DATES) and contain sufficient facts to merit an FDA

investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <http://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Petitions that have not been made publicly available on <http://www.regulations.gov> may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–31095 Filed 12–9–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2013–N–0093]

#### **Agency Information Collection Activities: Proposed Collection; Comment Request; Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in Prescription Drug User Fee Acts**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection involving interviews of pharmaceutical manufacturers who submit new molecular entity (NME) new drug applications (NDAs) and original biologics license applications (BLAs) to FDA under the Program for Enhanced Review Transparency and Communication (the Program) during fiscal years (FYs) 2013–2017. The

Program is part of the FDA performance commitments under the fifth authorization of the Prescription Drug User Fee Act (PDUFA), which allows FDA to collect user fees for the review of human drug and biologics applications for FYs 2013–2017.

**DATES:** Submit either electronic or written comments on the collection of information by February 8, 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–2013–N–0093] for “Agency Information Collection Activities: Proposed Collection; Comment Request; Evaluation of the Program for Enhanced Review Transparency and



Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in Prescription Drug User Fee Acts." 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:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501-3520, Federal

Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in Prescription Drug User Fee Acts**

(OMB Control Number 0910-0746)—  
*Extension*

As part of its commitments in PDUFA V, FDA established a new review Program to promote greater transparency and increased communication between the FDA review team and the applicant on the most innovative products reviewed by the Agency. The Program applies to all NMEs, NDAs, and original BLAs that are received from October 1, 2012, through September 30, 2017. The Program is described in detail in section II.B of the document entitled "PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017" (the Commitment Letter) (available at <http://www.fda.gov/>

[downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf](http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf).

The goals of the Program are to increase the efficiency and effectiveness of the first review cycle and decrease the number of review cycles necessary for approval so that patients have timely access to safe, effective, and high-quality new drugs and biologics. A key aspect of the Program is an interim and final assessment that will evaluate how well the parameters of the Program have achieved the intended goals. The PDUFA V Commitment Letter specifies that the assessments be conducted by an independent contractor and that they include interviews of pharmaceutical manufacturers who submit NMEs, NDAs, and original BLAs to the Program in PDUFA V. The contractor for the assessments of the Program is Eastern Research Group, Inc. (ERG), and the statement of work for the assessments is available at <http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM304793.pdf>.

In accordance with the PDUFA V Commitment Letter, FDA contracted with ERG to conduct independent interviews of applicants after FDA issues a first-cycle action for applications reviewed under the Program. The purpose of these interviews is to collect feedback from applicants on the success of the Program in increasing review transparency and communication during the review process. ERG will anonymize and aggregate sponsor responses prior to inclusion in the assessments and any presentation materials at public meetings. FDA will publish ERG's assessments (with interview results and findings) in the **Federal Register** for public comment.

FDA typically reviews approximately 40 to 45 NMEs, NDAs, and original BLAs per year. ERG interviews 1 to 3 sponsor representatives at a time for each application that receives a first-cycle action from FDA, up to 135 sponsor representatives per year. ERG conducts a pretest of the interview protocol with five respondents. FDA estimates that it will take 1.0 to 1.5 hours to complete the pretest, for a total of a maximum of 7.5 hours. We estimate that up to 135 respondents will take part in the post-action interviews each year, with each interview lasting 1.0 to 1.5 hours, for a total of a maximum of 202.5 hours. Thus, the total estimated annual burden is 210 hours. FDA's burden estimate is based on prior experience with similar interviews with the regulated community.

Thus, FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

Portion of study	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pre-test .....	5	1	5	1.5	7.50
Interviews .....	135	1	135	1.5	202.50
Total .....					210

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015-31100 Filed 12-9-15; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2013-E-1573]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; VERAFLUX

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for VERAFLUX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that animal drug product.

**DATES:** Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 8, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 7, 2016. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

**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-2013-E-1573 for “Determination of Regulatory Review Period for Purposes of Patent Extension; VERAFLUX”. 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:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA has approved for marketing the animal drug product VERAFLOR (pradofloxacin). VERAFLOR is indicated for treatment of skin infections in cats caused by susceptible strains of *Pasteurella multocida*, *Streptococcus canis*, *Staphylococcus aureus*, *Staphylococcus felis*, and *Staphylococcus pseudintermedius*. Subsequent to this approval, the USPTO received a patent term restoration application for VERAFLOR (U.S. Patent No. 6,323,213) from Bayer Animal Health GmbH, and the USPTO requested FDA's assistance in determining this patent's eligibility for

patent term restoration. In a letter dated March 26, 2014, FDA advised the USPTO that this animal drug product had undergone a regulatory review period and that the approval of VERAFLOR represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

**II. Determination of Regulatory Review Period**

FDA has determined that the applicable regulatory review period for VERAFLOR is 3,285 days. Of this time, 3,235 days occurred during the testing phase of the regulatory review period, while 50 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the FD&C Act (21 U.S.C. 355(i)) became effective:* November 12, 2003. The applicant claims July 31, 2002, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the INAD effective date was November 12, 2003, which was the date on which the agency acknowledges the filing of a notice of claimed investigational exemption for a new animal drug.
2. *The date the application was initially submitted with respect to the animal drug product under section 512 of the FD&C Act (21 U.S.C. 360b):* September 19, 2012. FDA has verified the applicant's claim that the new animal drug Application (NADA) for VERAFLOR (NADA 141-344) was submitted on September 19, 2012.
3. *The date the application was approved:* November 7, 2012. FDA has verified the applicant's claim that NADA 141-344 was approved on November 7, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,901 days of patent term extension.

**III. Petitions**

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition

must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <http://www.regulations.gov> at Docket No. FDA-2013-S-0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Petitions that have not been made publicly available on <http://www.regulations.gov> may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 4, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015-31099 Filed 12-9-15; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Viral Hepatitis Action Plan—Community Stakeholder Activities Request for Information**

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) is seeking public input from state and local governments, community based organizations, academic institutions, professional organizations, advocacy groups, private industry, and other non-federal stakeholders on activities undertaken in 2014-2015 in support of the goals of the national Action Plan for the Prevention, Care, and Treatment of Viral Hepatitis.

**DATES:** All responses must be received at the address provided below, no later than 5:00 p.m. ET on February 8, 2016.

**ADDRESSES:** Electronic responses are strongly preferred and may be addressed to [Corinna.Dan@hhs.gov](mailto:Corinna.Dan@hhs.gov). Written responses should be addressed to: U.S. Department of Health and Human Services, 200 Independence Ave. SW., Room 443H, Washington, DC 20201. Attention: VHAP—2015RFI

**FOR FURTHER INFORMATION CONTACT:** Corinna Dan, RN, MPH, Office of HIV/AIDS and Infectious Disease Policy, (202) 401-9581.

**SUPPLEMENTARY INFORMATION:** The updated comprehensive national action plan, *Combating the Silent Epidemic of*

*Viral Hepatitis: Action Plan for the Prevention, Care, & Treatment of Viral Hepatitis 2014–2016*, details more than 150 actions to be undertaken between 2014 and 2016 by 20 federal agencies and offices from across the U.S.

Departments of Health and Human Services (HHS), Housing and Urban Development (HUD), Justice (DOJ), and Veterans Affairs (VA). While the Viral Hepatitis Action Plan describes efforts to be undertaken by federal stakeholders, many of the successes our nation has seen in the fight against viral hepatitis have resulted from non-federal efforts including those of health departments, academic researchers, community-based organizations, professional organizations, education and advocacy groups, private industry, and other stakeholders. The Viral Hepatitis Action Plan provides a framework around which all stakeholders can engage to strengthen the nation's response to viral hepatitis and envisions active involvement of and innovation by a broad mix of partners from both public and private sectors.

The updated Action Plan describes four main goals to be achieved by 2020:

- Increase in the proportion of persons who are aware of their hepatitis B virus (HBV) infection, from 33% to 66%.
- Increase in the proportion of persons who are aware of their hepatitis C virus (HCV) infection, from 45% to 66%.
- Reduce by 25% the number of new cases of HCV infection.
- Eliminate mother-to-child transmission of HBV.

This request for information seeks public comment on several key areas with respect to non-federal efforts undertaken throughout calendar years 2014–2015 that are consistent with the four main goals of the Viral Hepatitis Action Plan. Comments are sought on (but not limited to) the following:

1. Describe the type of organization or group with which you are affiliated (e.g., advocacy, private industry, health care, local, or state government, etc.).
2. What is the most significant need your community/clients experience with respect to combating viral hepatitis?
3. What activities conducted in 2014 and 2015 demonstrated the greatest advances toward reaching the goals of the Viral Hepatitis Action Plan? Responses are invited (but not limited to) viral hepatitis activities in the following areas:

a. Raising awareness about viral hepatitis among the general public, specific targeted populations, and/or community leaders;

b. Training and/or increasing capacity of health care providers to prevent, diagnose, treat viral hepatitis;

c. Developing strategies to promote timely viral hepatitis diagnosis and linkage to care;

d. Developing/implementing clinical decision support tools and/or improved protocols in clinical settings that improve viral hepatitis health outcomes;

e. Implementing strategies to educate women of child-bearing age and high risk groups about mother-to-infant transmission of hepatitis B;

f. Reaching people who inject drugs with viral hepatitis information and services;

g. Improving viral hepatitis infection prevention awareness and initiatives in medical settings;

h. Developing strategies to foster stakeholder collaboration and sustainable programs; and

i. Other (please specify).

4. Please include relevant information such as the dates of implementation; names of collaborating organizational partners; related Action Plan goal(s); geographic area and populations served, quantitative findings and outcomes such as number of tests done, proportion of positives identified; and links to online tools, resources, and publications.

Please limit responses to four pages, single-sided, double spaced, 10 point font.

Selected activities will be compiled and made available to federal partners, stakeholders, and the public in order to foster further expansion, innovation, and collaboration toward achieving the goals of the Viral Hepatitis Action Plan. Responses to this RFI will also be used to inform future HHS strategic planning and implementation.

Dated: December 7, 2015.

**Ronald O. Valdiserri,**

*Deputy Assistant Secretary for Health, Infectious Diseases, Office of the Assistant Secretary for Health.*

[FR Doc. 2015–31131 Filed 12–9–15; 8:45 am]

**BILLING CODE 4150–28–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

*Girija Dasmahapatra, Ph.D., Virginia Commonwealth University:* Based on the

report of an inquiry conducted by Virginia Commonwealth University (VCU), the willingness of the Respondent to settle this matter, and analysis conducted by ORI in its oversight review, ORI found that Dr. Girija Dasmahapatra, former Instructor, Department of Internal Medicine, VCU, engaged in research misconduct in research supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grants R01 CA063753, R01 CA093738, and R01 CA100866.

ORI found that false data were included in the following eleven (11) publications:

- *Blood* 107:232–40, 2006 Jan (hereafter referred to as “*Blood* 2006”)
- *Blood* 115:4478–87, 2010 Jun 3 (hereafter referred to as “*Blood* 2010”)
- *British Journal of Haematology* 161:43–56, 2013 Apr (hereafter referred to as “*BJH* 2013”)
- *Cancer Biology & Therapy* 8:808–19, 2009 May (hereafter referred to as “*CBT* 2009”)
- *Clinical Cancer Research* 13:4280–90, 2007 Jul (hereafter referred to as “*CCR* 2007”)
- *Leukemia* 19:1579–89, 2005 Sep (hereafter referred to as “*Leuk* 2005”)
- *Leukemia Research* 30:1263–1272, 2006 (hereafter referred to as “*LR* 2006”)
- *Molecular Cancer Therapeutics* 10:1686–97, 2011 Sep (hereafter referred to as “*MCT* 2011”)
- *Molecular Cancer Therapeutics* 11:1122–32, 2012 May (hereafter referred to as “*MCT* 2012”)
- *Molecular Cancer Therapeutics* 13:2886–97, 2014 Dec (hereafter referred to as “*MCT* 2014”)
- *Molecular Pharmacology* 69:288–98, 2006 Jan (hereafter referred to as “*MP* 2006”)

ORI found that Respondent falsified and/or fabricated data by reporting the results of Western blot experiments and mouse imaging experiments that examined interactions between multiple histone deacetylase and/or proteasome inhibitors in several cancer models. Specifically, Respondent duplicated, reused, and/or relabeled Western blot panels and mouse images and claimed they represented different controls and/or experimental results in:

- *Blood* 2006, Figures 2A and 2B (Tubulin), 2C (c-Jun & Tubulin), and 3E and 3F (Tubulin)
- *Blood* 2010, Figures 4A and 4C (JNK & Tubulin)
- *BJH* 2013, Figures 2A and 6B (Tubulin)
- *CBT* 2009, Figure 4B (Actin)
- *CCR* 2007, Figures 3B (PARP) and 6A (Tubulin)

- *Leuk* 2005, Figures 3B (PARP CF) and 4A, 4B, and 4C (Tubulin)
- *LR* 2006, Figure 3D (Actin—BaF/3—WT)
- *MCT* 2011, Figures 2B and 3D (Tubulin) and 6B (0 d—CFZ—2.0mg/Kg & 12 d—CFZ + VOR)
- *MCT* 2012, Figures 3A (JNK & Tubulin, 3B (Tubulin—scram), 3D (Tubulin—pUSE—AKT cl.3), and 6B (CFZ + obato)
- *MCT* 2014, Figures 3A (JNK 1 & Tubulin), 3B (JNK & Tubulin), and 3C (Tubulin)
- *MP* 2006, Figures 1D and 1E (Caspase 3, CF Caspase 3, PARP & Tubulin), 2C (PARP), 3B, 4A, and 4B (Tubulin), 6A (Tubulin—U937—pSFFv 12 hr treatment & U937—Bcl-2-ΔN 24 hr treatment), and 9A (Cox-IV)

Dr. Dasmahapatra has entered into a Voluntary Exclusion Agreement (Agreement) and has voluntarily agreed:

(1) To exclude himself for a period of three (3) years from the effective date of the Agreement from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as “covered transactions” pursuant to HHS’ Implementation (2 CFR part 376 *et seq*) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the “Debarment Regulations”);

(2) To exclude himself from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for period of three (3) years, beginning on November 5, 2015; and

(3) That the following publications will be retracted or corrected: *Blood* 2006, *Blood* 2010, *BJH* 2013, *CBT* 2009, *CCR* 2007, *Leuk* 2005, *LR* 2006, *MCT* 2011, *MCT* 2012, *MCT* 2014, and *MP* 2006.

**FOR FURTHER INFORMATION CONTACT:**

Acting Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453-8200.

**Donald Wright,**

*Acting Director, Office of Research Integrity.*

[FR Doc. 2015-31057 Filed 12-9-15; 8:45 am]

**BILLING CODE 4150-31-P**

**DEPARTMENT OF HOMELAND SECURITY**

**United States Immigration and Customs Enforcement**

**Agency Information Collection Activities: Comment Request; Extension of an Information Collection**

**ACTION:** 30-Day notice of information collection for review; G-79A; information relating to beneficiary of Private Bill; OMB Control No. 1653-0026.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** on September 21, 2015, Vol. 80 No. 23491 allowing for a 60 day comment period. No comments were received on this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 agencies 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:* Extension of a currently approved information collection

(2) *Title of the Form/Collection:* Information Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* G-79A; U.S. Immigration and Customs Enforcement

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) provides for the reimbursement of States and localities for assistance provided in meeting an immigration emergency. This collection of information allows for State or local governments to request reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 300 annual burden hours.

Dated: December 7, 2015.

**Scott Elmore,**

*Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.*

[FR Doc. 2015-31108 Filed 12-9-15; 8:45 am]

**BILLING CODE 9111-28-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5835-N-28]

**60-Day Notice of Proposed Information Collection: Multifamily Family Self-Sufficiency (MF FSS) Program Escrow Credit Data**

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

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the

Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* February 8, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**FOR FURTHER INFORMATION CONTACT:** Danielle Garcia, Branch Chief, Subsidy Oversight Branch, Assisted Housing Oversight Division, Office of Asset Management and Portfolio Oversight, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email [Danielle.D.Garcia@hud.gov](mailto:Danielle.D.Garcia@hud.gov) or telephone 202-402-2768. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

#### A. Overview of Information Collection

*Title of Information Collection:* Multifamily Family Self-Sufficiency Program Escrow Credit Data.

*OMB Approval Number:* Pending.

*Type of Request:* This is a new collection.

*Form Number:* Sample attached: Sample MF FSS Reporting Tool

*Description of the need for the information and proposed use:*

Multifamily Family Self-Sufficiency (MF FSS) is a HUD program that enables families living in multifamily assisted housing to increase their earned income and reduce their dependence on public assistance programs. MF FSS promotes the development of local strategies to

coordinate the use of HUD rental assistance programs with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

HUD's Appropriations Act of 2015 allows owners of privately owned multifamily properties with a Section 8 contract to voluntarily make a Family Self-Sufficiency program available to assisted tenants in accordance with procedures established by the Secretary, including those procedures permitting tenants to accrue escrow funds in accordance with section 23(d)(2) of the U.S. Housing Act of 1937. Owners of privately-owned HUD assisted multifamily housing can voluntarily establish and operate a MF FSS program at their housing sites. Participation in the MF FSS program is voluntary for families living in these properties.

FSS families are referred to services and educational opportunities that can lead to improved employment and earned income. Such services might include child care, transportation, education, job training, employment counseling, financial literacy, and homeownership counseling.

Families entering the FSS program work with a case manager to develop goals that will lead to self-sufficiency within a 5-year period. These goals may include education, specialized training, and job readiness, placement, and career advancement activities. Families sign a five year contract of participation (CoP) with the owner. Goals for each participating family member are set out in Individual Training and Services plans (ITSP) that are part of the CoP. When the family meets its goals and completes its FSS contract, the family becomes eligible to receive funds deposited in an escrow account.

The owner establishes an interest-bearing escrow account for each participating family. If a family's earned income and rental payments increase as a result of participation in the FSS, the owner will credit the incremental earned income amount to the family's escrow account. Once a family successfully graduates from the program, they may access the escrow funds and use them for any purpose.

#### Respondents

Owners of privately-owned HUD assisted multifamily housing who voluntarily establish and operate a MF FSS program at their housing sites.

*Estimated Number of Respondents:* 2,000.

*Estimated Number of Responses:* 8,000.

*Frequency of Response:* Quarterly.

*Average Hours per Response:* 1 hour.

*Total Estimated Burdens:* 8,000.

#### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 2, 2015.

**Janet M. Golrick,**

*Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.*

[FR Doc. 2015-31201 Filed 12-9-15; 8:45 am]

**BILLING CODE 4210-67-P**

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5906-N-01]

#### Manufactured Home Construction and Safety Standards; Request for Recommended Changes

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

**ACTION:** Notice.

**SUMMARY:** Consistent with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, this notice invites interested persons to submit proposed changes to update and revise HUD's Manufactured Home Construction and Safety Standards. These proposed changes will be submitted to the Manufactured Housing Consensus Committee (MHCC) for review and consideration as part of its responsibility to provide periodic recommendations to HUD to adopt, revise, and interpret the HUD standards.

**DATES:** To ensure consideration, the deadline for submitting proposed

changes from the public for the 2016–2017 review is March 31, 2016. Any Proposals received after March 31, 2016 will be held until the 2018–2019 review period.

**ADDRESSES:** Proposed changes to the Manufactured Home Construction and Safety Standards are to be submitted to the following URL address: [mhcc.homeinnovation.com](http://mhcc.homeinnovation.com).

**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 7th Street SW., Room 9168, Washington, DC 20410, telephone number 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:** Section 604(a) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000 (42 U.S.C. 5401 *et seq.*) (the Act) establishes the MHCC. Among other things, the MHCC is responsible for providing periodic recommendations to HUD to adopt, revise, and interpret the manufactured housing construction and safety standards. HUD's Manufactured Home Construction and Safety Standards are codified at 24 CFR part 3280. According to Section 604(a)(4) of the Act, the MHCC is required to consider revisions not less than once during each 2-year period.

Today's notice requests that interested persons provide proposed changes for revising or updating HUD's Manufactured Home Construction and Safety Standards. Consistent with the Act, recommendations are requested that further HUD's efforts to increase the quality, durability, safety and affordability of manufactured homes; facilitate the availability of affordable manufactured homes and increase homeownership for all Americans; and encourage cost-effective and innovative construction techniques for manufactured homes. To permit the MHCC to fully consider the proposed changes, commenters are encouraged to provide at least the following information:

- The specific section of the current Manufactured Home Construction and Safety Standards that require revision or update; or whether the recommendation would require a new standard;
- Specific detail regarding the recommendation including a statement

of the problem intended to be corrected or addressed by the recommendation, how the recommendation would resolve or address the problem, and the basis of the recommendation; and

- Information regarding whether the recommendation would result in increased costs to manufacturers or consumers and the value of the benefits derived from HUD's implementation of the recommendation, should be provided and discussed to the extent feasible.

The Act requires that an administering organization administer the process for the MHCC's development and interpretation of the Federal Standards and Procedural and Enforcement Regulations. The administering organization that has been selected by HUD to administer this process is Home Innovation Research Labs, Inc. This Notice requests that proposed revisions to the Federal standards be submitted to the MHCC for consideration through the administering organization, Home Innovation Research Labs, Inc. at the following URL address: [mhcc.homeinnovation.com](http://mhcc.homeinnovation.com). This organization will be responsible for ensuring delivery of all appropriately prepared proposed changes to the MHCC for its review and consideration.

#### *Paperwork Reduction Act*

The information collection requirements contained in this notice have been approved by 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 2535–0116. 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.

Dated: December 4, 2015.

**Pamela Beck Danner,**

*Administrator, Office of Manufactured Housing Programs.*

[FR Doc. 2015–31202 Filed 12–9–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–CRPS–NHL–16529; PPWOCRADP2, PCU00RP14.R50000 (166)]

#### Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Nomination of Properties for Designation as National Historic Landmarks

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (National Park Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. We 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:** You must submit comments on or before January 11, 2016.

**ADDRESSES:** Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (email). Please provide a copy of your comments to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Room 2C114, Mail Stop 242, Reston, VA 20192 (mail); or [madonna\\_baucum@nps.gov](mailto:madonna_baucum@nps.gov) (email). Please include “1024–NHL” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Patricia Henry, Historian, National Historic Landmark Program, at [patty\\_henry@nps.gov](mailto:patty_henry@nps.gov) (email); (202) 354–2216 (telephone); or (202) 371–2229 (fax). You may review the ICR online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

National Historic Landmarks (NHLs) are nationally significant historic places (buildings, sites, structures, objects, or districts) designated by the Secretary of the Interior, because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States. Today, just over 2,500 historic places bear this national

distinction. All NHLs are also listed in the National Register of Historic Places.

The Historic Sites Act of 1935 (16 U.S.C. 461–467) directs the Secretary of the Interior (Secretary), through the National Park Service, to survey historic and archeological sites, buildings, and objects to determine those that possess exceptional value in commemorating or illustrating the history of the United States. Designation as an NHL:

- Ensures that stories of nationally important historic events, places, or persons are recognized and preserved for the benefit of all citizens.
- May provide the property’s historic character with a measure of protection against any project initiated by the Federal Government.

- May ensure eligibility for grants, tax credits, and other opportunities to maintain a property’s historic character.

In accordance with the law and 36 CFR part 65, private citizens, businesses, Federal agencies, State and local public agencies, and Indian tribes may submit nominations for NHL designation. Instructions for submitting a letter of inquiry and completing NPS Form 10–934 are available on the NHL Web site at <http://www.nps.gov/nhl/index.htm>. We collect the following information:

*Letter of Inquiry*

Prior to nominating a property for NHL designation, respondents must send a letter of inquiry to the NPS. The letter introduces the property to the NHL Program staff and serves as a formal, written record of initiating the

NHL designation process. It provides an overview of the property, its historic significance, and its historic integrity, including, but not limited to:

- Historic importance of the property. What nationally significant story does the property tell?
- Current condition and integrity of the property. Has the property undergone major alterations since the historic period? If so, how extensive are these alterations?
- Support of the property owner. Is the property already listed in the National Register of Historic Places?
- Supporting documents, such as photographs or brochures.

*National Historic Landmark Nomination (NPS Form 10–934)*

- Name and Location of Property.
- Significance Data (NHL criteria, criteria exceptions, NHL themes, period(s) of significance, significant person(s), cultural affiliation, historic contexts, designer/creator/architect/builder, etc.).
- Sensitive Information (resources, such as archeological sites, that would be adversely affected by amateur excavation or vandalism by the general public if the location were disclosed).
- Geographical Data (acreage, Universal Transverse Mercator (UTM) grid references or latitude/longitude coordinates, and boundaries for the property).
- Significance Statement and Discussion (narrative statement based on documentary research of the property and the specific assessment of

how the property qualifies for designation as an NHL).

- Property Description and Statement of Integrity (classifies the property by ownership of the property, type of property, and the number and nature of resources comprising the property).
- Major Bibliographic References (sources from which the documentation given on the form was compiled and the assessment of the property’s significance was made).
- Contact Information for Form Preparer.

We review the forms to evaluate the eligibility of the property being nominated and submit them to the Secretary of the Interior’s National Park System Advisory Board. The Board recommends those properties that meet the criteria for NHL designation to the Secretary of the Interior. The Secretary decides whether or not to designate a property as an NHL.

**II. Data**

- OMB Control Number:* 1024–New.
- Title:* Nomination of Properties for Designation as National Historic Landmarks, 36 CFR 65.
- Service Form Number(s):* 10–934.
- Type of Request:* Existing collection in use without an OMB control number.
- Description of Respondents:* Individuals; State, tribal, and local governments; businesses; educational institutions; and nonprofit organizations.
- Respondent’s Obligation:* Required to obtain or retain a benefit.
- Frequency of Collection:* On occasion.

Activity	Number of responses	Completion time per response (hours)	Total annual burden hours
Initial Letter of Inquiry .....	20	2	40
Nominations (Form 10–934) .....	30	344	10,320
Totals .....	50	.....	10,360

*Estimated Annual Nonhour Burden Cost:* None.

**III. Comments**

On July 30, 2012, we published in the **Federal Register** (77 FR 44669) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on September 28, 2012. We did not receive any comments.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB and us in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: December 2, 2015.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2015–31086 Filed 12–9–15; 8:45 am]

**BILLING CODE 4310–EH–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-473 and 731-TA-1173 (Review)]

### Potassium Phosphate Salts From China

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930, that revocation of the countervailing duty and antidumping duty orders on potassium phosphate salts from China would be likely to lead to continuation or recurrence of material injury to industries in the United States within a reasonably foreseeable time.

#### Background

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), instituted these reviews on June 1, 2015 (80 FR 31068) and determined on September 4, 2015 that it would conduct expedited reviews (80 FR 57204, September 22, 2015).

The Commission made these determinations pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on December 4, 2015. The views of the Commission are contained in USITC Publication 4584 (December 2015), entitled *Potassium Phosphate Salts from China: Investigation Nos. 701-TA-473 and 731-TA-1173 (Review)*.

Issued: December 4, 2015.

By order of the Commission.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015-31102 Filed 12-9-15; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Radio Frequency Identification (“RFID”) Products and*

*Components Thereof, DN 3104*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant’s filing under section 210.8(b) of the Commission’s Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission’s Electronic Document Information System (EDIS) at EDIS,<sup>1</sup> and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.<sup>2</sup> The public record for this investigation may be viewed on the Commission’s Electronic Document Information System (EDIS) at EDIS.<sup>3</sup> Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission’s Rules of Practice and Procedure filed on behalf of Neology, Inc. on December 4, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain radio frequency identification (“RFID”) products and components thereof. The complainant names as respondents Kapsch TrafficCom IVHS, Inc. of McLean, VA; Kapsch TrafficCom IVHS Holding Corp. of McLean, VA; Kapsch TrafficCom IVHS Technologies of McLean, VA; Kapsch TrafficCom U.S. Corp. of McLean, VA; Kapsch TrafficCom Holding Corp. of McLean, VA; Kapsch TrafficCom Canada, Inc. of Canada; Star Systems International, Ltd. of Hong Kong and STAR RFID Co., Ltd. of Thailand. The complainant requests that the Commission issue a limited

exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant’s licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission’s Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (“Docket No. 3104”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic

<sup>1</sup> Electronic Document Information System (EDIS): <http://edis.usitc.gov>.

<sup>2</sup> United States International Trade Commission (USITC): <http://edis.usitc.gov>.

<sup>3</sup> Electronic Document Information System (EDIS): <http://edis.usitc.gov>.

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).



Filing Procedures<sup>4</sup>). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR. 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>5</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission’s Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.  
 Issued: December 7, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–31151 Filed 12–9–15; 8:45 am]

**BILLING CODE 7020–02–P**

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

[Docket No. DEA–392]

**Bulk Manufacturer of Controlled Substances Application: Cody Laboratories, Inc.**

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before February 8, 2016.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrisette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated her

authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (“Deputy Assistant Administrator”) pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 3, 2015, Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Dihydromorphine (9145) .....	I
Amphetamine (1100) .....	II
Methamphetamine (1105) .....	II
Methylphenidate (1724) .....	II
Amobarbital (2125) .....	II
Pentobarbital (2270) .....	II
Secobarbital (2315) .....	II
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333) .....	II
Phenylacetone (8501) .....	II
Cocaine (9041) .....	II
Codeine (9050) .....	II
Dihydrocodeine (9120) .....	II
Oxycodone (9143) .....	II
Hydromorphone (9150) .....	II
Diphenoxylate (9170) .....	II
Ecgonine (9180) .....	II
Hydrocodone (9193) .....	II
Meperidine (9230) .....	II
Methadone (9250) .....	II
Methadone intermediate (9254) ...	II
Morphine (9300) .....	II
Thebaine (9333) .....	II
Oxymorphone (9652) .....	II
Alfentanil (9737) .....	II
Remifentanil (9739) .....	II
Sufentanil (9740) .....	II
Tapentadol (9780) .....	II
Fentanyl (9801) .....	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers.

Dated: December 4, 2015.

**Louis J. Milione,**

*Deputy Assistant Administrator.*

[FR Doc. 2015–31074 Filed 12–9–15; 8:45 am]

**BILLING CODE 4410–09–P**

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

[Docket No. DEA–392]

**Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.**

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before January 11, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before January 11, 2016.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrisette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (“Deputy Assistant Administrator”) pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 19, 2015, Mylan Pharmaceuticals, Inc., 3711 Collins Ferry Road, Morgantown, West Virginia 26505 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100) .....	II
Lisdexamfetamine (1205) .....	II
Methylphenidate (1724) .....	II
Pentobarbital (2270) .....	II
Oxycodone (9143) .....	II
Hydromorphone (9150) .....	II

<sup>4</sup> Handbook for Electronic Filing Procedures: [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf).

<sup>5</sup> Electronic Document Information System (EDIS): <http://edis.usitc.gov>.



Controlled substance	Schedule
Hydrocodone (9193) .....	II
Levorphanol (9220) .....	II
Methadone (9250) .....	II
Morphine (9300) .....	II
Oxymorphone (9652) .....	II
Remifentanyl (9739) .....	II
Fentanyl (9801) .....	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: December 4, 2015.

**Louis J. Milione,**

*Deputy Assistant Administrator.*

[FR Doc. 2015-31073 Filed 12-9-15; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act and Clean Water Act

On December 2, 2015, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Hawaii in the lawsuit entitled *United States v. Aloha Petroleum, Ltd.*, Civil Action No. CV 15-00498 HG-BMK.

The United States' Complaint asserts claims against Aloha under Section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. 7413(b) and section 311(b) of the Clean Water Act ("CWA"), 33 U.S.C. 1321(b). Aloha operates a bulk gasoline terminal in Hilo, Hawaii (the "Terminal"). The Terminal receives petroleum products via pipelines connected to the local marine port and stores the products in large tanks prior to transfer into tank trucks at the Terminal's loading rack. The Complaint alleges that Aloha failed to install a vapor collection system, limit emissions, and conduct a performance test, as required by 40 CFR part 60, subpart XX. Under the CWA, the Complaint alleges that Aloha failed to construct a secondary containment structure that is sufficiently impervious to contain oil, or to hold oil until cleanup can occur. 40 CFR 112.7(c), 112.8(c)(2).

Under the Consent Decree, Aloha will pay a civil penalty of \$650,000, will "permanently close" the Terminal as defined in 40 CFR 112.2, and certify that it has ceased operating the loading racks

there. Aloha will also install improved containment liners at five of its other facilities.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Aloha Petroleum, Ltd.*, D.J. Ref. No. 90-5-2-1-10467. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2015-31077 Filed 12-9-15; 8:45 am]

**BILLING CODE 4410-CW-P**

## DEPARTMENT OF JUSTICE

### Notice of Filing of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

On December 1, 2015, a proposed Settlement Agreement was filed with the United States Bankruptcy Court for the District of Delaware in the bankruptcy proceeding entitled *In re Energy Future Holdings Corp., et al.*, Case No. 14-10979 (CSS).

The Settlement Agreement resolves a claim against debtor Energy Future Competitive Holdings Company

("EFCH"), as the alleged corporate successor to former mine operators, asserted by the United States on behalf of the Environmental Protection Agency ("EPA") under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA"). The claim sought to recover costs incurred and expected to be incurred in the future by the United States in response to releases and threats of releases of hazardous substances at or in connection with the Faith, Hope, Doris, and Isabella Uranium Mine Sites, located in McKinley County, New Mexico ("New Mexico Sites").

Under the Settlement Agreement, EPA will receive either (1) a distribution of \$2,000,000 upon confirmation and consummation of EFCH's and other affiliated debtors' Sixth Amended Joint Plan of Reorganization of *In re Energy Future Holdings Corp., et al.*, pursuant to Chapter 11 of the Bankruptcy Code, or (2) \$1,000,000 on the effective date of an alternate restructuring approved by the Bankruptcy Court. The Settlement Agreement contains covenants not to sue by the United States on behalf of EPA in favor of the debtors, the reorganized debtors, or any successors in interest under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607 and Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, with respect to the EPA claim or the New Mexico Sites.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Energy Future Holdings Corp., et al.*, Case No. 14-10979 (CSS), D.J. Ref. No. 90-5-2-1-09894/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department Web site: <http://>

[www.justice.gov/enrd/consent-decrees](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 \$13.50 (25 cents per page reproduction cost) payable to the United States Treasury.

**Thomas P. Carroll,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2015–31134 Filed 12–9–15; 8:45 am]

BILLING CODE 4410–15–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Comment Request for Form ETA–9141, Application for Prevailing Wage Determination and Other Information Collections for Determining Prevailing Wages in Foreign Labor Certification Programs (OMB Control Number 1205–0508), Extension

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL or Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the Form ETA–9141, *Application for Prevailing Wage Determination* and other information collections for determining prevailing wages in foreign labor certification programs in OMB Control Number 1205–0508. The form and all information collections in this control number expire on March 31, 2016. A copy of the proposed information collection request can be obtained free of charge by contacting the

office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before February 8, 2016.

**ADDRESSES:** Submit written comments to Renata Adjibodou, Center Director, Office of Foreign Labor Certification, Suite 12–100, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–513–7350 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–513–7495. Email: [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov) subject line: ETA–9141. A copy of the proposed information collection request (ICR) can be obtained free of charge by contacting the office listed above.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The information collection (IC) is required by sections 203(b)(3); 212(a)(5)(A); 212(m), (n), (p), (t); and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1153(b)(3); 1182(a)(5)(A); 1182(m), (n), (p), (t); and 1184(c)) and 8 CFR 214.2(h). The INA requires the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States (U.S.) for the purpose of performing certain skilled or unskilled labor temporarily or permanently will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. Before the Secretary of Labor can certify that wages for U.S. workers have not been adversely affected, he must ensure that the wages being paid the foreign workers are the same as those being offered and paid to U.S. workers.

The information contained in the Form ETA–9141 is the basis for the Secretary's determination of the wage employers must pay foreign workers to protect against an adverse effect on wages as a result of the employment of a foreign worker. Prior to submitting requests for most labor certifications or a labor condition applications to the Secretary of Labor, employers must obtain a prevailing wage for the job opportunity based on the place of employment in order to ensure that U.S. workers' wages are not being adversely affected by paying foreign workers less than the prevailing wage. Form ETA–9141, *Application for Prevailing Wage Determination*, is used to collect the

necessary information from employers to enable the Department to issue a prevailing wage for the occupation and location of the job offer. The Form ETA–9141 is used in the H–2B, H–1B, H–1B1, E–3, and PERM programs administered by the Department. The Department is not proposing any changes to the collection and is requesting a three year extension.

##### II. Review Focus

DOL 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 submissions of responses.

##### III. Current Actions

*Type of Review:* Extension.

*Title:* Application for Prevailing Wage Determination.

*OMB Number:* 1205–0508.

*Affected Public:* Individuals or Households, Private Sector—businesses or other for profits, Government, State, Local and Tribal Governments.

*Form(s):* ETA–9141, *Application for Prevailing Wage Determination*.

*Total Annual Respondents:* 520,452.

*Annual Frequency:* On Occasion.

*Total Annual Responses:* 996,585.

*Average Time per Response:* Various.

*Estimated Total Annual Burden Hours:* 448,349.

*Total Annual Burden Cost for Respondents:* \$0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (e.g., confidential business information or

personally identifiable information such as a social security number).

**Portia Wu,**

*Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2015-31117 Filed 12-9-15; 8:45 am]

**BILLING CODE 4510-FP-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2012-0038]

#### The Standard on Personal Protective Equipment (PPE) for Shipyard Employment; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard on Personal Protective Equipment (PPE) for Shipyard Employment (29 CFR part 1915, subpart I).

**DATES:** Comments must be submitted (postmarked, sent, or received) by February 8, 2016.

#### ADDRESSES:

*Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2012-0038, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA-2012-0038) for

this Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

#### FOR FURTHER INFORMATION CONTACT:

Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2222.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible

unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Subpart I specifies several paperwork requirements which are described below.

Section 1915.152(b) requires the employer to assess work activities to determine whether there are hazards present, or likely to be present, which necessitate the worker's use of PPE. If such hazards are present, or likely to be present, the employer must: (1) Select the type of PPE that will protect the affected workers from the hazards identified in the occupational hazard assessment; (2) communicate PPE selection decisions to the affected workers; (3) select PPE that properly fits each affected worker; and (4) maintain documentation to verify that the required occupational hazard assessment has been performed. The verification must contain the following information: Occupation or trade assessed, the date(s) of the hazard assessment, and the name of the person performing the hazard assessment.

##### II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

##### III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collection of information requirements contained in the Standard on Personal Protective Equipment (PPE) for Shipyard Employment (29 CFR part 1915, subpart I). The Agency is requesting an adjustment increase of 120 burden hours (from 52 hours to 172 hours). This increase is the result of identifying additional establishments that have been covered by the Shipyard Employment PPE Standard.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the information collection requirements contained in the Standard

on Personal Protective Equipment (PPE) for Shipyard Employment (29 CFR part 1915, subpart I).

*Type of Review:* Extension of a currently approved collection.

*Title:* Personal Protective Equipment Standard for Shipyard Employment (29 CFR part 1915, subpart I).

*OMB Control Number:* 1218–0215.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 2,759.

*Total Responses:* 2,144.

*Frequency of Response:* On Occasion.

*Average Time per Response:* An estimated 5 minutes (.08 hour) for employers to record the hazard assessment.

*Estimated Burden Hours:* 172.

*Estimated Cost (Operation and Maintenance):* \$0.

#### IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at <http://www.regulations.gov>, which is the Federal e-Rulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2012–0038) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY) (877) 889–5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publically available to read or download from this Web site.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available through the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

#### V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on December 7, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–31135 Filed 12–9–15; 8:45 am]

**BILLING CODE 4510–26–P**

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#### NATIONAL SCIENCE FOUNDATION

##### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 50328, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: <http://www.reginfo.gov/public/do/PRAMain>. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection

of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

#### FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton at (703) 292–7556 or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov).

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* Grantee Reporting Requirements for the Graduate Research Fellowship Program.

*OMB Control No.:* 3145–0223.

*Type of Request:* Intent to seek approval to renew an information collection.

#### *Abstract:*

*Proposed Project:* The purpose of the NSF Graduate Research Fellowship Program is to help ensure the vitality and diversity of the scientific and engineering workforce of the United States. The program recognizes and supports outstanding graduate students who are pursuing research-based master's and doctoral degrees in science, technology, engineering, and mathematics (STEM) and in STEM education. The GRFP provides three years of support, to be used during a five-year fellowship period, for the graduate education of individuals who have demonstrated their potential for

significant research achievements in STEM and STEM education.

The Graduate Research Fellowship Program uses several sources of information in assessing and documenting program performance and impact. These sources include reports from program evaluation, the GRFP Committee of Visitors, and data compiled from the applications. In addition, GRFP Fellows submit annual activity reports to NSF.

The GRFP Completion report is proposed as a continuing component of the annual reporting requirement for the program. This report, submitted by the GRFP Institution, certifies the completion status of Fellows at the institution (e.g., in progress, completed, graduated, transferred, or withdrawn). The existing Completion Report, Grants Roster Report, and the Program Expense Report comprise the GRFP Annual Reporting requirements from the Grantee GRFP institution. Through submission of the Completion Report to NSF GRFP institutions certify the current status of all GRFP Fellows at the institution as either: In Progress, Graduated, Transferred, or Withdrawn. For Graduate Fellows with Graduated status, the graduation date is a required reporting element. Collection of this information allows the program to obtain information on the current status of Fellows, the number and/or percentage of Graduate Fellowship recipients who complete a science or engineering graduate degree, and an estimate of time to degree completion. The report must be certified and submitted by the institution's designated Coordinating Official (CO) annually.

*Use of the Information:* The completion report data provides NSF with accurate Fellow information regarding completion of the Fellows' graduate programs. The data is used by NSF in its assessment of the impact of its investments in the GRFP, and informs its program management.

*Estimate of Burden:* Overall average time will be 15 minutes per Fellow (8,500 Fellows) for a total of 2,215 hours for all institutions with Fellows. An estimate for institutions with 12 or fewer Fellows will be 1 hour, institutions with 12–48 fellows will be 4 hours, and institutions over 48 Fellows will be 10 hours.

*Respondents:* Academic institutions with NSF Graduate Fellows (GRFP Institutions).

*Estimated Number of Responses per Report:* One from each of the 271 current GRFP institutions.

Dated: December 7, 2015.

**Suzanne H. Plimpton,**  
*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2015–31150 Filed 12–9–15; 8:45 am]

**BILLING CODE 7555–01–P**

## PEACE CORPS

### Information Collection Request; Submission for OMB Review

**AGENCY:** Peace Corps.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**DATES:** Submit comments on or before February 8, 2016.

**ADDRESSES:** Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at [pcfpr@peacecorps.gov](mailto:pcfpr@peacecorps.gov). Email comments must be made in text and not in attachments.

**FOR FURTHER INFORMATION CONTACT:** Denora Miller at Peace Corps address above.

**SUPPLEMENTARY INFORMATION:** To better serve the Returned Volunteer Population, Peace Corps Office of Third Goal and Returned Volunteer Services (3GL) has developed a Returned Peace Corps Volunteer (RPCV) Portal. This Portal will allow RPCVs to update their contact information, share stories, request official documentation, view their service history, and enroll in outreach and marketing campaigns.

*OMB Control Number:* 0420–xxxx.

*Title:* Returned Peace Corps Volunteer Portal (RPCV Portal).

*Type of Review:* New.

*Affected Public:* Individuals.

*Respondents' Obligation to Reply:* Voluntary.

*Burden to the Public:*

a. Number of Respondents (first year): 50,000.

b. Number of Respondents (annually): 3,000.

c. Frequency of response: 2 times.

d. Completion time: 5 minutes.

e. Annual burden hours (first year): 8,333 hours.

f. Annual burden hours (annually): 500 hours.

*General Description of Collection:* To build a robust alumni network it is essential that Peace Corps maintains accurate and up-to-date contact information for RPCVs. By logging into the RPCV Portal, RPCVs access their record in the database directly, and are able to make changes and submit requests at their convenience. The updated contact information collected in the RPCV Portal will be used for outreach and support purposes, along with managing subscriptions for Peace Corps newsletters.

*Request for Comment:* Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on December 4, 2015.

**Denora Miller,**

*FOIA/Privacy Act Officer, Management.*

[FR Doc. 2015–31101 Filed 12–9–15; 8:45 am]

**BILLING CODE 6051–01–P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–22 and CP2016–28; Order No. 2853]

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 156 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 14, 2015.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:**  
David A. Trissell, General Counsel, at  
202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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- III. Ordering Paragraphs

**I. Introduction**

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 156 to the competitive product list.<sup>1</sup>

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

**II. Notice of Commission Action**

The Commission establishes Docket Nos. MC2016-22 and CP2016-28 to consider the Request pertaining to the proposed Priority Mail Contract 156 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than December 14, 2015. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016-22 and CP2016-28 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent

the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than December 14, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2015-31115 Filed 12-9-15; 8:45 am]

**BILLING CODE 7710-FW-P**

**POSTAL REGULATORY COMMISSION**

**[Docket Nos. MC2016-26 and CP2016-32; Order No. 2854]**

**New Postal Product**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Express & Priority Mail Contract 23 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 14, 2015.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:**  
David A. Trissell, General Counsel, at  
202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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- II. Notice of Commission Action
- III. Ordering Paragraphs

**I. Introduction**

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Express & Priority Mail Contract 23 to the competitive product list.<sup>1</sup>

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

**II. Notice of Commission Action**

The Commission establishes Docket Nos. MC2016-26 and CP2016-32 to consider the Request pertaining to the proposed Priority Mail Express & Priority Mail Contract 23 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than December 14, 2015. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016-26 and CP2016-32 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than December 14, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2015-31136 Filed 12-9-15; 8:45 am]

**BILLING CODE 7710-FW-P**

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 156 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 4, 2015 (Request).

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 23 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 4, 2015 (Request).

**POSTAL SERVICE****Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting**

**DATES AND TIMES:** December 4, 2015, at 3:00 p.m.

**PLACE:** Washington, DC, via Teleconference.

**STATUS:** *Committee Votes to Close December 4, 2015, Meeting:* By vote on November 12, 2015, members of the Temporary Emergency Committee of the Board of Governors of the United States Postal Service voted unanimously to close to public observation a tentative meeting to be held on December 4, 2015, via teleconference. It was determined that the December 4, 2015, teleconference would be held should no new Governors be confirmed by the Senate in advance of the date. On December 1, 2015, the Committee determined that the teleconference was needed. The Committee determined that no earlier public notice was possible due to the uncertainty around the need for a meeting.

**MATTERS TO BE CONSIDERED:**

*Friday, December 4, 2015, at 3:00 p.m.*

## 1. Strategic Issues.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202-268-4800.

**Julie S. Moore,**

*Secretary, Board of Governors.*

[FR Doc. 2015-31322 Filed 12-8-15; 4:15 pm]

**BILLING CODE 7710-12-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76557; File No. SR-MIAX-2015-65]

**Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule**

December 4, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> notice is hereby given that

on November 30, 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](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 modify the monthly volume thresholds in Tiers 2 and 3 in the Priority Customer Rebate Program (the “Program”).<sup>3</sup>

<sup>3</sup> See Securities Exchange Act Release Nos. 76098 (October 7, 2015), 80 FR 61866 (October 14, 2015) (SR-MIAX-2015-58); 75856 (September 8, 2015), 80 FR 55158 (September 14, 2015) (SR-MIAX-2015-53); 75631 (August 6, 2015), 80 FR 48382 (August 12, 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).

## 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,<sup>4</sup> mini-options,<sup>5</sup> 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,<sup>7</sup> 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.<sup>8</sup> For each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in MIAX Select Symbols, MIAX will continue to credit each member at the separate per contract rate for MIAX Select Symbols.<sup>9</sup> For each Priority Customer order submitted into the PRIME Auction as a PRIME Agency

<sup>4</sup> 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 order in listed options per day on average during a calendar month for its own beneficial account(s). See Exchange Rule 100.

<sup>5</sup> 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).

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> See MIAX Fee Schedule Section (1)(a)(iii).

<sup>9</sup> See Securities Exchange Release Nos. 75631 (August 6, 2015), 80 FR 48382 (August 12, 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).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



Order, MIAX will continue to credit each member at the separate per contract rate for PRIME Agency Orders.<sup>10</sup> 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, such Member will currently receive a

credit of \$0.21 for each Priority Customer contract (other than Select Symbols) executed during that month, even though there are lower incremental percentages for lower volume tiers leading up to the 1.75% volume threshold.

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	Per contract credit in MIAX select symbols	Per contract credit for prime agency order
0.00–0.50% .....	\$0.00	\$0.00	\$0.10
Above 0.50–1.00 .....	0.10	0.10	0.10
Above 1.00–1.75 .....	0.15	0.20	0.10
Above 1.75 .....	0.21	0.24	0.10

#### Proposal

The Exchange proposes to amend Section (1)(a)(iii) of its Fee Schedule to

reflect a new schedule of percentage thresholds of national customer volume. Specifically, the new thresholds will be as set forth in the following table:

Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (monthly)	Per contract credit	Per contract credit in MIAX select symbols	Per contract credit for prime agency order
0.00–0.50% .....	\$0.00	\$0.00	\$0.10
Above 0.50–1.20 .....	0.10	0.10	0.10
Above 1.20–1.75 .....	0.15	0.20	0.10
Above 1.75 .....	0.21	0.24	0.10

The Exchange believes that the proposed new monthly volume tiers should provide incentives for Members to direct greater Priority Customer trade volume to the Exchange.

#### MIAX Select Symbols

The proposed new monthly volume thresholds will apply to multiply listed options classes, including MIAX Select Symbols.<sup>11</sup> The Tier 2 per contract credit volume threshold will now extend from above 0.50% to 1.20%. The effect of this is that Members must still execute [*sic*] 0.50% of the national customer volume in a particular class in order to qualify for the Tier 2 per contract credit, and must now exceed 1.20% of the national customer volume in the affected class in order to receive the Tier 3 per contract credit. The Tier 3 volume threshold will now extend from above 1.20% to 1.75%. The Tier 4 volume threshold of above 1.75% will be unchanged.

All other aspects of the Program will remain unchanged. The Exchange is not proposing any change to the per contract credit for PRIME Agency Orders. Consistent with the current Fee Schedule, the Exchange will continue to aggregate the contracts resulting from Priority Customer orders transmitted and executed electronically on the Exchange from affiliated Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Priority Customer Rebate Program as a separate direct payment.

The purpose of the proposed rule change is to encourage Members to direct greater Priority Customer trade volume to the Exchange. The Exchange believes that increased Priority Customer volume will attract more liquidity to the Exchange, which benefits all market participants. Increased retail customer order flow should attract professional liquidity providers (Market Makers), which in turn should make the MIAX marketplace an attractive venue where Market Makers will submit narrow quotations with greater size, deepening and enhancing the quality of the MIAX marketplace. This should provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

The specific volume thresholds of the Program's tiers are set based upon business determinations and an analysis

<sup>10</sup> See Securities Exchange Release Nos. 75408 (July 9, 2015) 80 FR 41530 (July 15, 2015) (SR-MIAX-2015-45); 72943 (August 28, 2014), 79 FR 52785 (September 4, 2014) (SR-MIAX-2014-45).

<sup>11</sup> 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.



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 MIA X 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.<sup>12</sup> The Exchange calculates volume thresholds on a monthly basis. The proposed changes to the Fee Schedule will be operative as of December 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<sup>13</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>14</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory. The Program and the proposed new tier structure should improve market quality for all market participants. The proposed changes to the Program are fair and equitable and not unreasonably discriminatory because they apply equally to all Priority Customer orders. All similarly situated Priority Customer orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. 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 to the Exchange, which should enhance the quality of quoting and increase the volume of contracts traded on MIA X. 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 MIA X 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 their customer order flow, to provide liquidity, and to attract additional transaction volume to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, enhancing the existing volume based customer rebate program to attract order flow is consistent with the goals of the Act. The Exchange believes that the proposal will enhance competition, because market participants will have another additional pricing consideration in determining where to execute orders and post liquidity if they factor the benefits of the proposed rebate program into the determination.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>15</sup> and Rule 19b-4(f)(2)<sup>16</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-MIA X-2015-65 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-MIA X-2015-65. 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

<sup>12</sup> 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.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4).

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

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-2015-65 and should be submitted on or before December 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31065 Filed 12-9-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-31927; File No. 812-14374]

### Alcentra Capital Corporation, et al.; Notice of Application

December 4, 2015.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

**SUMMARY:** Applicants request an order to permit business development companies ("BDCs") and certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

*Applicants:* Alcentra Capital Corporation (the "Company"); BNY Mellon Alcentra Multi-Strategy Credit Fund, Inc. ("BAMSCF," and together with the Company, the "Existing Regulated Funds"); Alcentra BDC Equity Holdings, LLC (the "Subsidiary"); Alcentra Middle Market

Fund IV, L.P. (the "Existing Co-Investment Affiliate"); Alcentra NY, LLC ("Alcentra NY"); Alcentra Limited (together with Alcentra NY, the "Alcentra Advisers"), and The Dreyfus Corporation ("Dreyfus").

**DATES: Filing Dates:** The application was filed on October 16, 2014 and amended on April 2, 2015 and August 6, 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 December 29, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549-1090. Applicants: Alcentra Capital Corporation, 200 Park Avenue, 7th Floor, New York, NY 10166.

**FOR FURTHER INFORMATION CONTACT:** Vanessa M. Meeks, Senior Counsel, or Melissa R. Harke, Branch Chief, at (202) 551-6825 (Chief Counsel's Office, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Applicants' Representations

1. The Existing Regulated Funds were each organized as a corporation under the General Corporate Laws of the State of Maryland. The Company operates as an externally-managed, non-diversified, closed-end management investment company that has elected to be regulated as a business development company ("BDC") under the Act.<sup>1</sup> BAMSCF is a non-diversified, closed-

<sup>1</sup> Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

end management investment company registered under the Act. The Company's investment objective is to generate both current income and capital appreciation primarily by making direct investments in lower middle-market companies in the form of subordinated debt and, to a lesser extent, senior debt and minority equity investments. BAMSCF's investment objective is to seek total return consisting of capital appreciation and income. A majority of the board of directors ("Board")<sup>2</sup> of the Company are persons who are not "interested persons," as defined in section 2(a)(19) of the Act (the "Independent Directors"). It is anticipated that the BAMSCF Board will be comprised entirely of Independent Directors.

2. The Subsidiary is a Wholly-Owned Investment Sub (as defined below), the sole business purpose of which is to hold one or more investments on behalf of the Company. The Subsidiary is a Delaware entity.

3. The Existing Co-Investment Affiliate is a Delaware limited partnership. In reliance on the exclusion from the definition of "investment company" provided by section 3(c)(1) or 3(c)(7) of the Act, none of the Co-Investment Affiliates (as defined below) will be registered under the Act.

4. Alcentra NY is a Delaware limited liable company that is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). Alcentra NY serves as investment adviser to the Company pursuant to an investment advisory agreement and also serves as investment adviser to the Existing Co-Investment Affiliate. Alcentra Limited is incorporated in the United Kingdom and Wales and is registered as an investment adviser under the Advisers Act. Alcentra Limited is proposed to serve as a sub-adviser to BAMSCF. Dreyfus is a corporation organized under the laws of the State of New York that is registered as an investment adviser under the Advisers Act. Dreyfus is proposed to serve as investment manager to BAMSCF.

5. Applicants seek an order ("Order") to permit a Regulated Fund<sup>3</sup> (or a

<sup>2</sup> "Board" refers to the board of directors of any Regulated Fund (as defined below).

<sup>3</sup> "Regulated Funds" means the Existing Regulated Funds and any future closed-end investment companies that (a) are registered under the Act or have elected to be regulated as a BDC under the Act, (b) will be advised by an Adviser, and (c) that intend to participate in the Co-Investment Program. "Adviser" means (a) Alcentra NY, Alcentra Limited, or Dreyfus or (b) any other existing or future investment adviser that controls, is controlled by or is under common control with

Wholly-Owned Investment Sub) (as defined below) and one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates<sup>4</sup> to participate in the same investment opportunities through a proposed co-investment program (the “Co-Investment Program”) where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and rule 17d-1. “Co-Investment Transaction” means any transaction in which a Regulated Fund (or a Wholly-Owned Investment Sub) participated together with one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates in reliance on the requested Order. “Potential Co-Investment Transaction” means any investment opportunity in which a Regulated Fund (or a Wholly-Owned Investment Sub) could not participate together with one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates without obtaining and relying on the Order.<sup>5</sup>

6. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.<sup>6</sup> Such a subsidiary would be

Alcentra NY, Alcentra Limited or Dreyfus, and is registered as an investment adviser under the Advisers Act. The Alcentra Advisers and Dreyfus are direct or indirect wholly-owned subsidiaries of The Bank of New York Mellon Corporation (“BNY Mellon”). All references herein to the term “Adviser” include successors-in-interest to the Adviser. A successor-in-interest is limited to any entity resulting from a reorganization of the Adviser into another jurisdiction or a change in the type of business organization.

<sup>4</sup> “Co-Investment Affiliates” means the Existing Co-Investment Affiliate and any Future Co-Investment Affiliate. “Future Co-Investment Affiliate” means any entity (i) whose investment adviser is an Adviser, (ii) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act and (iii) that intends to participate in the Co-Investment Program.

<sup>5</sup> All existing entities that currently intend to rely on the Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

<sup>6</sup> “Wholly-Owned Investment Sub” means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund (and, in the case of any SBIC Subsidiaries (as defined below), to maintain a license under the SBA Act (as defined below) and issue debentures guaranteed by the SBA (as defined below)); (iii) with respect to which the Board of a Regulated Fund has the sole authority to make all determinations with respect to the Wholly-Owned Investment Sub’s participation under the conditions to the Application; and (iv) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act. “SBIC Subsidiary” means a Wholly-Owned Investment Sub that is licensed by the Small Business Administration (the “SBA”) to operate under the

prohibited from investing in a Co-Investment Transaction with any Co-Investment Affiliate or another Regulated Fund because it would be a company controlled by the Regulated Fund for purposes of sections 17(d) and 57(a)(4) and rule 17d-1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the Regulated Fund that owns it and that the Wholly-Owned Investment Sub’s participation in any such transaction be treated, for purposes of the requested Order, as though the Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund’s investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub’s participation in a Co-Investment Transaction, and the Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund’s place. If a Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

7. In selecting investments for the Regulated Funds, an Adviser will consider only the investment objective, investment policies, investment position, capital available for investment and other factors relevant to each Regulated Fund. Each of the Co-Investment Affiliates has or will have investment objectives and strategies that are similar to or overlap with the Objectives and Strategies<sup>7</sup> of each Regulated Fund. To the extent there is an investment opportunity that falls within the Objectives and Strategies of one or more Regulated Funds and the investment objectives and strategies of

Small Business Investment Act of 1958, as amended, the (“SBA Act”) as a small business investment company (an “SBIC”).

<sup>7</sup> “Objectives and Strategies,” with respect to each Regulated Fund, means the Regulated Fund’s investment objectives and strategies, as described in the Regulated Fund’s registration statement on Form N-2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the “1933 Act”), or under the Securities Exchange Act of 1934 and the Regulated Fund’s report to stockholders.

one or more of the Co-Investment Affiliates, the Advisers would expect such Regulated Funds and Co-Investment Affiliates to co-invest with each other, with certain exceptions based on available capital or diversification.<sup>8</sup>

8. After making the determinations required in conditions 1 and 2(a), other than in the case of pro rata Dispositions (as defined below) and Follow-On Investments,<sup>9</sup> as provided in conditions 7 and 8, the applicable Adviser(s) will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board that are eligible to vote under section 57(o) of the Act (the “Eligible Directors”). The “required majority,” as defined in section 57(o) of the Act (“Required Majority”),<sup>10</sup> of a Regulated Fund will approve each Co-Investment Transaction prior to any investment by the Regulated Fund.

9. All subsequent activity, meaning either to (a) sell, exchange, or otherwise dispose of an investment (collectively, a “Disposition”) or (b) complete a Follow-On Investment, in respect of an investment acquired in a Co-Investment Transaction will also be made in accordance with the terms and conditions set forth in the application. With respect to the pro rata Dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata Disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Co-Investment Affiliate and Regulated Fund in such Disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the Disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund’s participation in pro rata Dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such Disposition or Follow-On Investment will be submitted to the Regulated Fund’s Eligible Directors. The Board of

<sup>8</sup> The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

<sup>9</sup> “Follow-On Investment” means any additional investment in an existing portfolio company, the exercise of warrants, conversion privileges or other similar rights to acquire additional securities of the portfolio company.

<sup>10</sup> In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata Dispositions and Follow-On Investments with the result that all Dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

10. No Independent Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

11. Under condition 14, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Co-Investment Affiliates (collectively, the "Holders") own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the "Shares"), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability of the Adviser or its principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any such voting trust or proxy adviser, taking into account its qualifications, reputation for independence, cost to the Regulated Fund's shareholders, and other factors that they deem relevant.

#### Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the other Regulated Funds and Co-Investment Affiliates may be deemed to be a person related to a Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules

under section 57(a)(4), rule 17d-1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d-1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d-1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d-1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

#### Applicants' Conditions

Applicants agree that any Order of the Commission granting the requested relief will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for a Co-Investment Affiliate or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the applicable Adviser(s) will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the applicable Adviser(s) deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the applicable Adviser(s) will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser(s) to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Co-Investment Affiliates, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser(s) will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser(s) will distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by each Regulated Fund and each Co-Investment Affiliate to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Co-Investment Affiliates only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its stockholders and do not involve overreaching in respect of the Regulated Fund or its stockholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Fund's stockholders; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by the other Regulated Funds or any Co-Investment Affiliates would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of any other Regulated Fund or Co-Investment Affiliate; provided that, if any other Regulated Fund or Co-Investment Affiliate, but not the Regulated Fund itself, gains the right to nominate a director for election to a

portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition 2(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser(s) agree to, and do, provide periodic reports to the Board of the Regulated Fund with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any other Regulated Fund, or any Co-Investment Affiliate, or any affiliated person of either receives in connection with the right of any other Regulated Fund or a Co-Investment Affiliate to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Co-Investment Affiliates (which each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Co-Investment Affiliates, the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by sections 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser(s) will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds and Co-Investment Affiliates during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the

investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8 below,<sup>11</sup> a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Co-Investment Affiliate, or any affiliated person of another Regulated Fund or Co-Investment Affiliate is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Co-Investment Affiliate. The grant to a Co-Investment Affiliate or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Co-Investment Affiliate or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser(s) will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed Disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the Disposition.

(b) Each Regulated Fund will have the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to any participating Co-Investment Affiliates and any other Regulated Funds.

(c) A Regulated Fund may participate in such Disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate and Regulated Fund in such Disposition is proportionate to its outstanding

investments in the issuer immediately preceding the Disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such Dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Dispositions made in accordance with this condition. In all other cases, the applicable Adviser(s) will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Directors, and the Regulated Fund will participate in such Disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Co-Investment Affiliate and each Regulated Fund will bear its own expenses in connection with any such Disposition.

8. (a) If any Co-Investment Affiliate or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Adviser(s) will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate and each Regulated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Follow-On Investments made in accordance with this condition. In all other cases, the applicable Adviser(s) will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

<sup>11</sup> This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the Follow-On Investment is not based on the Co-Investment Affiliates' and the Regulated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser(s) to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Co-Investment Affiliates in the same transaction, exceeds the amount of the opportunity, then the amount to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by the Co-Investment Affiliates and the other Regulated Funds that the Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Independent Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act), of any Co-Investment Affiliate.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-

Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Co-Investment Affiliates and the Regulated Funds, be shared by the participating Co-Investment Affiliates and the participating Regulated Funds in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee<sup>12</sup> (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Co-Investment Affiliates and Regulated Funds on a pro rata basis based on the amount they each invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Co-Investment Affiliates and Regulated Funds based on the amount each invests in such Co-Investment Transaction. None of the Co-Investment Affiliates, the Regulated Funds, the Advisers nor any affiliated person of the Regulated Funds or Co-Investment Affiliates will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Co-Investment Affiliates and the Regulated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C), and (b) in the case of the Advisers, investment advisory fees paid in accordance with their respective investment advisory agreements with the Regulated Funds and Co-Investment Affiliates).

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election

<sup>12</sup> Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

of directors; (2) the removal of one or more directors; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2015-31070 Filed 12-9-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-54, OMB Control No. 3235-0056]

### Submission for OMB Review; Comment Request

Upon Written Request Copies Available  
From: Securities and Exchange  
Commission, Office of FOIA Services,  
100 F Street NE., Washington, DC  
20549-2736.

Extension:  
Form 8-A.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 8-A (17 CFR 249.208a) is a registration statement used to register a class of securities under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(b) and 78l(g)) ("Exchange Act"). Section 12(a) (15 U.S.C. 78l(a)) of the Exchange Act makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless such security has been registered under the Exchange Act (15 U.S.C. 78a *et seq.*). Exchange Act Section 12(b) establishes the registration procedures. Exchange Act Section 12(g) requires an issuer that is not a bank or bank holding company to register a class of equity securities (other than exempted securities) within 120 days after its fiscal year end if, on the last day of its fiscal year, the issuer has total assets of more than \$10 million and the class of equity securities is "held of record" by either (i) 2,000 persons, or (ii) 500 persons who are not accredited investors. An issuer that is a bank or a bank holding company, must register a class of equity securities (other

than exempted securities) within 120 days after the last day of its first fiscal year ended after the effective date of the JOBS Act if, on the last day of its fiscal year, the issuer has total assets of more than \$10 million and the class of equity securities is "held of record" by 2,000 or more persons. The information must be filed with the Commission on occasion. Form 8-A is a public document. Form 8-A takes approximately 3 hours to prepare and is filed by approximately 951 respondents for a total annual reporting burden of 2,853 hours (3 hours per response x 951 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [ShagufaAhmed@omb.eop.gov](mailto:ShagufaAhmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: December 4, 2015.

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2015-31066 Filed 12-9-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76556; File No. SR-FINRA-2015-053]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7620A Relating to FINRA/Nasdaq Trade Reporting Facility Fees

December 4, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November

25, 2015, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by 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 the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7620A to modify certain fees applicable to members that use the FINRA/Nasdaq Trade Reporting Facility (the "FINRA/Nasdaq TRF").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

###### Background

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by Nasdaq, Inc. ("NASDAQ")<sup>5</sup> and utilizes

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> As approved by its board of directors and the Commission, effective September 8, 2015, NASDAQ changed its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc. See Nasdaq, Inc. Form 8-K Current Report (filed September 8, 2015) (available at [www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm](http://www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm)).

FINRA and NASDAQ are in the process of amending the LLC Agreement to reflect the name change, and FINRA will file a separate proposed

Automated Confirmation Transaction ("ACT") Service technology. In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and NASDAQ entered into a limited liability company agreement (the "LLC Agreement"). Under the LLC Agreement, FINRA, the "SRO Member," has sole regulatory responsibility for the FINRA/Nasdaq TRF. NASDAQ, the "Business Member," is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs, including establishing pricing for use of the FINRA/Nasdaq TRF, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.

Pursuant to the FINRA Rule 7600A Series, FINRA members that are FINRA/Nasdaq TRF participants are charged fees and may qualify for fee caps (Rule 7620A) and also may qualify for revenue sharing payments for trade reporting to the FINRA/Nasdaq TRF (Rule 7610A). These rules are administered by NASDAQ, in its capacity as the Business Member and operator of the FINRA/Nasdaq TRF on behalf of FINRA,<sup>6</sup> and NASDAQ collects all fees on behalf of the FINRA/Nasdaq TRF.

Pursuant to Rule 7620A, FINRA members are charged fees for "Non-Comparison/Accept (Non-Match/Compare)" trades. Such trades are defined as transactions that are not subject to the ACT Comparison process, and they may be submitted as media or non-media,<sup>7</sup> clearing or non-clearing, AGU (automated give-up), QSR (Qualified Service Representative), one-sided or internalized crosses.<sup>8</sup> Under the fee schedule there are four categories of fees, each of which is applicable to transactions of the three Tapes:<sup>9</sup> (1) Media/Executing Party; (2)

rule change to update the FINRA manual accordingly.

<sup>6</sup> FINRA's oversight of this function performed by the Business Member is conducted through a recurring assessment and review of TRF operations by an outside independent audit firm.

<sup>7</sup> Media eligible trade reports are those that are submitted to the FINRA/Nasdaq TRF for public dissemination by the Securities Information Processors. By contrast, non-media trade reports are not submitted to the FINRA/Nasdaq TRF for public dissemination, but are submitted for regulatory and/or clearance and settlement purposes.

<sup>8</sup> See FINRA Rule 7620A.01.

<sup>9</sup> Market data is transmitted to three tapes based on the listing venue of the security: New York Stock Exchange securities ("Tape A"), American Stock Exchange and regional exchange securities ("Tape B"), and Nasdaq Stock Market securities ("Tape C"). Tape A and Tape B are generally referred to as the Consolidated Tape.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



Non-Media/Executing Party; (3) Media/Contra; (4) Non-Media/Contra.<sup>10</sup> Each fee category is subject to a monthly fee cap, which is based on the average daily volume of reports submitted to a particular Tape. To be eligible for a cap in a particular Tape, a member must achieve a minimum average daily volume of 2,500 media reports submitted to that Tape as Executing Party in a given month. Trade reports in which the member appears as the Contra Party do not contribute to the achievement of the cap. However, if a member is eligible for a cap based on media trade reports in which it appears as the Executing Party, then caps also would apply to media reports in which that member appears as the Contra Party, as well as to non-media reports where the member appears as Executing Party or Contra Party. Thus, once a member achieves a cap, the maximum number of billable trade reports applicable to each fee category is 2,500 for Tape A, B or C.

Under the current fee cap, a FINRA member that does not conduct a business whereby it is the Executing Party does not have the opportunity to receive a fee cap. Currently, FINRA members are charged Media/Contra fees of \$0.013 multiplied by the number of Media/Contra Reports during the month. Similarly, FINRA members are charged Non-Media/Contra fees of \$0.013 multiplied by the number of Non-Media/Contra Reports during the month. If a FINRA member is eligible under the existing cap, the maximum monthly charge is \$0.013 multiplied by 2,500 (for Tape A, B or C) multiplied by number of trading days in a month. Without the proposed fee cap, a FINRA member that does not conduct a business whereby it is the Executing Party may significantly exceed the cap limit.

Consequently, NASDAQ, as the Business Member, has determined to provide an alternative monthly fee cap of \$5,000 per Tape (A, B or C) applied to trades in each fee category. Eligibility for the new fee cap is based on a FINRA member's trade reporting of Media/Contra trades to the TRF and its participation on an alternative trading system registered pursuant to Regulation ATS<sup>11</sup> (an "ATS") as a

market maker. Specifically, the FINRA member must make markets on an ATS by maintaining a two-sided quote. FINRA members must complete and provide a form to NASDAQ, in which the FINRA member attests that it maintains two-sided quotes for each security that the FINRA member maintains interest in within each ATS and that it displays a quotation size of at least one normal unit of trading (specific for each security).<sup>12</sup> The FINRA member must also attest that it will continue to meet the ATS-based requirements to be eligible for the fee cap.<sup>13</sup> In addition, to qualify a FINRA member must have its Contra/Media trades equal, or exceed, 55% of its total FINRA/Nasdaq TRF volume. Lastly, the FINRA member must be contra to a minimum of 1 million trades in Tape A, 500,000 trades in Tape C, and 250,000 trades in Tape B to qualify for the fee cap in the securities of the Tapes, respectively. NASDAQ, as the Business Member, has set the required level of trades reported for each of the Tapes based on the differing levels of overall trades reported to the FINRA/Nasdaq TRF as Contra Party.

Although the proposed fee cap is a "flat" cap set at \$5,000 and the existing fee cap is based on a calculation, they are comparable in terms of the limitation of total fees paid. For example, a member that qualifies under the existing fee cap would pay no more than \$3,565 per month in the securities of a single Tape for trade reports (depending on the total number of days in the month).<sup>14</sup> A member qualifying under the proposed Media/Contra-based fee cap would pay no more than \$5,000 per month in the securities of a single Tape.<sup>15</sup>

NASDAQ, as the Business Member, has designed the proposed fee cap to make pricing more competitive to attract and retain participants on the FINRA/Nasdaq TRF. NASDAQ also has determined to introduce the proposed fee cap in recognition of a new kind of trading behavior that has emerged in the marketplace. Specifically, some firms

that act as market makers route orders to an ATS for execution within the ATS. Such market makers may have trade volume reported to the FINRA/Nasdaq TRF; however, these executions would not qualify the market maker for a fee cap under the existing rules because the ATS is the Executing Party on the trades. Accordingly, FINRA, as the SRO Member, is proposing to amend Rule 7620A to reflect the proposed new Media/Contra fee cap.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date will be the date of filing.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>16</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA members that do not conduct a significant business as an Executing Party (and thus never reach the 2,500 daily average number of Media/Executing Party trades in any of the Tapes) cannot qualify for a fee cap under current rules, and as such, some of these members may pay higher trade reporting fees than members that conduct a significant business as an Executing Party and thus currently qualify for a cap on their trade reporting fees. Furthermore, FINRA members that would pay higher trade reporting fees under the current fee schedule may elect to report their trades to a competing TRF (or, in this instance, a market maker may elect to route its orders to an ATS that reports to a competing TRF). Consequently, NASDAQ, as the Business Member, has advised FINRA that providing an opportunity for certain Contra Parties to qualify for the new fee cap, based on certain levels of market participation and types of activities (*i.e.*, market making), is a more equitable allocation of fees. NASDAQ, as the Business Member, has advised FINRA that because the fee cap levels were chosen relative to the current fee caps for Executing Parties, the proposed rule change may bring the fees paid by Contra Parties that would qualify for the proposed cap more in line with the fees paid by Executing Parties that currently qualify for the existing cap.<sup>17</sup>

<sup>16</sup> 15 U.S.C. 78o-3(b)(5).

<sup>17</sup> As noted above, a member that qualifies under the existing fee cap would pay no more than \$3,565 per month in the securities of a single Tape, while a member that qualifies under the proposed Contra

<sup>10</sup> Pursuant to the rule's Supplementary Material, the "Executing Party (EP)" is defined as the member with the trade reporting obligation under FINRA rules, and the "Contra (CP)" is defined as the member on the contra side of a trade report. These positions formerly were identified in FINRA rules as the "Market Maker" or "MM" side and the "Order Entry" or "OE" side, respectively. See FINRA Rule 7620A.01.

<sup>11</sup> 17 CFR 242.300-303.

<sup>12</sup> The form of attestation that firms will be required to submit to NASDAQ under the proposed rule change is attached to this filing as Exhibit 3.

<sup>13</sup> NASDAQ will audit FINRA members that choose to participate to ensure compliance with the attestation.

<sup>14</sup> This upper limit is calculated based on \$0.018 × 23 trading days × 2,500 = \$1,035 plus \$0.018 × 23 trading days × 2,500 = \$1,035 plus \$0.013 × 23 trading days × 2,500 = \$747.50 plus \$0.013 × 23 trading days × 2,500 = \$747.50. Adding these totals for each category (*i.e.*, Media/Executing Party, Non-Media/Executing Party, Media/Contra, and Non-Media/Contra) results in fee a cap of \$3,565.

<sup>15</sup> A FINRA member that qualifies for the lower cap would, by default, never reach the proposed cap.



Accordingly, the proposed fee cap more equitably allocates the fees assessed to members for their use of the FINRA/Nasdaq TRF.

The proposed fee cap is available to all FINRA members that use the FINRA/Nasdaq TRF and meet the threshold requirements to qualify for the terms of the fee cap. While only some Contra Parties will qualify for the proposed cap and thus see a reduction in their FINRA/Nasdaq TRF trade reporting fees, NASDAQ, as the Business Member, has advised FINRA that the proposed cap is not unfairly discriminatory because the proposed fee cap will most benefit those Contra Parties that have significant volume on the FINRA/Nasdaq TRF. These Contra Parties currently may pay larger trade reporting fees than firms with comparable Executing Party volume that qualify for the current fee cap.<sup>18</sup> As noted above, FINRA members that are not subject to capped fees can choose to report trades to a competing TRF (or, in this instance, a market maker may elect to route its orders to an ATS that reports to a competing TRF). NASDAQ has advised FINRA that following implementation, NASDAQ will monitor the fees paid by Contra Parties and will consider whether any adjustments to the proposed fee cap or qualifying thresholds would be appropriate.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA 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 fee proposal would not impose new fees or fee rate increases on any member firm, and will reduce the fees paid by some members. NASDAQ has advised FINRA that the estimated fee savings to member firms based on this proposal would be in the range of \$0-\$20,000 per month per firm based on overall market and participant activity and number of trading days in the month. NASDAQ, as the Business Member, has further advised FINRA that, based on current trading practices, NASDAQ estimates that approximately two to five member firms would have been able to take advantage of the fee reductions

fee cap would pay no more than \$5,000 per month in the securities of a single Tape.

<sup>18</sup> As noted above, NASDAQ has advised FINRA that the proposed fee cap is in recognition of a new type of trading behavior whereby a market maker's executions occur within an ATS, and as such, the market maker is not the Executing Party on the trades based on current trade reporting rules. Such behavior has emerged since the current fee cap, based on a firm's volume as Executing Party, was originally adopted.

associated with this proposal, had they been in place.

FINRA notes that its members have trade reporting alternatives other than the FINRA/Nasdaq TRF, so to the extent the proposed changes are viewed as burdensome among market participants, those participants may choose not to avail themselves of the fee cap and maintain the status quo with respect to fees or adjust their trading practices. This would permit members to mitigate any direct or indirect costs imposed by this proposal. Moreover, the proposal may promote competition among FINRA members by reducing the fee burden on certain FINRA members who are unable to qualify for the existing fee cap, and FINRA members can choose their trading partners, which determination may in part be based on the fees of the particular TRF applicable to Contra Parties. Lastly, FINRA does not believe that the proposed fee cap burdens competition among reporting facilities because each is free to adjust their respective fees to remain competitive with the FINRA/Nasdaq TRF, to the extent the proposed fee cap makes the FINRA/Nasdaq TRF a more attractive facility on which to report trades.

#### *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) of the Act<sup>19</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>20</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2015-053 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2015-053. 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 FINRA. 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-FINRA-2015-053, and should be submitted on or before December 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015-31064 Filed 12-9-15; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-105, OMB Control No. 3235-0121]

**Submission for OMB Review; Comment Request**

*Upon Written Request Copies Available*  
 From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*  
 Form 18.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form 18 (17 CFR 249.218) is a registration form used for by a foreign government or political subdivision to register securities for listing on a U.S. exchange. The information collected is intended to ensure that the information required by the Commission to be filed permits verification of compliance with securities law requirements and assures the public availability of the information. The information provided is mandatory and all information is made available to the public upon request. Form 18 takes approximately 8 hours per response and is filed by approximately 5 respondents for a total of 40 annual burden hours. It is estimated that 100% of the total reporting burden is prepared by the company.

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 control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: December 4, 2015.

**Robert W. Errett,***Deputy Secretary.*

[FR Doc. 2015-31067 Filed 12-9-15; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-121, OMB Control No. 3235-0110]

**Submission for OMB Review; Comment Request**

*Upon Written Request Copies Available*  
 From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*  
 Form T-1.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form T-1 (17 CFR 269.1) is a statement of eligibility and qualification under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) of a corporation designated to act as a trustee under an indenture. The information is used to determine whether the corporation is qualified to serve as a trustee. Form T-1 is filed on occasion. The information required by Form T-1 is mandatory. This information is publicly available on EDGAR. Form T-1 takes approximately 15 hours per response to prepare and is filed by approximately 2 respondents. We estimate that 25% of the 15 hours (4 hours) is prepared by the company for a total annual reporting burden of 8 hours (4 hours per response  $\times$  2 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief

Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: December 4, 2015.

**Robert W. Errett,***Deputy Secretary.*

[FR Doc. 2015-31068 Filed 12-9-15; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION****Submission for OMB Review; Comment Request**

*Upon Written Request Copies Available*  
 From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

*Extension:*

Form T-2; SEC File No. 270-122, OMB Control No. 3235-0111.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form T-2 (17 CFR 269.2) is a statement of eligibility of an individual trustee under the Trust Indenture Act of 1939. The information is used to determine whether the individual is qualified to serve as a trustee under the indenture. Form T-2 is filed on occasion. The information required by Form T-2 is mandatory. This information is publicly available on EDGAR. Form T-2 takes approximately 9 hours per response to prepare and is filed by approximately 9 respondents. We estimate that 25% of the 9 hours per response (2 hours) is prepared by the filer for a total annual reporting burden of 18 hours (2 hours per response  $\times$  9 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and

Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 4, 2015.

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31069 Filed 12-9-15; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14567 and #14568]**

**New York Disaster #NY-00166**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of New York.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/27/2012 through 11/08/2012.

*Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Westchester

*Contiguous Counties:*

New York: Columbia, Delaware, Dutchess, Greene

Connecticut: Fairfield

New Jersey: Bergen, Hudson, Passaic,

Sussex  
Pennsylvania: Pike Wayne  
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14567 8 and for economic injury is 14568 0.

The States which received an EIDL Declaration # are New York, Connecticut, New Jersey, Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31204 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14563 and #14564]**

**Maryland Disaster #MD-00030**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of Maryland.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/26/2012 through 11/04/2012.

*Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Somerset

*Contiguous Counties:*

Maryland: Dorchester, Wicomico, Worcester

Virginia: Accomack

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14563 8 and for economic injury is 14564 0.

The States which received an EIDL Declaration # are Maryland, Virginia.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31185 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14559 and #14560]**

**West Virginia Disaster #WV-00042**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of West Virginia.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/29/2012 through 11/10/2012.

*Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date: 12/01/2016.*

*Economic Injury (EIDL) Loan Application Deadline Date: 12/01/2016.*

**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 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:* Nicholas

*Contiguous Counties:*

West Virginia: Braxton, Clay, Fayette, Greenbrier, Kanawha, Webster

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14559 8 and for economic injury is 14560 0.

The State which received an EIDL Declaration # is West Virginia.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31208 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14561 and #14562]**

**Connecticut Disaster #CT-00036**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of Connecticut.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/27/2012 through 11/08/2012.

*Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Fairfield, Middlesex, New Haven, New London

*Contiguous Counties:*

Connecticut: Hartford, Litchfield, Tolland, Windham

New York: Dutchess Putnam, Westchester

Rhode Island: Kent Washington

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14561 8 and for economic injury is 14562 0.

The States which received an EIDL Declaration # are Connecticut, New York, Rhode Island.

(Catalog of Federal Domestic Assistance Numbers 59008)

December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31193 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14495 and #14496]**

**South Carolina Disaster Number SC-00031**

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

**ACTION:** Amendment 8.

**SUMMARY:** This is an amendment 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 through 10/23/2015.

*Effective Date:* 11/30/2015.

*Physical Loan Application Deadline Date:* 01/04/2016.

*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:** The notice of the President's major disaster declaration for the State of South Carolina, dated 10/05/2015 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 01/04/2016.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59008)

**James E. Rivera,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015-31197 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**National Small Business Development Center Advisory Board; Meeting Notice**

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice of open Federal Advisory Committee meetings.

**SUMMARY:** The SBA is issuing this notice to announce the location, date, time and agenda for the 2nd quarter meetings of the National Small Business Development Center (SBDC) Advisory Board.

**DATES:** The meetings for the 1st quarter will be held on the following dates:

Tuesday, January 19, 2015 at 1:00 p.m. EST

Tuesday, February 16, 2015 at 1:00 p.m. EST

Tuesday, March 15, 2015 at 1:00 p.m. EST

**ADDRESSES:** These meetings will be held via conference call.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of these meetings is to discuss following issues pertaining to the SBDC Advisory Board:

- SBA Update Annual Meetings Board
- Assignments
- Member Roundtable

**FOR FURTHER INFORMATION CONTACT:** The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Monika Nixon by fax or email. Her contact information is Monika Nixon, Program Specialist, 409 Third Street SW., Washington, DC 20416, Phone, 202-205-7310, Fax 202-481-5624, email, [monika.nixon@sba.gov](mailto:monika.nixon@sba.gov).

Additionally, if you need accommodations because of a disability or require additional information, please contact Monika Nixon at the information above.

**Miguel L' Heures,**  
*White House Liaison.*

[FR Doc. 2015-31198 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14569 and #14570]**

**Rhode Island Disaster #RI-00015**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of Rhode Island.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/26/2012 through 10/31/2012.

*Effective Date:* 12/02/2015.  
*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Newport, Washington

*Contiguous Counties:*  
Rhode Island: Kent  
Connecticut: New London  
Massachusetts: Bristol  
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14569 8 and for economic injury is 14570 0.

The States which received an EIDL Declaration # are Rhode Island, Connecticut, Massachusetts.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31206 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #14553 and #14554]**

**North Carolina Disaster #NC-00069**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of North Carolina.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/27/2012 through 10/30/2012.

*Effective Date:* 12/02/2015.  
*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Dare  
*Contiguous Counties:*  
North Carolina: Currituck, Hyde, Tyrrell

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000

	Percent
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14553 8 and for economic injury is 14554 0.

The State which received an EIDL Declaration # is North Carolina.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
Administrator.

[FR Doc. 2015-31157 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #14551 and #14552]

**Maryland Disaster #MD-00031**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of Maryland.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/26/2012 through 11/04/2012.

*Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Worcester  
*Contiguous Counties:*

Maryland: Somerset, Wicomico  
Delaware: Sussex  
Virginia: Accomack  
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14551 and for economic injury is 14552.

The States which received an EIDL Declaration # are Maryland, Delaware, Virginia.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
Administrator.

[FR Doc. 2015-31161 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #14565 and #14566]

**New Jersey Disaster #NJ-00044**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the State of New Jersey.

*Incident:* Hurricane Sandy Reopening.  
*Incident Period:* 10/26/2012 through 11/08/2012.

*DATES: Effective Date:* 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, Warren

*Contiguous Counties:*

Delaware: New Castle

New York: Bronx, New York, Orange, Rockland, Westchester

Pennsylvania: Bucks, Delaware, Monroe, Northampton, Philadelphia, Pike

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14565 8 and for economic injury is 14566 0.

The States which received an EIDL Declaration # are Delaware, New York, Pennsylvania.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
Administrator.

[FR Doc. 2015-31209 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #14555 and #14556]

**Puerto Rico Disaster #PR-00026**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the Commonwealth of Puerto Rico.

*Incident:* Tropical Storm Sandy Reopening.  
*Incident Period:* 10/25/2012 through 10/26/2012.  
*Effective Date:* 12/02/2015.  
*Physical Loan Application Deadline Date:* 12/01/2016.  
*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Guayanilla  
*Contiguous Counties:*  
 Puerto Rico, Adjuntas, Penuelas, Yauco

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14555 8 and for economic injury is 14556 0.

The Commonwealth which received an EIDL Declaration # is Puerto Rico.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31156 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #14557 and #14558]

**Virginia Disaster #VA-00059**

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

**ACTION:** Notice.

**SUMMARY:** This is a Notice that the U.S. Small Business Administration is accepting applications for disaster loans from the Commonwealth of Virginia.

*Incident:* Tidal Surge, Rain and Wind from Hurricane Sandy Reopening.  
*Incident Period:* 10/28/2012.

**EFFECTIVE DATE:** 12/02/2015.

*Physical Loan Application Deadline Date:* 12/01/2016.  
*Economic Injury (EIDL) Loan Application Deadline Date:* 12/01/2016.

**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 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:* Accomack  
*Contiguous Counties:*  
 Virginia Northampton  
 Maryland: Somerset, Worcester  
 The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.375
Homeowners Without Credit Available Elsewhere .....	1.688
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere .....	3.125

	Percent
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 14557 8 and for economic injury is 14558 0.

The States which received an EIDL Declaration # are Virginia, Maryland.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: December 2, 2015.

**Maria Contreras-Sweet,**  
*Administrator.*

[FR Doc. 2015-31207 Filed 12-9-15; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**Every Day Counts Initiative; Request for Information**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice is a Request for Information (RFI) to support the FHWA in the identification of proven, market-ready innovations for potential deployment through the fourth round of the Every Day Counts (EDC) initiative in 2017-2018.

**DATES:** Responses to this RFI should be submitted by January 31, 2016. The FHWA will consider late-filed responses to the extent practicable.

**ADDRESSES:** Submit responses by electronic mail to [everydaycounts@dot.gov](mailto:everydaycounts@dot.gov) or through <https://www.fbo.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions about the program discussed herein, contact Julie Zirlin, FHWA Center for Accelerating Innovation at (202) 366-9105 or [Julie.Zirlin@dot.gov](mailto:Julie.Zirlin@dot.gov). Additional information about the EDC initiative is available at <http://www.fhwa.dot.gov/everydaycounts/>.

**SUPPLEMENTARY INFORMATION:**

**Purpose of the Notice**

The purpose of this RFI is to obtain information from State, local, and industry partners and the public regarding proven processes or technologies that have the potential to provide efficiencies in the planning,



design, construction, operations, and/or maintenance of the Nation's highway system. The FHWA requests information from all sources regarding innovations and processes that have the potential to transform the way the highway transportation community does business by shortening project delivery time, enhancing roadway safety, reducing traffic congestion, and/or improving environmental sustainability.

### RFI Guidelines

This is not a solicitation for proposals, applications, proposal abstracts, or quotations. The purpose of this RFI notice is to conduct market research to identify proven innovations and processes. This RFI must not be construed as a commitment by the Federal Government to make an award, nor does the Federal Government intend to directly or indirectly pay for any information or responses submitted as a result of this RFI. Responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the Federal Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential.

### Background

Since its formation, FHWA has been a leader in technology transfer and innovation deployment. In 2009, FHWA launched the EDC initiative in cooperation with State, local, and industry partners to speed up the delivery of highway projects and create a broad culture of innovation within the highway community. Proven innovations and enhanced business processes promoted through EDC facilitate greater efficiency at the State and local levels, saving time, money, and resources that can be used to deliver more projects.

The EDC initiative is a State-based model to identify and rapidly deploy proven, yet underutilized innovations to shorten the project delivery process, enhance roadway safety, reduce traffic congestion, and improve environmental sustainability. Every 2 years, FHWA works with State transportation departments, local governments, tribes, private industry, and other stakeholders to identify a new set of innovative technologies and practices that merit widespread deployment.

After selecting EDC innovations for the 2-year deployment cycle, transportation leaders from across the country gather at regional summits to

discuss and identify opportunities for implementing the innovations that best fit the needs of their respective State highway program. The information gained through the summits is then shared with public and private transportation stakeholders through State Transportation Innovation Councils that select and spearhead deployment of the innovations within the State. The FHWA provides technical assistance and resources to help States implement their chosen innovations and also monitors the national state-of-the-practice for each of the promoted EDC innovations.

The EDC initiative has made a significant positive impact in accelerating the deployment of innovations and in building a culture of innovation within the highway community. Since EDC's inception, every State transportation agency has used 8 or more of the 32 innovations promoted through the initiative, and some have adopted over 20. Several of those innovations are now mainstream practices in many States, enhancing the highway system and benefiting travelers. By advancing 21st century solutions, the highway community is making every day count to ensure our roads and bridges are built better, faster, and smarter.

### EDC-3 Innovations

The following innovations are being promoted in the third round of EDC (EDC-3) in 2015-2016:

- 3D Engineered Models: Schedule, Cost and Post-Construction;
- Data-Driven Safety Analysis;
- e-Construction;
- Geosynthetic Reinforced Soil-Integrated Bridge System;
- Improving Collaboration and Quality Environmental Documentation (eNEPA and IQED);
- Improving DOT and Railroad Coordination (SHRP2 R16);
- Locally Administered Federal-Aid Projects: Stakeholder Partnering;
- Regional Models of Cooperation;
- Road Diets (Roadway Reconfiguration);
- Smarter Work Zones; and
- Ultra-High Performance Concrete Connections for Prefabricated Bridge Elements.

Information about these innovations as well as those promoted through EDC-1 (2011-2012) and EDC-2 (2013-2014) are available at <http://www.fhwa.dot.gov/everydaycounts/>.

### Invitation for Comment

The FHWA invites all sources to respond to this RFI. The FHWA seeks suggestions on proven, market-ready

innovations and processes for potential widespread deployment through EDC-4 in 2017-2018 that address the criteria described below. In addition, FHWA seeks feedback on user experiences with specific, high-value innovations described below under the "Innovations of Interest" section and tentatively identified for accelerated deployment.

There is no limit to the number of innovations that may be suggested by an individual or entity. The FHWA is seeking suggestions of broad categories of innovations and respondents should not submit suggestions for unique, proprietary, or patented products.

### Requested Information

Responses for each suggested innovation or process should provide the following information:

1. Innovation category or name.
2. Point(s) of contact, title and organization name (if applicable), email address, and telephone number.
3. Brief description of the proven innovation or process.
4. Brief description of how the innovation addresses the following areas:
  - *National Impact*: How will it benefit the transportation system nationally?
  - *Game Changing*: How is it transformative in saving time, money, or improving quality?
  - *Urgency and Scale*: How will it shorten project delivery and positively impact the environment, safety, congestion, freight movement, construction techniques, contracting methods, project costs, maintenance, preservation, or emergency response?
5. Example(s), including location and date, when the innovation was successfully applied in a transportation application and a description of the quantifiable performance benefits of the innovation in those applications.
6. List of any supporting specifications, guidelines, and/or procedures available to support technology transfer and national deployment.
7. List of agencies or entities that are "champions" for or regularly use the innovation.

### Innovations of Interest

The FHWA seeks feedback on user experiences with the following high-value innovations described below that are tentatively identified for accelerated deployment:

#### 1. Traffic Incident Management (TIM) Performance Management

Insufficient TIM related data collection (e.g., time of lane closure,



time responders remain at the incident scene, and the number of secondary crashes) remains an issue in many States and metropolitan areas. Data that would provide valuable information for decisionmaking and measuring results both nationally and in local jurisdictions simply is not being collected in many areas. The inability to establish a systematic collection of performance metrics is a significant inhibitor to institutionalizing TIM.

This innovation will help jurisdictions establish an integrated, multidisciplinary and ongoing TIM Performance Management program in order to institutionalize programs and measure results. There are tools to help collect and transmit performance data that can make the task immediate and less complicated. For example, smartphone technology and systems such as the Traffic and Criminal Software (TraCS), can make data collection easy to capture. The responder can use mobile computing devices loaded with Web-based, secure software like TraCS in the field to collect data. The use of these same technologies can provide other benefits such as instantaneous transmission, automated analysis, and sharing of real time information, including pictures and video, that will not only enhance mitigation of traffic incidents, but enhance traveler information.

## 2. Automated Traffic Signal Performance Measurement System

The Automated Traffic Signal Performance Measurement System helps agencies monitor how effectively traffic signals are meeting mobility, safety, and reliability goals. The system extracts high resolution data from existing traffic signal system infrastructure and allows it to be packaged in a flexible format to depict measures of system health, performance and quality of service. The measures provide information to promote quick decisionmaking in support of operations and maintenance objectives. The information produced by the system supports the needs of agency professionals involved in the day-to-day management of signal systems, leadership, legislators, first responders, and other mobility partners. In addition, signal timing performance can be used to model or track how an asset degrades over time and to identify the maintenance needed to sustain good, basic service. This technology can assist virtually all agencies that design, manage, operate, or maintain traffic signals to improve safety and performance.

## 3. Road Weather Management—Weather Savvy Roads

Adverse weather conditions can dramatically impact the safety and operation of our Nation's roads. Inclement weather can result in increased crash risk, weather-related hazards, travel time delay and unreliability, decreased capacity, disrupted access, and increased operating and maintenance costs. Advances in Road Weather Management can benefit transportation agencies in deciding how to respond.

Several States have implemented Weather Responsive Traffic Management (WRTM) strategies. The WRTM includes a variety of advisory, control, and treatment strategies that incorporate traditional and advanced Intelligent Transportation Systems (ITS) data collection, processing, and decision-support tools to create actionable road weather information. These strategies can significantly improve an agency's ability to warn travelers of weather conditions and apply traffic control strategies to enhance safety, minimize delay, and maximize throughput.

Further enhancing an agency's ability to respond, Integrated Mobile Observations (IMO) weather sensors placed on State fleets provide vehicle-based data for better weather impact predictions in real time. This data can be integrated and processed to inform decisions by traffic operators, maintenance managers, and travelers. Pathfinder documents the collaborative benefits of DOTs, the National Weather Service (NWS), and private service providers to develop consistent messages for the traveling public. Pathfinder considers the weather, road surface, average traffic volumes, and effectiveness of mitigation efforts. This enables the NWS and local operating agencies to coordinate their efforts, directing the most impactful and actionable messages to the traveling public in the context of the local transportation system.

## 4. Strategic Use of Freeway Shoulders for Part-Time Travel

Part-time shoulder use is a relatively low-cost congestion management strategy whereby either the left or the right shoulder of a freeway is open to travel on a daily or repeated (*e.g.*, peak period) basis. Part-time shoulder use can be a cost-effective solution to improve freeway operations and safety by smoothing traffic flow and providing additional capacity when it is needed most, while preserving shoulders as refuge areas for the majority of the day.

In some cases, shoulder use applications may serve as an interim solution to relieve congestion bottlenecks while agencies further evaluate, plan, and acquire the necessary resources for adding general use travel lanes. Various shoulder use deployment options are available, including restricting shoulder use to authorized transit buses or allowing use by all vehicles either during fixed time periods or in a flexible manner to accommodate planned or unplanned events that trigger heavy congestion.

Part-time shoulder use supports Performance-Based Practical Design, an approach currently being advanced by many States. It preserves and maximizes existing capacity, is low cost relative to freeway widening, and can be implemented quickly with fewer environmental impacts than traditional capacity expansion. When combined with technology applications such as variable speed limits or lane control signals, part-time shoulder use can be further operated to enhance corridor mobility and safety.

## 5. Safety Improvements at Uncontrolled Crossing Locations

Pedestrian Hybrid Beacons (PHB) and medians/pedestrian crossing islands are evidence-based treatments that can improve pedestrian safety at uncontrolled crossing locations (*i.e.*, no traffic signal or stop sign). The PHB is a great intermediate option between the operational requirements and effects of a rectangular rapid flash beacon and a full pedestrian signal because it provides a positive stop control in areas without the high pedestrian traffic volumes that typically warrant the installation of a signal. The beacon head is "dark" until a pedestrian wants to cross the street and pushes an easy to reach button that activates the beacon. In addition, alternating red signal heads allow drivers to proceed once the pedestrian has cleared their side of the travel lane, thus improving vehicular traffic flow. There are other treatments that can improve pedestrian safety at uncontrolled locations. For example, medians and pedestrian crossing islands allow pedestrians a safe place to stop at the mid-point of the roadway before crossing the remaining distance. These treatments also enhance the visibility of pedestrian crossings, can reduce the speed of approaching vehicles, and can be used for vehicle access management (*i.e.*, allowing only right-in/right-out turning movements).

## 6. Creating Safe Bicycle Networks

Interest in bicycling as a mode of transportation is growing across the

country. Unfortunately, recent years have evidenced an increase in the number of bicyclist fatalities. There is significant interest across the country in reversing this safety concern by promoting the development of safe and comfortable bike transportation networks that allow people of all ages and abilities to safely and conveniently get where they want to go. There are numerous resources that support different aspects of bike network creation from planning to design, construction, and maintenance. These resources create a menu of options that States and communities can use to create safe and comfortable bike networks in all land use settings. Selection of appropriate bike facilities hinges on local context and constraints, and this menu-based approach allows communities to create bike networks that meet their unique needs.

#### *7. Mainstreaming Bicycle and Pedestrian Data Collection*

This innovation brings bicycle and pedestrian planning to the same level of comprehensive attention and understanding as is available for motorized modes. Bicycle and pedestrian planners use data, including bicycle and pedestrian counts, to evaluate and prioritize investments as part of a performance-based framework that supports network outcomes. The net effect is to make investments in bicycling and walking more cost-effective and beneficial to the public as interest in these modes is increasing.

The FHWA is extending its Traffic Monitoring Analysis System to receive bicycle and pedestrian data submissions from jurisdictions with count programs. This database is of great importance in observing trends in bicycling and walking, in facilitating further research on factors related to demand for bicycle and pedestrian travel, and in evaluating safety risk exposure of bicyclists and pedestrians.

#### *8. Integrating NEPA and the Permitting Processes*

Transportation projects require multiple Federal permits, approvals, and reviews, including consideration under the National Environmental Policy Act (NEPA), to ensure that they are developed utilizing a safe and responsible approach and impacts to the environment and communities are sequentially avoided, minimized, and mitigated. The NEPA process is a framework for meeting environmental requirements, such as those under the Endangered Species Act, the General Bridge Act, the National Historic Preservation Act, and the Clean Water

Act. Synchronizing NEPA and other environmental and regulatory reviews helps to advance transportation projects. The recently released 2015 Red Book provides best practices, tools, and strategies for synchronization. The Red Book provides a “how-to” on environmental review integration for practitioners at Federal agencies that conduct environmental reviews or manage permit applications, and for Federal, State, and local agencies that fund or develop transportation projects. It leverages proven techniques and lessons learned that can support more efficient and concurrent review processes.

#### *9. Construction Partnering*

There are new opportunities for construction partnering with increased use of information technology such as 3D modeling and e-Construction. Construction partnering is a project management process where State agencies, contractors, and other stakeholders create a team relationship of mutual trust. Together, they promote recognition and achievement of mutual and beneficial goals, communicate openly, and resolve problems. The result is successful completion of a quality project that is built on time, within budget, with safety as the number one priority—and is profitable to the contractors.

As new technologies and methods have emerged, State agencies and contractors now look to the digital jobsite as a means to improve efficiency and project performance while reducing construction waste in the delivery of projects. Enhanced communication, coordination and collaboration among stakeholders are vital to delivery of digital projects today. As a result, project success greatly relies on creating an environment where construction partnering is accepted as a better way of doing business.

#### *10. GeoTechTools: Improved Decision Making in Project Delivery (SHRP2 R02)*

A significant portion of all construction claims are related to geotechnical issues. Project constraints such as construction schedule, right-of-way or environmental concerns, and conditions such as soft or unsuitable ground can result in higher project costs and project delivery delays. Proactive and better informed decisionmaking regarding geotechnical solutions can assist agencies in addressing issues that pose a risk for claims or change orders in construction and delays in project delivery.

The second Strategic Highway Research Program (SHRP2) R02 project

developed GeoTechTools, which contains a technology selection system to aid project managers, planners, resident engineers, consultants, and contractors in identifying potential solutions to project delivery issues. A vast amount of critically important information on geotechnical solutions has been collected, synthesized, integrated, and organized into the Web-based GeoTechTools product. Users save considerable time and effort on researching applicability of a solution, design guidance, specifications, quality assurance requirements, and cost estimating resources. The consistent and comprehensive tools provided in the GeoTechTools product allow any user to better identify and mitigate risk, leading to better informed decisions in all phases of project delivery.

#### *11. Enhanced Geotechnical Characterization for Rapid Project Delivery*

The uncertainty of ground conditions at a project site is reduced by performing geotechnical characterization of the site. An inaccurate understanding of ground conditions may lead to wastefully conservative design, time consuming redesign, construction claims, change orders, or cost and schedule overruns. The importance and value of using reliable in situ test methods and reducing subsurface condition uncertainty for construction is captured in NCHRP Synthesis Report 484 (2015). The value of site characterization for design is demonstrated in new reliability-based design methods such as AASHTO Load Resistance Factor Design (LRFD) Bridge Design Specifications (2014). A suite of proven subsurface investigation methods is available to establish a new game-changing standard of practice consistent with the revisions being made to the AASHTO Manual on Subsurface Investigation and the FHWA Geotechnical Engineering Circular #5: Geotechnical Site Characterization. This effort will focus on implementing the mainstream practice of targeted technologies for more reliable and cost-effective subsurface investigation programs for rapid project delivery with less risk of contract delay and escalation.

Collectively, the technologies represent seven of the most transformative and complimentary advancements within subsurface investigation practice. Their implementation nationally will reduce project delivery costs and risks and improve long-term performance.

### 12. Advanced Hydraulic 3D Modeling

Rivers, streams, and coastal waterbodies exhibit complex hydraulic characteristics that affect bridge and culvert design and operation, scour formation, stream stability, and overall infrastructure resiliency. Advanced Hydraulic 3D Modeling tools simulate hydrologic, hydraulic, and scour conditions at any aspect of transportation systems. These tools significantly increase the detail and accuracy of hydraulic related project planning, permitting, design, and simulation activities. Designers can use the tools to more accurately apply the safest and most cost effective transportation design to accommodate the hydraulic conditions of the structure. Use of this technology can also reduce costs of materials and quantities during a project's construction and operation.

### 13. Nondestructive Evaluation (NDE) Applications for Condition Assessment of Bridges, Pavements, and Tunnels

The management of our Nation's highway infrastructure assets including bridges, pavements, and tunnels presents ongoing planning, operational, preservation, and economic challenges for Federal, State, tribal, and local transportation agencies. Data-driven condition information is an important part of managing and maintaining these assets in a state of good repair. Advancements in NDE applications over the last decade from hand-held tools to automated platforms can provide owners with more efficient, reliable, and cost-effective approaches to complement current inspection and evaluation practices.

Each NDE technology detects a specific type of defect. The defects identified range from those found at an early stage to the on-set of deterioration, providing infrastructure owners with information to develop cost-effective preservation and maintenance strategies. This can result in lower life-cycle structure costs, which are a savings for the owner and the user.

### 14. Surface Treatments for Extended Life

The condition of pavements and bridges across the country vary considerably, with many State DOTs struggling to maintain current service levels. A balanced approach that takes into consideration timing, desired level of service, and available funding is paramount to keeping our Nation's infrastructure in a "state of good repair." There are several surface

treatments for pavements and bridges that can be used to reach this goal.

#### Pavements

Whether a highway pavement is constructed using concrete or asphalt, the structure will deteriorate over time. Many factors affect the performance of these pavements including loads (traffic), climatic conditions, and material quality. There are surface treatments available that extend the overall service life of both pavement types. The use of the right pavement surface treatments at the right time can improve the condition level and extend the performance of the pavement structure. For example, by maintaining and improving smoothness and ride at an acceptable level of service, a pavement structure can save the tax payers money and time and enhance safety.

#### Bridges

The decks or slabs of bridges are vulnerable to the effects of mechanical wear from traffic, and environmental conditions such as rain, snow and ice. Consequently, decks and slabs require more maintenance and repair than any other component of the bridge. The most common bridge deck and slab material is concrete and its main cause of deterioration is corrosion of the reinforcing steel. Surface treatments such as deck washing, using crack sealers, fillers, waterproofing membranes and overlays can protect and enhance service life of bridge decks.

### 15. The Maintenance Innovation Toolbox (MIT)

The MIT includes the following three highway maintenance items that have been proven and tested in the hands of highway maintenance workers to save time and money, while enhancing safety and operations efficiencies:

*Indefinite Delivery/Indefinite Quantity (ID/IQ) or Job Order Contracting*—This is a unique indefinite quantity type of contract that enables facility owners to accomplish a large number of repairs and maintenance with a single, competitive bid contract. After the ID/IQ is established, this contracting method saves time in the procurement process when an immediate need is identified.

*Strobe Lights for Increased Visibility of Snow Plow Operations*—With the increased use of wing plows and tow plows, it is even more important to ensure that plowing operations are being seen by motorists. With the installation of different color strobe lights (e.g., green, amber, blue, etc.), trailing and passing vehicles can more

distinctly see the plowing operations that extend beyond the truck body, enhancing safety for both motorists and plow operators.

*Automatic Vehicle Location (AVL) and Telematics for Maintenance Forces*—The use of AVL on highway maintenance vehicles enables equipment managers to know where the highway equipment fleet is located for deployment where and when needed. By coupling AVL with Telematics to report engine and drivetrain diagnostics, an equipment fleet manager has the optimum combination of tools to efficiently and effectively manage the maintenance force.

Issued on: December 4, 2015.

**Gregory G. Nadeau,**  
FHWA Administrator.

[FR Doc. 2015-31112 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Federal Transit Administration

### Notice of Limitation on Claims Against a Proposed Transportation Project

**AGENCY:** Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of limitation on claims for judicial review of actions by FHWA and FTA.

**SUMMARY:** This notice announces final environmental actions taken by FHWA and FTA that are final within the meaning of Federal transportation law. The actions relate to a proposed transportation project, the Seattle Multimodal Terminal at Colman Dock Project, located in the City of Seattle, Washington. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, FHWA and FTA are advising the public of final agency actions subject to 23 U.S.C. 139(l). A claim seeking judicial review of the Federal agency actions announced herein for the listed transportation project will be barred unless the claim is filed on or before May 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Handel, Urban Area Engineer, FHWA at (360) 753-9550, [lindsey.handel@dot.gov](mailto:lindsey.handel@dot.gov); Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, FTA at (312) 353-2577, [nancyellen.zusman@dot.gov](mailto:nancyellen.zusman@dot.gov); or Terence Plaskon, Environmental Protection Specialist, Office of

Environmental Programs, FTA at (202) 366-0442, [terence.plaskon@dot.gov](mailto:terence.plaskon@dot.gov). FHWA's Washington Division office is located at 711 South Capitol Way, Suite 501, Olympia, WA 98501. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. FHWA office hours are 8:00 a.m. to 4:00 p.m., p.t., and FTA office hours are from 9:00 a.m. to 5:30 p.m., e.t.. Marsha Tolon, Washington State Department of Transportation (WSDOT), at (206) 805-2866, [tolonm@wsdot.wa.gov](mailto:tolonm@wsdot.wa.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA and FTA have taken final agency actions by issuing a Finding of No Significant Impact (FONSI) for the Seattle Multimodal Terminal at Colman Dock Project in Seattle, Washington.

*Federal Lead Agencies:* FHWA and FTA.

*Project sponsor:* WSDOT.

*Project description:* The proposed project will replace the aging and seismically vulnerable components of the Seattle Ferry Terminal at Colman Dock in order to maintain ferry service in the future. The WSDOT operates the Seattle Ferry Terminal. Colman Dock is located on Pier 52, along the central waterfront of downtown Seattle, Washington. Key elements of the Seattle Ferry Terminal Project include: Replacing and re-configuring the timber trestle portion of the dock; replacing the main terminal building; reconfiguring the dock layout to provide safer and more efficient operations; replacing the vehicle transfer span and the overhead loading structures of Slip 3; maintaining a connection to the Marion Street pedestrian overpass; and replacing the King County-operated passenger-only ferry facility on the southern edge of Colman Dock.

*Final agency actions:* Determination that there is no use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and FONSI, dated November 5, 2015. *Supporting documentation:* Environmental Assessment (EA) dated April 2, 2014.

The EA and FONSI can be viewed and downloaded from the project Web site at <http://www.wsdot.wa.gov/projects/ferries/colmanmultimodalterminal/> or viewed at the Seattle, King County, and Kitsap Public Libraries. This notice applies to all FHWA and FTA decisions on the listed project, as of the issuance date of this notice, and all laws under which such actions were taken, including but not limited to those arising under the following laws, as amended:

1. General: National Environmental Policy Act [42 U.S.C. 4321-4351];

Federal-Aid Highway Act [23 U.S.C. 109]; the Federal transit statutes [49 U.S.C. Chapter 53].

2. Air: Clean Air Act, as amended [42 U.S.C. 7401-7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)-757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001-3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201-4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Coastal Zone Management Act [16 U.S.C. 1451-1465]; Land and Water Conservation Fund [16 U.S.C. 4601-4604]; Safe Drinking Water Act [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; TEA-21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99-499]; Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175

Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.) Nothing in this notice creates a cause of action under these Executive Orders.

This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**.

**Authority:** 23 U.S.C. 139

Issued on: December 1, 2015.

**Daniel M. Mathis,**

*Division Administrator, FHWA, Olympia, Washington.*

**Lucy Garliauskas,**

*Associate Administrator, Planning and Environment, FTA, Washington, DC.*

[FR Doc. 2015-31111 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2015-0007-N-31]

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Requests (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on September 23, 2015.

**DATES:** Comments must be submitted on or before January 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Information Collection Clearance Officer, Office of Safety, Safety Regulatory Analysis Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave.

SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493-6292), or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Administration, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493-6132). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On September 23, 2015, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency is seeking OMB approval. See 80 FR 57425. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requests (ICRs) and their expected burdens. The renewal requests are being submitted for clearance by OMB as required by the PRA.

*Title:* State Safety Participation Regulations and Remedial Actions.

*OMB Control Number:* 2130-0509.

*Abstract:* The collection of information is set forth under 49 CFR part 212, and requires qualified state inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning state investigative, inspection, and surveillance activities regarding railroad compliance with

Federal railroad safety laws and regulations. Additionally, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

*Type of Request:* Extension with change of a currently approved information collection.

*Affected Public:* Businesses (Railroads).

*Form(s):* N/A.

*Total Annual Estimated Responses:* 22,352.

*Total Annual Estimated Burden:* 9,240 hours.

*Title:* Use of Locomotive Horns at Highway-Rail Grade Crossings.

*OMB Control Number:* 2130-0560.

*Abstract:* Under Title 49 part 222 of the Code of Federal Regulations, FRA seeks to collect information from railroads and public authorities in order to increase safety at highway-rail grade crossings nationwide by requiring that locomotive horns be sounded when trains approach and pass through these crossings or by ensuring that a safety level at least equivalent to that provided by blowing locomotive horns exists for corridors in which horns are silenced. FRA reviews applications by public authorities intending to establish new or, in some cases, continue pre-rule quiet zones to ensure the necessary level of safety is achieved.

*Type of Request:* Extension with change of a currently approved information collection.

*Form(s):* N/A.

*Total Annual Estimated Responses:* 4,001.

*Total Annual Estimated Burden:* 9,176 hours.

*Title:* Safety Appliance Concern Recommendation Report; Safety Appliance Standards Checklist Forms.

*OMB Control Number:* 2130-0565.

*Abstract:* Sample car/locomotive inspections are performed as a courtesy to the car manufacturers to ensure that the equipment is built in accordance with all applicable Federal regulations and requirements. Car builders that desire to have FRA review their equipment for compliance with safety standards are to submit their safety appliance arrangement drawings, prints, etc., to the FRA Office of Safety Assurance and Compliance for review at least 60 days prior to construction. The sample car inspection program is designed to provide assurance that rolling stock equipment is compliant within the Code of Federal Regulations for use on the general railroad system. Although a sample car inspection is not required, most builders today request FRA to perform the inspection. The goal

of the sample car inspection program is to reduce risk to railroad employees and improve passenger safety for the general public by ensuring rolling stock is fully compliant with all applicable regulations.

In an ongoing effort to conduct more thorough and more effective inspections of freight railroad equipment and to further enhance safe rail operations, FRA has developed a safety concern recommendation report form and a group of guidance checklist forms that facilitate railroad, rail car owner, and rail equipment manufacturer compliance with agency Railroad Safety Appliance Standards regulations. FRA will be obsoleting Forms FRA F 6180.4(a)-(q) and requesting OMB discontinue its current approval for these forms. FRA will be replacing these forms with new Forms FRA F 6180.161(a)-(k). The reason for the discontinuance of the previously approved forms and request for OMB approval of the new forms is due to the fact that 49 CFR part 231 is being supplemented and expanded to cover new types of cars. For these new types of cars, FRA will be following the Standard established by the Association of American Railroads (AAR) Standard 2044 or S-2044.

When a request for sample car inspection incoming letter is provided by the customer, an abundant amount of information is submitted to FRA for review that may require a formal on-site inspection. The information contained in the letter includes several paragraphs to explain the cited Code of Federal Regulations that the customer believes related to the construction of the car. Since many cars today are considered a car of special construction, the type of car to be reviewed, many times the amount of details of information are supplied to support why the customer believes the car submitted is the nearest car to construction. An abundance of factors with justification to support the car type is included in the request. Some examples would be a Logo, Company Name, and signature block, specific drawings, reflectorization, engineering information such as test or modeling of components. Also, the request may include car reporting marks, the amount of cars that would be constructed in the car series. In addition, the request would provide the location of the inspection, contact person, title, and contact information. Currently, each request is written differently, but contains most of the information to process the request to completion.

The FRA region responsible for the sample car field sample car inspection

is obliged to formally inspect the car for compliance. All the information in the customer request is forwarded to the region for review. Once the inspection is completed, the assigned inspector provides his report in a memorandum to the Motive, Power, and Equipment (MP&E) Specialist. The MP&E Specialist reviews the documents and provides a memo to the Regional Administrator who sends a response by memorandum to FRA Headquarters of the finding from the field inspection.

FRA Headquarters is responsible for gathering all the information from the request from the customer as well as assigning and forwarding the information to the Region. All the information is reviewed by the MP&E Specialist at Headquarters. The MP&E Specialist prepares a grid letter response for the MP&E Staff Director who then offers the response letter to the Director, Office of Safety Assurance and Compliance. The formal response letter is then sent to the customer through the Control Correspondence Management (CCM) system.

*Type of Request:* Revision of a currently approved information collection.

*Affected Public:* Businesses (Railroads).

*Form(s):* New Forms FRA F 6180.161(a)–(k).

*Total Annual Estimated Responses:* 121.

*Total Annual Estimated Burden:* 121 hours.

*Title:* FRA Safety Advisory 2015–03, Operational and Signal Modifications for Compliance with Maximum Authorized Passenger Train Speeds and Other Restrictions.

*OMB Control Number:* 2130–0613.

*Abstract:* FRA issued Safety Advisory 2015–03 on June 12, 2015 (see 80 FR 33585) to stress to passenger railroads and railroads that host passenger service and their employees the importance of compliance with Federal regulations and applicable railroad rules governing applicable passenger train speed limits. This safety advisory makes recommendations to these railroads to ensure that compliance with applicable passenger train speed limits is addressed by appropriate railroad operating policies and procedures and signal systems.

*Type of Request:* Regular Clearance without change of a currently approved Emergency Clearance.

*Affected Public:* Businesses (Railroads).

*Form(s):* N/A.

*Total Annual Estimated Responses:* 5,880.

*Total Annual Estimated Burden:* 2,217 hours.

*Addressee:* Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC, 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: [oirp\\_submissions@omb.eop.gov](mailto:oirp_submissions@omb.eop.gov).

*Comments are invited on the following:* Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**Authority:** 44 U.S.C. 3501–3520.

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

**Corey Hill,**

*Acting Executive Director.*

[FR Doc. 2015–31048 Filed 12–9–15; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA–2015–0026]

#### Notice of a Buy America Waiver for Proposed Innovative Electronic Platform Track Intrusion System

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of a Buy America waiver.

**SUMMARY:** The Federal Transit Administration (FTA) received a request from the Los Angeles County Metropolitan Transportation Authority (LACMTA) for a Buy America non-availability waiver for the procurement of a proposed innovative electronic platform track intrusion system (PTIDS). LACMTA seeks to procure the PTIDS for research and testing purposes to determine whether such a system will help to increase rail safety by identifying obstacles in the right-of-way. PTIDS uses radar transponder

technology, such as sensors, to detect intrusions on rail tracks. If an object is detected, the sensors immediately send notification to personnel who may then stop the train and take appropriate action. LACMTA seeks a waiver for the PTIDS because it contains twelve components, six of which only are available from a single source and currently are not manufactured in the United States. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice of the waiver request and sought public comment in deciding whether to grant the request. Having received no comments opposing the waiver, FTA is hereby granting a non-availability waiver for this one procurement of the specific PTIDS components identified in this waiver request, and not to any future procurement by LACMTA or others.

**DATES:** This waiver is effective immediately.

**FOR FURTHER INFORMATION CONTACT:**

Laura Goldin, FTA Attorney-Advisor, at (202) 366–2743 or [laura.goldin@dot.gov](mailto:laura.goldin@dot.gov).

**SUPPLEMENTARY INFORMATION:**

The purpose of this Notice is to announce that FTA is granting a non-availability waiver to LACMTA for the procurement of a PTIDS. On May 1, 2015, LACMTA requested a Buy America non-availability waiver for the PTIDS because several components are only available from a single source and are not produced in sufficient and reasonably available quantities of a satisfactory quality in the United States. 49 U.S.C. 5323(j)(2)(A); 49 CFR 661.7(c).

LACMTA operates both heavy rail and light rail for 80 stations spanning 87 service miles. In December 2013, LACMTA entered into a partnership with Honeywell International, Inc. (Honeywell) and ProTran Technology LLC to submit an application in response to FTA's Notice of Funding Availability Solicitation of Project Proposals for Innovative Safety, Resiliency, and All-Hazards Emergency Response and Recovery Research Demonstrations. The goal of LACMTA's proposal is to demonstrate that the PTIDS is the most reliable, efficient, and secure system available and can immediately identify any right-of-way obstacles. The PTIDS relies on radar transponder technology to send an instant warning to rail operation safety systems and personnel. If an intrusion is detected, the PTIDS sensors trigger safety systems and notify personnel, so that the train can be stopped. Due to the accuracy and immediacy of the technology, LACMTA claims that the PTIDS allows for the greatest response time so more accidents will be avoided.

PTIDS also has fail-safe mechanisms and uses algorithms to prevent false alarms, which plague many other platform intrusion detection systems on the market. In addition, LACMTA states that some components of this system are custom-designed. For instance, the PTIDS uses a radio-wave based sensor sub-system, a signal processing sub-system, a video sub-system, and a communications sub-system that provides alerts to operators. All of these sub-systems work together and are connected to one another by custom cables that are designed for the particular rail system and equipment. Honeywell currently manufactures the safety system equipment in Germany. LACMTA states that some PTIDS components currently are not available in the United States and no U.S. manufacturers make acceptable substitutes. Therefore, LACMTA requested a Buy America non-availability waiver for certain PTIDS components that are manufactured abroad. 49 CFR 661.7.

According to LACMTA's request, six of the 12 components that comprise the PTIDS are foreign-made and require a non-availability waiver under 49 CFR 661.7. Those components requiring a waiver are: The AXIS fixed outdoor dome camera manufactured in Sweden; the AXIS wall mount for dome cameras manufactured in Sweden; the Honeywell Module Radar Sensor Modules Pair manufactured in Germany; the Honeywell GPC/CCU controller units manufactured in Germany; the Honeywell GPC Cabinet for equipment manufactured in Germany and; the Honeywell Custom Cables for interconnection manufactured in Germany.

FTA also conducted a scouting search through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). The scouting search identified three domestic manufacturers as potential matches for this opportunity: Extreme Endeavors in West Virginia, Innovative Solutions Through Technology in Kentucky, and BFW, Inc. in Kentucky. The manufacturers identified either produce similar products to the PTIDS sought, possess the capabilities to produce this PTIDS, have produced an item similar to the PTIDS in the past, or have expressed a business interest in producing the PTIDS. However, none of these U.S. manufacturers identified currently produce the exact PTIDS that LACMTA is seeking, as described in this Notice.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be

appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

LACMTA requested a Buy America non-availability waiver in order to conduct research on and test the PTIDS for future use. LACMTA also notes that Honeywell may consider domestic manufacturing of certain elements of the PTIDS if this research and testing is successful and if there is adequate industry demand.

On Tuesday, September 29, 2015, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the LACMTA Buy America waiver request (80 FR 58530), seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on October 13, 2015, and no comments were received. Based on the representations from LACMTA, the lack of any comments, and the fact that the NIST supplier scouting search did not identify a domestically made PTIDS, FTA is granting a non-availability waiver for the procurement of a PTIDS described above.

Issued on December 7, 2015.

**Dana Nifosi,**  
*Deputy Chief Counsel.*

[FR Doc. 2015-31153 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2015-0027]

#### Notice of Buy America Waiver for Voith Propulsion Unit

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of Buy America waiver.

**SUMMARY:** The Federal Transit Administration (FTA) received a request from the Virginia Department of Transportation (VDOT) for a Buy America waiver for Voith Turbo Schneider Propeller GmbH (Voith) 21/R5 propulsion units based on non-availability. Voith, located in Germany, is the sole manufacturer of the required propulsion units. VDOT is procuring the propulsion units as part of an engine and drive system replacement for the Ferry Boat Pocahontas, which is operated by VDOT. There are no domestic manufacturers of equivalent propulsion units. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice of the waiver request and sought public comment in deciding whether to grant the request. Having received no comments opposing the waiver, FTA is hereby granting a non-availability waiver for this one procurement of the specific Voith Turbo Schneider Propeller GmbH identified in this waiver request, and not to any future procurement by VDOT or others.

**DATES:** This waiver is effective immediately.

**FOR FURTHER INFORMATION CONTACT:**

Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or [laura.ames@dot.gov](mailto:laura.ames@dot.gov).

**SUPPLEMENTARY INFORMATION:** The

purpose of this Notice is to announce that FTA is granting a non-availability waiver to VDOT for the purchase of two (2) Voith 21/R5 propulsion units based on non-availability. On August 12, 2015, VDOT requested a Buy America waiver for the procurement of the propulsion units. VDOT's request identified Voith, located in Germany, as the sole manufacturer of the required propulsion units. No known domestic equivalents exist. VDOT is procuring the propulsion units as part of an engine and drive system replacement for the Ferry Boat Pocahontas, which is operated by VDOT on the Jamestown-Scotland ferry route crossing the James River in Virginia.

The original propulsion units have reached the end of their useful life. Although the new ferry engines will be manufactured domestically by Caterpillar, Inc., the vessel has a specific propulsion design utilizing a vertical axis cycloidal propeller. The Pocahontas was designed around the vertical propeller configuration. The entirety of the vessel's hull, the engine housing, the dimensions of the vessel, and the ballast locations, are all configured to work with a vertical propulsion unit, which ensures proper piloting and vessel stability. As part of the procurement planning, VDOT contracted with Alion Science and Technology Corp. (Alion) to develop the design of the entire



engine replacement. Alion concluded that the Voith propulsion units were paired appropriately (in terms of performance and cost) with the engines manufactured domestically by Caterpillar.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a non-availability waiver. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

FTA also conducted a scouting search through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). The scouting search identified one domestic manufacturer as a potential match for this opportunity, Astro Manufacturing and Design in Ohio. This manufacturer produces a similar item to the Vertical Axis Cycloidal Propeller and possesses the capabilities to produce the propeller. However, the U.S. manufacturer identified does not currently produce the exact propeller that VDOT is seeking, as described in this Notice.

On Tuesday, September 29, 2015, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the VDOT Buy America waiver request (80 FR 58530), seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on Thursday, October 29, 2015 and no comments were received. Based on the representations from VDOT, the lack of any comments, and the fact that the NIST supplier scouting search did not identify any domestically made propulsion units utilizing a vertical axis cycloidal propeller, FTA is granting a non-availability waiver for the procurement of Voith Turbo Schneider Propeller GmbH (Voith) 21/ R5 propulsion units described above.

Issued on: December 7, 2015.

**Dana Nifosi,**

*Deputy Chief Counsel.*

[FR Doc. 2015-31154 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0107; Notice 1]

#### Notice of Receipt of Petition for Decision That Nonconforming Model Year 2012 Fisker Karma Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2012 Fisker Karma passenger cars (PC) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2012 Fisker Karma PC) and they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is January 11, 2016.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202-493-2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change

to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

*How To Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** George Stevens, Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then



publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories (WETL), Inc. of Houston, Texas (Registered Importer R-90-005) has petitioned NHTSA to decide whether nonconforming 2012 Fisker Karma PC's are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are MY 2012 Fisker Karma PC's sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2012 Fisker Karma PC's to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified MY 2012 Fisker Karma PC's, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non U.S.-certified MY 2012 Fisker Karma PC's, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic and Electric Brake Systems*, 106 *Brake Hoses*, 113 *Hood Latch System*, 114 *Theft Protection*, 116 *Motor Vehicle Brake Fluids*, 118 *Power-Operated Window, Partition, and Roof panel System*, 124 *Accelerator Control Systems*, 126 *Electronic Stability Control Systems*, 138 *Tire Pressure Monitoring Systems*, 201 *Occupant Protection in Interior Impact*, 202a *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 225 *Child Restraint Anchorage Systems*, 301 *Fuel System Integrity*, 302 *Flammability of Interior Materials*, and 401 *Interior Trunk Release*.

The petitioner also contends that the subject non-U.S certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: Replacement of the speedometer with U.S. model

components and addition of the brake warning indicator to fully comply with the standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: Replacement of the rear side markers with U.S.-conforming components.

Standard No. 110 *Tire Selection and Rims*: Installation of the required tire information placard.

Standard No. 111 *Rearview Mirrors*: Inscription of the required warning statement on the face of the passenger mirror.

Standard No. 208 *Occupant Crash Protection*: Replacement of the passenger seatbelt assembly, passenger front airbag module, left knee bolster, right knee bolster, and the instrument cluster with U.S. model components.

Standard No. 209 *Seat Belt Assemblies*: Replacement of the passenger seat belt assembly with U.S. model components.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

**Jeffrey M. Giuseppe,**  
*Director, Office of Vehicle Safety Compliance.*  
[FR Doc. 2015-31059 Filed 12-9-15; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 55 (Sub-No. 748X)]

#### CSX Transportation, Inc.— Discontinuance of Service Exemption—in St. Clair and Clinton Counties, Ill.

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 23.9-mile rail line on its Southern Region, Nashville Division, Illinois Subdivision between milepost

BC 304.00, near Avison, Clinton County, Ill., to milepost BC 327.9, near Caseyville, St. Clair County, Ill. (the Line). The Line traverses United States Postal Service Zip Codes 62232, 62208, 62269, 62254, 62293, and 62216.

CSXT has certified that: (1) No freight traffic has moved over the Line for at least two years; (2) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (3) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on January 9, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)<sup>1</sup> must be filed by December 21, 2015.<sup>2</sup> Petitions to reopen must be filed by December 30, 2015, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Because there will be an environmental review during an abandonment, this discontinuance does not require an environmental review.

<sup>1</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

<sup>2</sup> Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate.

Board decisions and notices are available on our Web site at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: December 7, 2015

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

Tia Delano,

Clearance Clerk.

[FR Doc. 2015–31113 Filed 12–9–15; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF THE TREASURY

[Docket ID: TREAS–DO–2015–0009]

### Multiemployer Pension Plan Application To Reduce Benefits; Reopening of Comment Period

**AGENCY:** Department of the Treasury.

**ACTION:** Notice of availability;  
Reopening of comment period.

**SUMMARY:** On October 23, 2015, the Department published a notice of availability and request for comments regarding an application to Treasury to reduce benefits under the Central States, Southeast and Southwest Areas Pension Plan in accordance with the Multiemployer Pension Reform Act of 2014 (MPRA). The purpose of this notice is to reopen the comment period and provide more time for interested parties to provide comments.

**DATES:** Comments must be received on or before February 1, 2016.

**ADDRESSES:** You may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site. Electronic submissions through [www.regulations.gov](http://www.regulations.gov) are encouraged.

Comments may also be mailed to the Department of the Treasury, MPRA Office, 1500 Pennsylvania Avenue NW., Room 1224, Washington, DC 20220. Attn: Deva Kyle. Comments sent via facsimile and email will not be accepted.

Additional Instructions. All comments received, including attachments and other supporting materials, will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or any other information in your comment or supporting materials that you do not want publicly disclosed. Treasury will make comments available for public inspection and copying on [www.regulations.gov](http://www.regulations.gov) or upon request. Comments posted on the Internet can be retrieved by most Internet search engines.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the application from the Board of Trustees of the Central States, Southeast and Southwest Areas Pension Plan, please contact Treasury at (202) 622–1534 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Multiemployer Pension Reform Act of 2014 (MPRA) amended the Internal Revenue Code to permit a multiemployer plan that is projected to have insufficient funds to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. In order to reduce benefits, the plan sponsor is required to submit an application to the Secretary of the Treasury, which the Department of the Treasury (Treasury), in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Secretary of Labor, is required to approve or deny.

On September 25, 2015, the Board of Trustees of the Central States, Southeast and Southwest Areas Pension Plan (Central States Pension Plan) submitted an application for approval to reduce benefits under the Central States Pension Plan. As required by the MPRA, that application has been published on Treasury’s Web site at <http://www.treasury.gov/services/Pages/central-states-application.aspx>. On October 23, 2015, Treasury published a notice in the **Federal Register** (80 FR 64508), in consultation with PBGC and the Department of Labor, to solicit public comments on all aspects of the Central States Pension Plan application. The notice provided that comments must be received by December 7, 2015.

This notice announces the reopening the comment period in order to give additional time for interested parties to provide comments. Comments are requested from interested parties, including contributing employers, employee organizations, and participants and beneficiaries of the Central States Pension Plan. Consideration will be given to any comments that are timely received by Treasury on or before February 1, 2016.

Dated: December 7, 2015.

**David R. Pearl,**

*Executive Secretary, Department of the Treasury.*

[FR Doc. 2015–31163 Filed 12–9–15; 8:45 am]

BILLING CODE 4810–25–P

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0741]

### Proposed Information Collection (Report of Subcontracts to Small and Veteran-Owned Business—VA0896a) Activity: Comment Request

**AGENCY:** The Department of Veterans Affairs (VA) Office of Small and Disadvantaged Business Utilization (OSDBU).

**ACTION:** Notice.

**SUMMARY:** VA OSDBU, is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information to be collected by VA through the Form 0896A, which intends to gather information from prime contractors regarding their subcontracts with service-disabled Veteran-owned small businesses (SDVOSB) and Veteran-owned small businesses (VOSB). This collection is in accordance with Public Law 109–461, Title V, Section 502(a)(1), codified at 38 U.S.C. 8127(a)(4).

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before February 8, 2016.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Milagros Ortiz, OSDBU, (OOSB) or email to: [milagros.ortiz@va.gov](mailto:milagros.ortiz@va.gov) or phone at (202) 461–4279. Please refer to “OMB Control No. 2900–0741 (Report of Subcontracts to Small and Veteran-Owned Business—VA0896a)” in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Milagros Ortiz, (202) 462–4279–7492 or [milagros.ortiz@va.gov](mailto:milagros.ortiz@va.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OMB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OMB's functions, including whether the information will have practical utility; (2) the accuracy of OMB's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Report of Subcontracts to Small and Veteran-Owned Business.

*OMB Control Number:* 2900-0741.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* In accordance with Public Law 109-461, Title V, Section 502(a)(1), codified at 38 U.S.C. 8127(a)(4), the Office of Small and Disadvantaged Business Utilization (OSDBU) will use the VA Form 0896a to collect information from subcontractors to compare information obtained from subcontracting plans submitted by prime contractors in order to determine the accuracy of the data reported by prime contractors. The form has been modified to allow the collection of information from multiple subcontractors in the same form.

*Affected Public:* VA Prime Contractors.

*Estimated Annual Burden:* 610 hours.

*Estimated Average Burden per Respondent:* 2 hours.

*Frequency of Response:* Once a year.

*Estimated Number of Respondents:* 305.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015-31155 Filed 12-9-15; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Commission on Care

**ACTION:** Notice of meeting.

In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Commission on Care gives amended notice that it will meet on Monday, December 14, 2015, Tuesday, December 15, 2015, and Wednesday, December 16, 2015 at the J.W. Marriott,

Jr. ASAE Conference Center, 1575 I St. NW., Washington, DC 20005. The meeting will convene at 8:30 a.m. and end by 6:00 p.m. on Monday, December 14, 2015. The meeting will convene at 8:30 a.m. and end by 12:45 p.m. on Tuesday, December 15, 2015. The meeting will convene at 8:30 a.m. and end by 1:00 p.m. on Wednesday, December 16. The meeting is open to the public.

The purpose of the Commission, as described in section 202 of the Veterans Access, Choice, and Accountability Act of 2014, is to examine the access of veterans to health care from the Department of Veterans Affairs and strategically examine how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during the next 20 years.

No time will be allocated at this meeting for receiving oral presentations from the public. The public may submit written statements for the Commission's review to Bernadette Philpot or Mona Bellamy, Commission on Care, at [bernadette.philpot@va.gov](mailto:bernadette.philpot@va.gov) or [mona.bellamy@va.gov](mailto:mona.bellamy@va.gov), respectively. Any member of the public wanting to attend may contact Ms. Philpot or Ms. Bellamy.

Dated: December 8, 2015.

**Sharon Gilles,**

*Designated Federal Officer, Commission on Care.*

[FR Doc. 2015-31237 Filed 12-9-15; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0160]

### Agency Information Collection (Title 38, Parts 51 and 52, State Home Programs) Activities Under OMB Review

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2016.

**ADDRESSES:** Submit written comments on the collection of information through [www.Regulations.gov](http://www.Regulations.gov), or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov). Please refer to "OMB Control No. 2900-0160 (Title 38, Parts 51 and 52, State Home Programs)" in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632-7492 or email [crystal.rennie@va.gov](mailto:crystal.rennie@va.gov). Please refer to "OMB Control No. 2900-0160 (Title 38, Parts 51 and 52, State Home Programs)" in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

**SUPPLEMENTARY INFORMATION:** *Titles:* Title 38, Parts 51 and 52, State Home Programs.

*OMB Control Number:* 2900-0160, (Title 38, Parts 51 and 52, State Home Programs).

*Type of Review:* Revision.

*Abstract:* Title 38, CFR part 51, provides for the payment of per diem to State homes that provide nursing home care to eligible veterans. Title 38, CFR part 52, provides for the payment of per diem to State homes that provide adult

day health care to eligible veterans. The intended effect of these provisions was to ensure that veterans receive high quality care in State Homes. To ensure that high quality care is furnished veterans, VA requires those facilities providing nursing home care and adult day health care programs to veterans to supply various kinds of information. The information required includes an application for recognition based on certification; appeal information, application and justification for payment; records and reports which facility management must maintain regarding activities of residents or participants; information relating to whether the facility meets standards concerning residents' rights and responsibilities prior to admission or enrollment, during admission or enrollment, and upon discharge; the records and reports which facilities management and health care professionals must maintain regarding residents or participants and employees; various types of documents pertaining to the management of the facility; food menu planning; pharmaceutical records;

and life safety documentation. VA Form 10-10EZ (OMB approval 2900-0091) is used in conjunction with the VA Form 10-10SH.

*Affected Public:* State, Local or Private Government.

*Estimated Annual Burden:* 6,858 Burden hours.

a. State Home Inspection Staffing Profile, VA Form 10-3567—69.5 hrs.

b. State Home Report and State of Federal Aid Claimed, VA Form 10-5588—834 hrs.

c. Claim for Payment for Nursing Home Care Provided to Veterans Awarded Retroactive Service Connection, VA Form 10-5588A—180 hrs.

d. State Home Program Application for Veteran Care—Medical Certification, VA Form 10-10SH—3,802 hrs.

e. Department of Veterans Affairs Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals, VA Form 10-0143—12 hrs.

f. Statement of Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, VA Form 10-1043a—12 hrs.

g. Certification Regarding Lobbying, VA Form 10-0144—12 hrs.

h. Statement of Assurance of Compliance with Equal Opportunity Laws, VA Form 10-0460—12 hrs.

i. Request for Prescription Drugs from an Eligible Veteran in a State Home, VA Form 10-0144a—12 hrs.

j. Application for Recognition (Letter to Under Secretary for Health)—2 hrs.

k. Recognition & Certification (Sections 51.30 and 52.30)—120 hrs.

l. Quality of Life (Sections 51.100 and 52.100)—350 hrs.

m. Section, Administration and (Section 51.210 and 52.210)—1,400 hrs.

Estimated Average Burden per Respondent:

*Frequency of Response:* On Occasion.

*Estimated Number of Respondents:* 12,884.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015-31107 Filed 12-9-15; 8:45 am]

**BILLING CODE 8320-01-P**



# FEDERAL REGISTER

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Thursday,

No. 237

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Part II

## National Credit Union Administration

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12 CFR Part 701

Chartering and Field of Membership Manual; Proposed Rule

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

RIN 3133-AE31

### Chartering and Field of Membership Manual

**AGENCY:** National Credit Union  
Administration (NCUA).

**ACTION:** Proposed rule with request for  
comments.

**SUMMARY:** The NCUA Board proposes to comprehensively amend its chartering and field of membership rules to put them in a more efficient framework and to maximize access to federal credit union services to the extent permitted by law. The amendments will implement changes in policy affecting: The definition of a local community, a rural district, and an underserved area; the expansion of multiple common bond credit unions and members' proximity to them; the expansion of single common bond credit unions based on a trade, industry or profession; and the process for applying to charter or expand a federal credit union.

**DATES:** Comments must be received on or before February 8, 2016.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- NCUA Web site: [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- Email: Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Notice of Proposed Rulemaking Regarding Associational Common Bond” in the email subject line.

- Fax: (703) 518-6319. Use the subject line described above for email.

- Mail: Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- Hand Delivery/Courier: Same as mail address.

**Public Inspection:** You may view all public comments on NCUA's Web site at <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper

copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518-6546 or send an email to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

#### FOR FURTHER INFORMATION CONTACT:

Matthew Biliouris, Deputy Director, or Robert Leonard, Director, Division of Consumer Access, or Rita Woods, Director, Division of Consumer Access South, Office of Consumer Protection, at the above address or telephone (703) 518-1140; or Senior Staff Attorney Steven Widerman or Staff Attorney Marvin Shaw, Office of General Counsel, at the above address or telephone (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. Overview

NCUA's Chartering and Field of Membership Manual, incorporated as appendix B to part 701 of its regulations (“Chartering and FOM Manual”),<sup>1</sup> implements the field of membership (“FOM”) requirements established by the Federal Credit Union Act (“the FCU Act”) for federal credit unions (“FCUs”).<sup>2</sup> An FOM consists of those persons and entities eligible for membership according to an FCU's type of charter.

In adopting the Credit Union Membership Access Act of 1998 (“CUMAA”), Congress reiterated its longstanding support for credit unions, noting their “specific mission of meeting the credit and savings needs of consumers, especially persons of modest means.”<sup>3</sup> As amended by CUMAA, the FCU Act provides a choice among three charter types: A single group sharing a single occupational or associational common bond;<sup>4</sup> a multiple common bond, with each group having a distinct occupational or associational common bond among group members;<sup>5</sup> and a community common bond among persons or organizations within a well-defined local community, neighborhood or rural district.<sup>6</sup>

Based on NCUA's experience in processing applications for initial approval and subsequent expansion of all three types of charters, the Board periodically updates and revises the

Chartering and FOM Manual to ensure adherence to the statutory criteria, limitations and special rules that apply to each charter type, to reflect contemporary practice, and to enhance the user-friendliness of the Chartering and FOM Manual for the benefit of those seeking to charter an FCU, as well as for existing credit unions.

###### B. Why is NCUA Proposing this Rule?

The proposed rule will modify the Board's policies affecting the definition of a local community, a rural district, and an underserved area; group members' proximity to multiple common bond FCUs when they expand; and expansion of single common bond FCUs that serve a trade, industry or profession; and the process for applying to charter or expand an FCU. Consistent with its responsibility under CUMAA to facilitate access to credit unions and their delivery of services, the Board is proposing these policy modifications in order to accomplish several objectives. The first is to ease any undue burdens and restrictions on an FCU's ability to provide services to consumers who are eligible for FCU membership, particularly those of modest means and those who may not currently be members of a credit union. The second is to enhance the menu of strategic options for FOM expansions. The third is to maximize competitive parity between federal and state charters, to the extent allowed by law, while respecting the national system of dual chartering. The Board invites public comments addressing all aspects of the proposed rule.

##### II. Summary of the Proposed Rule

###### A. Community Common Bond

As amended in 1998, the FCU Act limits membership in a community credit union to “[p]ersons or organizations within a well-defined local community, neighborhood or rural district.”<sup>7</sup> It directs the Board to define what constitutes a well-defined local community, neighborhood or rural district for purposes of “making any determination” regarding a community credit union,<sup>8</sup> and to establish applicable criteria for any such determination.<sup>9</sup> To qualify as a well-defined local community or rural district, the Board requires the proposed area to have “specific geographic boundaries,” such as those of “a city, township, county (single or multiple portions of a county) or their political equivalent, school districts or a clearly

<sup>1</sup> Appendix B to 12 CFR part 701 (“appendix B”).

<sup>2</sup> 12 U.S.C. 1759.

<sup>3</sup> Pub. L. 105-219, Section 2, 112 Stat. 913 (Aug 7, 1998).

<sup>4</sup> 12 U.S.C. 1759(b)(1).

<sup>5</sup> *Id.* Section 1759(b)(2)(A).

<sup>6</sup> *Id.* Section 1759(b)(3).

<sup>7</sup> *Id.* Section 1759(b).

<sup>8</sup> *Id.* Section 1759(g)(1)(A).

<sup>9</sup> *Id.* Section 1759(g)(1)(B).

identifiable neighborhood.”<sup>10</sup> The boundaries themselves may consist of political borders, streets, rivers, railroad tracks, or other static geographical feature.<sup>11</sup> The Board continues to emphasize interaction and common interests among residents within those boundaries as essential to the viability of a local community.

Since 2010, the Board has provided credit unions the option of two uniform, nationally-recognized, objective geographic units that, by definition, meet the statutory criteria of a well-defined local community, neighborhood or rural district. The first is a “Single Political Jurisdiction . . . or any contiguous portion thereof,” regardless of population.<sup>12</sup> The second is a single U.S. Census Bureau-designated Core Based Statistical Area or one or more Metropolitan Divisions within, or a well-defined portion of either one, subject in any case to a 2.5 million population limit that applies to the Core Based Statistical Area as a whole.<sup>13</sup> Under either well-defined local community option, a credit union must be able to serve the proposed community or rural district, as demonstrated by its business and marketing plans that must accompany an application for charter approval, expansion or conversion.<sup>14</sup>

1. *Core Based Statistical Area Population Limit.* As explained above, a Core Based Statistical Area qualifies as a well-defined local community only if its population does not exceed 2.5 million. By design, this population limit conforms to the population parameter by which OMB recognizes metropolitan divisions with a Core Based Statistical Area.<sup>15</sup> Upon further consideration in connection with this rule, the Board has decided to retain the 2.5 million population limit, but nonetheless invites public comment on whether to adjust the limit, by what amount, and for what specific reasons.

2. *“Core Area” Service Requirement.* Since 2010, NCUA has required that when a credit union applies to serve a community consisting of a portion of a Core Based Statistical Area, that portion must include the Core Based Statistical Area’s “core area,” which NCUA defines as the most populated county or named municipality in the Core Based Statistical Area’s title.<sup>16</sup> The primary purpose of this requirement was to

acknowledge the core area of a Core Based Statistical Area as the typical focal point for common interests and interaction among residents. An additional purpose was to extend FCU services to low-income persons and underserved areas, both typically located primarily in the core area of a Core Based Statistical Area. NCUA’s review of progress under approved FCUs’ business and marketing plans over the last five years indicates that those credit unions are adequately serving low-income persons and underserved areas without regard to their location within the community. Accordingly, NCUA proposes to repeal the core area requirement as an indicator of service to low-income persons and underserved areas, in favor of its practice of annually reviewing the progress of business and marketing plans for three years following charter approval or expansion, and relying on those plans to assess those service objectives within an original or an expanded community.

3. *Population Limit as Applied to a Well-Defined Portion of a Core Based Statistical Area.* The Board presently permits a well-defined portion of a Core Based Statistical Area to qualify as a well-defined local community provided the population of the Core Based Statistical Area *as a whole* does not exceed the 2.5 million population limitation,<sup>17</sup> disregarding whether the portion a credit union seeks to serve *alone* meets that limitation. A review of requests to serve a portion of a Core Based Statistical Area that were denied because the population of the *whole* Core Based Statistical Area exceeded 2.5 million has convinced the Board that this is an unnecessarily broad application of the population cap that produces unintended consequences.

To target the 2.5 million population limit strictly to the community a credit union seeks to serve, the Board proposes to modify its “statistical area” definition to specify that “a Core Based Statistical Area, Metropolitan Division, or well-defined portion of either one, must itself have a population of 2.5 million or fewer people.” This will ensure that a portion of a Core Based Statistical Area, or a Metropolitan Division within, qualifies as a well-defined local community when it meets the population limit solely as applied to that portion, even if the Core Based Statistical Area as a whole exceeds the limit.

4. *“Combined Statistical Area” as a Single Well-Defined Local Community.*

As explained above, a Core Based Statistical Area or a Metropolitan Division within a Core Based Statistical Area, or a well-defined portion of either one, qualifies as a well-defined local community subject to a population limit.<sup>18</sup> Acknowledging the interdependence among adjacent Core Based Statistical Areas, the Office of Management and Budget (“OMB”) has recognized 169 Combined Statistical Areas consisting of contiguous Core Based Statistical Areas, and Metropolitan and Micropolitan Statistical Areas within, that complement one another according to objective measurements of social and economic integration among an area’s residents.<sup>19</sup>

OMB’s approach in designating Combined Statistical Areas is consistent with that of the Board in relying on residents’ interactions and common interests to define a local community. Accordingly, the Board proposes to expand the existing single Core Based Statistical Area definition of a well-defined local community to include Combined Statistical Areas as designated by OMB, subject to the 2.5 million population limit. Additionally, in evaluating expansion requests, NCUA will continue its practice of reviewing each FCU’s business and marketing plans to determine its capability and success in serving its original and previously expanded community.

5. *Addition of an Adjacent Area to a Well-Defined Local Community.* Despite the convenience, certainty and staff efficiency of using a Single Political Jurisdiction, a Core Based Statistical Area or a Combined Statistical Area to form a well-defined local community or rural district, areas adjacent to the perimeter of these objective geographic units may lack a credit union presence and/or lack sufficient access to financial services, even though residents on both sides of the perimeter may routinely interact or share common interests with

<sup>10</sup> 75 FR 36257 (June 25, 2010).

<sup>19</sup> OMB Bulletin No. 15–01 to Heads of Executive Departments and Establishments (July 15, 2015) defines a Combined Statistical Area as “two or more Metropolitan Statistical Areas, a Metropolitan Statistical Area and a Micropolitan Statistical Area, two or more Micropolitan Statistical Areas, or multiple Metropolitan and Micropolitan Statistical Areas that have social and economic ties as measured by commuting, but at lower levels than are found among counties within Metropolitan and Micropolitan Statistical Areas.” OMB characterizes Core Based Statistical Areas as “representing larger regions that reflect broader social and economic interactions, such as wholesaling, commodity distribution, and weekend recreation activities, and are likely to be of considerable interest to regional authorities and the private sector.” <https://www.whitehouse.gov/sites/default/files/omb/bulletins/2015/15-01.pdf>

<sup>10</sup> Appendix B, Ch. 2, Section V.A.2.

<sup>11</sup> Appendix B, Ch. 2, Section V.A.5.

<sup>12</sup> Appendix B, Ch. 2, Section V.A.2.

<sup>13</sup> Appendix B, Ch. 2, Section V.A.2.

<sup>14</sup> Appendix B, Ch. 2, Section V.A.4.

<sup>15</sup> <https://www.whitehouse.gov/sites/default/files/omb/bulletins/2015/15-01.pdf> (at page 62).

<sup>16</sup> 75 FR 36257, 36260 (June 25, 2010).

<sup>17</sup> Appendix B, Ch. 2, Section V.A.2. (“statistical area” definition).

each other. To enable residents of those adjacent areas to access credit union services, the Board proposes to permit the addition of such an area to a community consisting of a Single Political Jurisdiction, Core Based Statistical Area, Combined Statistical Area, or rural district, upon a showing by subjective evidence that residents on both sides of the perimeter interact or share common interests.

The expanded community would be subject to the proposed population limits for community charters (2.5 million) and rural district charters (1 million).<sup>20</sup> The more expansive the adjacent area, theoretically even surrounding the original community's entire perimeter, the more challenging and burdensome it may be for a credit union to, first, subjectively demonstrate a sufficient totality of indicia of interaction or common interests among residents of the expanded community,<sup>21</sup> and then to establish through the credit union's business and marketing plans its ability and commitment to serve the entire expanded community.

The Board recognizes that credit unions seeking to add bordering areas to their existing community or rural district charters historically have already established a proven track record of serving an existing community or rural district and should not be subject to the same requirements as those for a credit union seeking to convert to a community or rural district charter. Therefore, the Board proposes to require a federal credit union seeking to add a bordering area to follow a streamlined set of business plan requirements contained in this rule. The Board seeks comment on the appropriateness of the proposed set of streamlined requirements, and if any specific items should be added or removed from the proposed criteria. The Board also seeks comment on the existing comprehensive business and marketing plan requirements. Finally, the Board is considering whether to limit the availability of this streamlined approach to a federal credit union seeking a certain maximum percentage increase in its field of membership, and is interested in receiving public comment on this aspect of the proposal.

**6. Individual Congressional District as a Well-Defined Local Community.** Since

<sup>20</sup> See Rural District Definition discussion later in this same section.

<sup>21</sup> The proposed rule incorporates guidance identifying compelling indicia of common interests and interaction that would be relevant when a credit union chooses to submit a narrative to NCUA to demonstrate that the residents of the expanded community meet the requirements of a well-defined local community.

1999, the Board has maintained that neither a Congressional district nor a whole state qualifies as a well-defined local community, despite recognizing that both are well-defined.<sup>22</sup> These restrictions were never imposed by statute; rather, the Board disallowed whole states and Congressional districts solely as a matter of policy.<sup>23</sup> When imposing these restrictions, the Board recognized that—

in general, a large population in a small geographic area or a small population in a large geographic area, may meet community chartering requirements. Conversely, . . . a large population in a large geographic area will not normally meet community chartering requirements. In so doing, however, the Board has not summarily dismissed or prejudged any potential application. While an area with a large population may require additional documentation, it still may meet the definition of a local community.<sup>24</sup>

A significant change in circumstances has prompted the Board to reconsider this policy as it applies to Congressional districts—namely that, NCUA has, since 1999, approved 21 Single Political Jurisdictions that each have a population in excess of 1 million, while the average population of the United States' 435 Congressional districts is 710,767.<sup>25</sup>

The most populous of the 435 districts is the “at large” district serving the state of Montana, with a population of 1,023,579; Rhode Island has the smallest average district size at 523,028.<sup>26</sup> As measured by population, it is appropriate to recognize each individual Congressional district, as well as the District of Columbia and each U.S. territory represented by a non-voting delegate,<sup>27</sup> as local when compared to Single Political Jurisdictions as large in population as Los Angeles County, California (9.6 million), approved by the Board in 2003, and Harris County, Texas (3.45 million), approved by the Board in 2007.

Among residents of Single Political Jurisdictions comprised of towns, cities and counties, the focal point of common interests and interaction tends to be local

<sup>22</sup> 63 FR 72013, 72037 (December 30, 1998); Appendix B, Ch. 2, Section V.A.2.

<sup>23</sup> 63 FR at 72037. See also 75 FR at 36258 (affirming that entire state is not acceptable as WDLC)

<sup>24</sup> 63 FR at 72012.

<sup>25</sup> <http://www.census.gov/fastfacts>.

<sup>26</sup> *Id.* Seven states presently are comprised of a single Congressional district, effectively giving each a state-wide FOM: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming.

<sup>27</sup> American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

services, resources and facilities (e.g., taxes, schools, police and fire protection). The proposal acknowledges that Congressional districts, structured for purposes of federal representation, reflect interaction and common interests among each district's constituents based on issues and matters decided at the federal level that affect them locally (e.g., economic, agricultural, and environmental).

Based on this rationale, the Board proposes to recognize each individual Congressional district as a Single Political Jurisdiction, thus qualifying it as a well-defined local community without regard to population.<sup>28</sup>

As in the case of any community charter application, a credit union that applies to serve a Congressional district must submit a business and marketing plan demonstrating its ability and commitment to serve the entire community. The larger the Congressional district, the more challenging and burdensome it may be for an applicant to satisfy this requirement.

If, as a result of redistricting, the boundaries of an individual Congressional district were to be redrawn, the FOM consisting of the original Congressional district would no longer be available to be served by any other FCU. Only an FCU that was approved to serve an FOM comprised of an individual Congressional district would be grandfathered to continue serving that area.

#### *B. Rural District Definition*

The Board has, since 2013, imposed two requirements for a proposed area to qualify as a well-defined “Rural District.” The first is that the area's total population cannot exceed the *greater* of either 250,000 people or 3 percent of the population of the state in which the majority of the proposed Rural District's residents would be located.<sup>29</sup> The second is that either at least 50 percent of the proposed Rural District's population must reside in census blocks or other geographic units the U.S. Census Bureau (“U.S. Census”) designates as “rural,” or the proposed Rural District's population density cannot exceed 100 persons per square mile.<sup>30</sup> Independently of these well-defined local community requirements, a credit union must be able to serve the proposed Rural District, as demonstrated by its business and marketing plans that must accompany

<sup>28</sup> Appendix B, Ch. 2, Section V.A.1.

<sup>29</sup> Appendix B, Ch. 2, Section V.A.2.

<sup>30</sup> *Id.*



an application for charter approval, expansion or conversion.<sup>31</sup>

1. *Population Limits.* The 250,000 persons/3 percent population limits were based on the view that a Rural District should have a relatively small, widely disbursed population. However, a compelling countervailing factor continues to weigh against this view: To make the area attractive as a strategic option, a Rural District must have a population sufficient to enable credit unions to achieve a sufficient level of operating efficiencies and scale to deliver products and services. Balancing these opposing population considerations, NCUA proposes to modify the Rural District definition to increase the population limit to 1 million persons. Because the increased population limit would exceed 3 percent of a state's population in all states but one (California), making that alternative redundant, the proposed rule omits it. The Board invites public comment on whether to adjust the proposed 1 million population limit, by what amount, and for what specific reasons.

2. *Multi-State Expansion Limit.* In 1998, the Board conceded that "While an area with a large population may require additional documentation, it still may meet the definition of a local community. Similarly, multiple counties, particularly in rural areas, may qualify for a community charter."<sup>32</sup> To achieve consistency with U.S. Census recognition of expansive rural areas, the proposed rule modifies the option for an area to qualify as a Rural District either because it is among the "rural counties" identified by the Consumer Financial Protection Bureau ("CFPB"),<sup>33</sup> or because the area has a sparse population density of no more than 100 people per square mile. These criteria truly reflect an area's rural character regardless of its physical size, as shown by the eight states in which the U.S. Census identifies more than 40 percent of the state population as "rural."<sup>34</sup>

As revised, the Rural District definition—a 1 million population limit, and either a sparse population density or "rural" designation—would continue to permit a Rural District to extend beyond a single state's boundaries. To prevent the overexpansion of Rural Districts, however, the Board proposes

to prohibit a single well-defined Rural District from exceeding the boundaries of the states that are *immediately contiguous* to the state in which the FCU serving the Rural District is headquartered (*i.e.*, not to exceed the outer perimeter of the layer of states immediately bordering the headquarters state).

### C. Underserved Areas

The FCU Act authorizes the NCUA Board to allow multiple common bond credit unions to serve members residing in an "underserved area," provided the FCU establishes and maintains a facility in the area.<sup>35</sup> For an area to be "underserved," it must qualify: (1) As a well-defined local community, neighborhood or rural district;<sup>36</sup> (2) as an "investment area" under the Community Development Banking and Financial Institutions Act ("CDFI Act");<sup>37</sup> and (3) as "underserved" by other depository institutions (as defined [by the CDFI Act]) "based on data of the Board and the Federal banking agencies."<sup>38</sup> Other than to limit the sources of data and to define "depository institutions," the FCU Act prescribes no specific test or criteria to assess "underservice." Within this broad authority, the Board seeks to refine the data used in its concentration of facilities ratio, first introduced in 2008,<sup>39</sup> to determine whether a proposed area is underserved by other depository institutions, as well as to propose for comment alternative methodologies and metrics as options for making that determination.

1. *Exclusion of Non-Depository Institutions and Non-Community Credit Unions from Concentration of Facilities Ratio.* It has been NCUA's practice to calculate an area's concentration of facilities ratio on behalf of a credit union seeking approval to serve it as an underserved area. To assess the presence of banks and savings

associations within geographic units that do not already qualify as "distressed" under the CDFI Act, NCUA has relied upon data compiled by the Federal Deposit Insurance Corporation ("FDIC") in its Summary of Deposits Survey,<sup>40</sup> and on NCUA data to assess the presence of credit unions. The Board proposes to exclude two data components from the ratio, on a contingent basis, to prevent the concentration of facilities ratio from being diluted or distorted by over-inclusive data, as well as to ensure compliance with the letter and the spirit of the "depository institutions" definition the FCU Act references.<sup>41</sup>

The first component is NCUA data reflecting the presence of *non*-community credit unions, such as multiple common bond credit unions—other than those already serving the proposed area as an underserved area—because they would be unable to serve the general public of a underserved area (*i.e.*, unable to serve anyone not within its select groups). The second component is FDIC data reflecting the presence of *non*-depository institutions, such as trust companies, which do not accept deposits from the general public. Excluding data reflecting the presence of institutions that would not be capable of serving a proposed area, either by definition or in fact, will preclude the unwarranted denial of an application to serve an underserved area.

It would be impracticable and an inefficient use of resources for NCUA to segregate bank and credit union data on a nationwide scale to exclude non-depository bank and non-community credit union data. However, in the event an initial concentration of facilities ratio calculation fails to identify a proposed area as underserved by other depository institutions, the proposed rule would require NCUA to then exclude the non-depository bank and non-community credit union data and recalculate the ratio. This will ensure the integrity of the result, as well as maximize the identification of areas that would benefit from the introduction of credit union service to compensate for the lack of service by other depository institutions. This approach also will conserve NCUA resources that otherwise would be consumed in routinely excluding this data without regard to whether an initial concentration of facilities ratio calculation without those exclusions would yield a positive result.

<sup>35</sup> 12 U.S.C. 1759(c)(2).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* Section 4702(16).

<sup>38</sup> *Id.* Section 1759(c)(2)(A) citing *id.* Section 461(b)(1)(A). By definition, a "depository institution" is insured and includes credit unions. *Id.* Section 461(b)(1)(A)(iv).

<sup>39</sup> 73 FR 73392 (Dec. 2, 2008). Using census tracts as the unit of measure, the concentration of facilities ratio compares the concentration of depository institution facilities among the population within the non-"distressed" portions of the proposed area against the concentration of such facilities among the population of the area as a whole. 73 FR at 73396. Ch.3, Section III.B.3. of appendix B. An area qualifies as underserved by other depository institutions when the concentration of facilities ratio within its non-"distressed" census tracts exceeds the concentration of facilities ratio within the census tracts of the area as a whole.

<sup>40</sup> FDIC's "Summary of Deposits Survey," *e.g.*, <https://www.fdic.gov/news/news/financial/2015/fil15024.pdf>.

<sup>41</sup> 12 U.S.C. 461(b)(1)(A).

<sup>31</sup> Appendix B, Ch. 2, Section V.A.4.

<sup>32</sup> 63 FR at 72012.

<sup>33</sup> See CFPB's "Rural or underserved counties list" available at: <http://www.consumerfinance.gov/guidance/#ruralunderserved>.

<sup>34</sup> <https://www.census.gov/geo/reference/ua/urban-rural-2010.html> (List of Population, Land Area and Percent Urban and Rural in 2010 and Changes from 2000 to 2010).

2. *Alternatives to Identify Areas "Underserved by Other Depository Institutions."* While the concentration of facilities ratio has generally proven to be an effective measure of underservice by other depository institutions, it has some inherent limitations: It accounts for the physical presence of depository institutions in a given area, but it does not necessarily evaluate the benefit or quality of services these institutions deliver.<sup>42</sup> Accordingly, the Board proposes two alternatives to the concentration of facilities ratio that may reflect underservice by other depository institutions more comprehensively. The first would be the designation of "underserved counties" by the CFPB,<sup>43</sup> which has rulemaking authority over Federal banking agencies' collection of Home Mortgage Disclosure Act ("HMDA") data used to make those designations.<sup>44</sup> The second would be a metric of a credit union's own choosing that it would submit as evidence of underservice in a proposed area, provided the metric is based on "data of the Board and the Federal banking agencies."<sup>45</sup>

The Board invites commenters to identify other methodologies and Federal banking agency data that would be useful in identifying areas "underserved by other depository institutions" in an objective manner. Examples include data from Community Reinvestment Act examination reports prepared by the FDIC, Office of the Comptroller of the Currency ("OCC") or the Board of Governors of the Federal Reserve System ("the Fed"),<sup>46</sup> and HMDA data collected by these agencies. The Board encourages commenters to suggest why and how any specific methodology and supporting data recommended for consideration would establish an objective basis for analysis of underservice by other depository institutions.

#### D. Multiple Common Bond

As amended in 1998, the FCU Act restored the Board's multiple common

bond policy, permitting a multiple common bond credit union to serve a combination of distinct, definable occupational and/or associational groups, each having its own common bond among group members.<sup>47</sup>

1. *Credit Union's "Reasonable Proximity" through Members' Online Access to Services.* The FCU Act authorizes multiple common bond credit unions to expand through the addition of select groups having dissimilar common bonds, provided such a group does not exceed 3,000 members.<sup>48</sup> To add a group that exceeds that limit, the group must meet other criteria the FCU Act prescribes to establish that it "could not feasibly or reasonably establish a new single common bond credit union."<sup>49</sup> Regardless of group size, the FCU Act further requires the Board, in deciding whether to approve a multiple common bond expansion, "to encourage the formation of separately chartered credit unions . . . whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union," based on approval criteria the FCU Act prescribes.<sup>50</sup>

When formation of a stand-alone single common bond credit union either is not practicable, or would be inconsistent with reasonable standards of safety and soundness, the FCU Act requires "inclusion of the group in the [FOM] of a credit union that is within *reasonable proximity* to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union."<sup>51</sup> The Chartering and FOM Manual implements both the stand-alone feasibility criteria and the multiple common bond expansion approval criteria.

In 1998, the Board acknowledged that "reasonable proximity" is an essential factor in determining whether a select group can be added to a multiple common bond credit union.<sup>52</sup> However, the Board did not require an added group's location to be within reasonable proximity of the credit union's main office, but rather, within the service area of a "service facility" of the credit union. As currently defined, a "service facility" includes a credit union branch, a shared branch, a mobile branch that visits the same location on a weekly basis, and a credit union-owned

electronic facility.<sup>53</sup> To qualify as a service facility, a group's members must be able to deposit funds, apply for a loan or obtain funds on approved loans.<sup>54</sup>

To recognize the role of advancing technologies in enabling reasonable proximity between a credit union and the groups it serves, the Board proposes to revise the definition of a "service facility" to extend it to members of occupational select groups, and members of pre-approved associational groups,<sup>55</sup> who have access to their credit union's products and services through an online internet channel such as a transactional Web site. This proposed change would apply solely to meet the "reasonable proximity" requirement that applies to a multiple common bond credit union and its select occupational and associational groups; it would not apply to meet the requirement that a credit union serving an underserved area "must establish and maintain an office or facility in [the underserved area]."<sup>56</sup> To provide the same functionality currently required for a service facility, the online internet channel must be capable of accepting shares for those members' accounts and loan applications from them, or disbursing loan proceeds to them. The Board emphasizes that this proposed change would allow access to online financial services only by already existing members of multiple common bond credit unions; it would not permit an individual to qualify remotely for membership in a community credit union based on electronic access to it from outside its well-defined local community.

To support its proposal to incorporate online financial services in the definition of "service facility" through online internet channels via access to laptop computers, personal computers and mobile devices, the Board has reviewed data from FCUs regarding consumer needs and preferences. By all measures, the use of online financial services has increased dramatically in the past 15 years. Federally insured credit unions' Call Report data indicates that the proportion of members using transactional Web sites has steadily increased from 27 percent of members in the fourth quarter of 2006 (23.2 million) to 45 percent in the second quarter of 2015 (40.5 million)—an increase of 17.3 million users.

<sup>42</sup> The benefit and quality of services depository institutions deliver is addressed by the "distress" criterion requiring the area to have "significant unmet need for loans and financial services." 12 U.S.C. 4702(16)(A)(ii).

<sup>43</sup> Although CFPB's annual "Rural or underserved counties list" does not segregate "rural" and "underserved" counties, NCUA will use the data collected by CFPB to produce and make available a list that identifies "underserved areas" exclusively.

<sup>44</sup> 12 U.S.C. 1813(z). Financial institutions, including national banks, Federal savings associations, state member banks, and FCUs report mortgage related data to their respective Federal regulator—OCC, the Fed, FDIC and NCUA.

<sup>45</sup> E.g., FDIC "Summary of Deposits Survey."

<sup>46</sup> E.g., <http://www.ffiec.gov/cra/default.htm>.

<sup>47</sup> 63 FR 71998, December 30, 1998; 12 U.S.C. 1759(b)(2)(A). See *NCUA v. First National Bank & Trust Co.*, 522 U.S. 479 (1988).

<sup>48</sup> *Id.* Section 1759(d)(1).

<sup>49</sup> *Id.* Section 1759(d)(2)(A).

<sup>50</sup> *Id.* Section 1759(f)(1)(A).

<sup>51</sup> *Id.* Section 1759(f)(1)(B) (emphasis added).

<sup>52</sup> 63 FR 71998, 72002 (December 30, 1998).

<sup>53</sup> Appendix B, Ch.2, Section IV.A.1 and appendix 1 (glossary).

<sup>54</sup> Appendix B, Ch.2, Section IV.A.1.

<sup>55</sup> Appendix B, Ch. 2, Section III.A.1.B.

<sup>56</sup> 12 U.S.C. 1759(c)(1)(B).

Among FCUs, only 22 percent offered home banking via an internet Web site in 2000. This share increased to 68 percent in the fourth quarter of 2011 (4,846 out of 7,094), and 75 percent by the second quarter of 2015 (4,612 out of 6,159). There has been similarly significant growth in the use of smart phones and tablets to conduct mobile banking transactions. With such technology non-existent as late as 2008, only 6 percent of FCUs offered mobile banking in 2009. This share increased to 16 percent in 2011, and 47 percent by the second quarter of 2015.

Similarly, data collected by the Boston Consulting Group (“BCG”) indicates actual consumer use of online delivery channels has increased significantly.<sup>57</sup> Specifically, online consumer contacts with banks nearly doubled from 2004 to 2012. Mobile and internet banking increased from 5 percent of customer contacts in 2004 to about 48 percent by 2012. In contrast,

the share of contacts conducted in branches fell from 75 percent to 30 percent during this period. The BCG study noted that mobile and internet banking transaction volume advanced not only due to the increase in the number of overall contacts, but because banking transactions accounted for a larger share of total activity. The BCG study emphasized that to compete effectively in the financial sector, financial institutions need to establish business plans that make “interactions across multiple channels simple—not disjointed or constrained by internal organizational boundaries in a way that leads customers to dead ends. Channels should support each other, not compete.”<sup>58</sup> In addition, the BCG study predicted that internet contacts as a percentage of all contacts would increase to about 66 percent by 2020.

The dramatic increase in FCUs offering mobile banking service is consistent with the use of internet and

mobile banking services by consumers generally. An annual study sponsored by the American Bankers Association, and conducted by Ipsos Public Affairs for 2015, surveyed 1,000 adults about their banking preferences among the following choices: Internet banking (laptop or personal computer), mobile devices (cell phone, Blackberry, PDA, tablet), brick and mortar branches, ATMs, telephone, and mail. A primary question was, “Which method do you use most often to manage your bank accounts?” The table below indicates that 41 percent of customers preferred internet or mobile banking. In contrast, only 21 percent preferred branch banking. These preferences were similar in 2013 and in 2014. The study sponsor further stated that “This is the sixth year in a row [2008–2014] that customers named the Internet as their favorite way of conducting their banking business.”<sup>59</sup>

Type of banking	2014	2013
Online channels (laptop or PC) .....	31%	39%
Branches .....	21%	18%
ATMs .....	14%	11%
Mobile (cell phone, Blackberry, PDA, iPad) .....	10%	8%
Telephone .....	7%	7%
Mail .....	6%	7%
Don't Know/Not sure .....	11%	10%

Similarly, government-sponsored studies indicate dramatic increases in online banking in the past few years. Since 2011, the Fed has conducted an annual survey that focuses on one channel of online banking: Smart phone technology for mobile banking.<sup>60</sup> That survey illustrates the increased reliance of smart phone technology for mobile banking. The March 2015 Report of a December 2014 survey stated, “Thirty nine percent of all mobile phone owners with a bank account have used mobile banking in the 12 months prior to the survey, up from 33 percent in 2013 and 29 percent in 2012.” Further, “Fifty two percent of smartphone owners with a bank account used mobile banking in the past 12 months, up from 51 percent in 2013.” The Federal Reserve survey further found that another 11 percent of mobile phone users think that they will use smart phones for online banking within 12 months.<sup>61</sup>

The Federal Reserve Bank of Atlanta studied the use of mobile banking by

banks and credit unions to determine the level of and type of mobile financial services offered by financial institutions.<sup>62</sup> Of 189 respondents in Georgia, Alabama, Florida, and parts of Mississippi, Louisiana, and Tennessee, which included banks and credit unions of all asset sizes, only six (3 percent) did not currently offer or, plan to offer mobile banking services. Further, the study noted, “There was very little difference between the bank and CU responses.” The study also confirmed a significant trend toward offering mobile banking, given that 23 percent of the respondents began offering mobile banking within the past year and 15 percent were planning to offer such services within the next two years.

The strong consumer preference for online financial services, as well as for integration of online banking into financial institutions’ overall business and marketing plans indicates the need to amend the Chartering and FOM Manual to facilitate current credit union

members’ access to such online services. Accordingly, to put multiple common bond credit unions and members of the groups they serve within reasonable proximity of each other, as required by law, as well as to put them in parity with their depository institution competitors, the Board is proposing to amend the definition of “service facility” to include online financial services, including computer-based and mobile phone channels meeting certain criteria for access.

In addition to the proposal to include a transactional Web site in the definition of “service facility,” the Board is considering modifying the definition of “service area” to include one or more discreet political jurisdictions such as a county or city. While the Board historically has discouraged using mileage and distance factors exclusively to define reasonable proximity,<sup>63</sup> it acknowledges that there may be an appropriate level of certainty in also defining reasonable proximity to

<sup>57</sup> Maguire, Andy, et. al., *Distribution 2020: The Next Big Journey for Retail Banking* (March 2013): [https://www.bcgperspectives.com/content/articles/financial\\_institutions\\_sales\\_channels\\_distribution\\_2020/?chapter=2](https://www.bcgperspectives.com/content/articles/financial_institutions_sales_channels_distribution_2020/?chapter=2).

<sup>58</sup> American Bankers Association Press Release: *More Consumers Turning to Mobile Banking* (August 11, 2015).

<sup>59</sup> *Id.* at 2.

<sup>60</sup> *Federal Reserve Consumers and Mobile Financial Services* (March 2015).

<sup>61</sup> *Id.* Executive Summary at 4.

<sup>62</sup> *Mobile Banking and Payments Survey of Financial Institutions of the Sixth District*, Lott, David (March 2015).

<sup>63</sup> 63 FR 71998, 72003 (December 30, 1998).

encompass a city or county jurisdiction. The Board invites comments on options to modify the definition of “service area.”

2. *Inclusion of Select Employee Group Contractors in a Multiple Common Bond.* The Board presently includes within the definition of a *single* occupational common bond the persons who work regularly for an entity that is under contract to the sponsor of the select employee group (“SEG”) listed in its charter, provided the contractor has a “strong dependency relationship” with that sponsor.<sup>64</sup> This definition relies on the presence of a “strong dependency relationship” between the SEG sponsor and its contractor to establish the “common bond of occupation” the FCU Act requires for a group to be included in either a single or a multiple common bond credit union.<sup>65</sup> There being no distinction between a single and a multiple common bond credit union for purposes of recognizing the occupational affinity between a SEG sponsor’s own employees and those of each sponsor’s contractors, the Board proposes to extend to *multiple* occupational common bond credit unions the ability to add persons who work regularly for an entity that is under contract to any of the multiple SEG sponsors listed in its charter, provided the contractor has a “strong dependency relationship” with the sponsor in each case.

3. *Inclusion of Office/Industrial Park Tenants in a Multiple Common Bond.* In the past, NCUA has recognized industrial parks as a special type of community charter.<sup>66</sup> As an alternative to extend credit union service to persons who work in an office or industrial park, the Board now proposes to also permit a multiple common bond credit union to include as a SEG the employees of a park’s tenants (e.g., retail tenants of a shopping mall, business tenants of an office building or complex). The group listed in the charter would be the office/industrial park itself; it would not be necessary to individually list each tenant as a group sponsor. Inclusion of such office/industrial park groups within a multiple common bond credit union would be subject to two conditions: Each tenant within the group must have fewer than 3,000 employees working at a facility within the park, and only those employees who work regularly at the park *during their employer’s tenancy* would be eligible for FCU membership.

New tenants to the industrial park would be eligible for membership subject to the above conditions.

The option of including a tenants’ SEG within a multiple common bond would allow those FCUs to more efficiently offer services to employees of small businesses, avoiding an extensive outlay of resources to obtain letters from each group requesting credit union service. Instead, a multiple common bond credit union could serve employees of an office/industrial park’s tenants by obtaining a letter from an authorized representative of the park itself, such as its leasing agent.

4. *Streamlined Determination of Stand-Alone Feasibility of Groups Greater than 3,000.* Based on NCUA’s experience in assessing the stand-alone feasibility of groups in excess of 3,000 members, and data regarding the failure rate of credit unions during a 12-year period,<sup>67</sup> a trend has emerged: 80 percent of credit union failures occurred in credit unions with fewer than 5,000 members. In view of this trend, the Board has decided to modify NCUA’s process for assessing the stand-alone feasibility of groups that seek to be added to the FOM of an existing multiple common bond credit union, rather than forming the group’s own single common bond credit union. Accordingly, the Board proposes to reorganize and streamline the application process for multiple common bond expansions according a group’s size.

Groups of fewer than 3,000 members will be subject to the existing application process, consisting of the following: A written request using the Application for Field of Membership (NCUA 4015 EZ), a letter from the group requesting credit union service and indicating the desire to be added to the FCU’s field of membership; the number of persons included in the group to be added; and the group’s proximity to the credit union’s nearest service facility. Applicants do not need to support these groups’ lack of ability to form their own credit union.

Since the statute presumes a group of 3,000 or more members can form a credit union, there is a higher burden of proof to establish that such a group cannot form its own credit union. When a group has between 3,000 and 5,000 members and displays evidence of a lack of available subsidies, disinterest among the group’s members, and an overall lack of sufficient resources, the Board has historically determined that

the group could not feasibly or reasonably establish a new single common bond credit union. In such cases the Board will accept a written statement indicating these conditions exist as sufficient documentation the group cannot form its own credit union. Consistent with current policy on incidental overlaps, the Board will no longer require an overlap analysis of a group between 3,000 and 5,000 members, given that groups in this size range rarely have been able to form a stand-alone credit union. Groups with more than 5,000 members will be subject to the existing standard application process, requiring a group to fully describe its inability to establish a new single common bond credit union.

However, the Board is particularly interested in comments on whether to consider a larger number than 5,000 for this threshold. While 80 percent of failures occurred in credit unions with fewer than 5,000 *actual* members, the number of *potential* members of those credit unions was significantly larger. Therefore, if 5,000 actual credit union members were deemed to be the minimum number needed to charter a viable new credit union, the number of potential members needed to reach 5,000 actual members would be larger.

For example, if the average penetration rate of actual members to potential members at the smallest multiple-group credit unions is 50 percent, a group of 10,000 potential members may be needed to reach 5,000 actual members. The Board welcomes comments on how many actual members are needed to charter a viable new credit union, and how many potential members would be needed in order to reach that minimum number of actual members.

There are three benefits to the proposed three-tiered process for assessing a group’s stand-alone feasibility. First, it conforms to the stand-alone feasibility criteria the FCU Act prescribes for groups in excess of 3,000, and the approval criteria it prescribes for the addition of a group, regardless of its size, to an existing multiple common bond credit union.<sup>68</sup> Second, it will minimize the resource burden on individual groups and credit unions in compiling information and documentation to support an application to add a group, as well as on the NCUA staff in assessing the application. Finally, it will allow NCUA to more effectively allocate its resources by focusing its scrutiny on individual groups based on the record of survival of newly chartered credit unions having

<sup>64</sup> Appendix B, Ch. 2, Section II.A.1.

<sup>65</sup> 12 U.S.C. 1759(b)(1) & (2).

<sup>66</sup> Appendix B, Ch. 2, Section V.A.6 (special community charters).

<sup>67</sup> Credit union failures according to asset size and membership as reflected in final Call Reports for 2003Q1–2015Q2.

<sup>68</sup> *Id.* Section 1759 (d)(2) & (f)(1).

more than 5,000 members when formed. This would enhance the agency's ability to conduct an appropriate level of due diligence in its reviews.

#### *E. Other Persons Eligible for Credit Union Membership*

NCUA has historically recognized a variety of persons who, by virtue of their relationship to a common bond group, have been entitled to credit union membership eligibility. Principal among these persons are members of the immediate family or household of a primary member of a credit union members (*i.e.*, spouse, child, sibling, parent, grandparent, grandchild, including by step or adoptive relationship).<sup>69</sup> Other such affinity groups include spouses of deceased credit union members, current credit union employees, pensioners and annuitants who have retired from credit union employment, and persons who perform volunteer work for a credit union.<sup>70</sup>

Active duty and discharged military personnel and their families share a similar affinity, typically maintaining a close relationship with their active duty branch of service, largely through Armed Forces associations, publications and continued access to military bases, such as Veterans Administration facilities, base commissaries, post exchanges, and morale, welfare and recreation sponsored programs. To honor the contributions of those serving in the United States Armed Forces, and to give them the benefit of access to credit union service throughout their lives following active duty, the Board proposes to include within a credit union's common bond the honorably discharged veterans of any branch of the United States Armed Forces listed in its charter, continuing their eligibility for credit union membership beyond active duty.

#### *F. Trade, Industry or Profession ("TIP") as a Single Common Bond*

A TIP is a single occupational common bond based on employment at any number of corporations or other legal entities that, while not under common ownership, still have a common bond by reason of producing similar products, providing similar services, sharing the same profession or trade, or participating in the same industry.<sup>71</sup> To establish "one group that has a common bond of occupation," as the FCU Act prescribes, a TIP-based

FOM must reflect a narrow commonality of interests among those working within a specific trade, industry, or profession, and there must be a close nexus among the entities within the group.<sup>72</sup> The commonality of interest and close nexus requirements preclude a TIP from including third-party vendors and other suppliers and contractors. As an example, an automobile TIP may include all workers manufacturing automobiles but may not include the steel suppliers or other component suppliers.

*Inclusion of "Strong Dependency" Vendors and Suppliers in TIP Definition.* The Board already recognizes a single occupational common bond between a SEG sponsor's own employees and those of its contractors, provided there is a "strong dependency relationship" between the sponsor and the contractor. Similarly, NCUA proposes to clarify its definition of a TIP to include employees of types of entities that have a strong dependency relationship on, and whose employees work directly with employees of, other entities within the same industry. An example would be an FCU that serves employees of companies within the airline industry that have a strong dependency relationship with airlines or airports, and whose employees work directly with providers of air freight transportation, courier services, air passenger services, in-flight food services, airport security, baggage handling, and commercial janitorial, maintenance and repair services. The premise of a strong relationship between these providers and their airport and airline customers is the likelihood of a significant economic impact, if not equally between them, if one were unable to continue in its operations without doing business with the other. As expanded, the TIP definition would give credit unions the opportunity to demonstrate that an entity is "strongly dependent" on the others within a TIP, and shares a narrow commonality of interest with them, as necessary to be part of a TIP-based single occupational common bond.

#### *G. Technical Updates*

Apart from introducing substantive revisions to NCUA's FOM rules and policies, the proposed rule will update the Chartering and FOM Manual to enhance its accuracy and user-friendliness for the benefit of those seeking to charter a credit union, as well as for existing credit unions. To that end, the proposed rule substitutes

certain references to regional office and regional director chartering responsibilities with references to the Office of Consumer Protection as the primary office for chartering matters within NCUA and, to address previous comments, substitutes the Board Secretary for the Office of Consumer Protection in reference to appeals of chartering decisions.<sup>73</sup> Finally, the proposed rule corrects statutory and regulatory citations and cross-references, as well as typos; updates the appendices to the Chartering and FOM Manual to reflect current agency practices; and updates references to NCUA offices and industry trade associations.

### **III. Regulatory Procedures**

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.<sup>74</sup> For purposes of this analysis, NCUA considers small credit unions to be those having under \$50 million in assets.<sup>75</sup> Although this rule is anticipated to economically benefit FCUs that choose to expand their FOMs, NCUA certifies that it will not have a significant economic impact on small credit unions.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to collections of information through which an agency creates a paperwork burden on regulated entities or the public, or modifies an existing burden.<sup>76</sup> For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The Office of Management and Budget (OMB) previously approved the current information collection requirements for the Chartering and Field of Membership Manual and assigned them control number 3133-0015.

The proposed rule creates new strategic options for FCUs, while requiring essentially the same information that the existing rule required to apply for and be granted a charter expansion or conversion, with two exceptions. It introduces a new form within an appendix to the

<sup>73</sup> 87 FR 25924, 25929 (May 6, 2015).

<sup>74</sup> 5 U.S.C. 603(a).

<sup>75</sup> Effective November 23, 2015, the asset ceiling for small credit unions will increase to \$100 million. 80 FR 57512 (Sept. 24, 2015).

<sup>76</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

<sup>69</sup> Appendix B, Ch.2, Sections II.H., IV.H., and appendix 1 (glossary definition of "affinity").

<sup>70</sup> Appendix B, Ch.2, Sections II.H., IV.H.

<sup>71</sup> 68 FR 18334, 18336 (April 15, 2003); Appendix B, Ch. 2, Section IIA.2.

<sup>72</sup> *Id.*

Chartering and Field of Membership Manual to condense the application process for adding certain groups to a multiple common bond FOM. This new form does not add any additional burden to FCUs.

Regarding a community common bond, the proposed rule permits an FCU to add an area adjacent to the perimeter of its existing community consisting of a Single Political Jurisdiction, Core Based Statistical Area, Combined Statistical Area or rural district, upon a showing by subjective evidence that residents on both sides of the perimeter interact or share common interests. For that purpose, the rule provides guidance in identifying compelling indicia of interaction or common interests that would be relevant in drafting a narrative summarizing the indicia that demonstrate that the residents of the expanded community meet the requirements of a well-defined local community.

NCUA has determined that the procedure for an FCU to assemble such subjective evidence of interaction or common interests, and to draft and submit a narrative summarizing the evidence to support its application to expand, would create a new information collection requirement. As required, NCUA is applying to OMB for approval to amend the current information collection to account for the new procedure.

Approximately 1,090 FCUs have a community charter. While there is no reasonable way to measure how many FCUs will use this particular option, it would be available to any community FCU, regardless of asset size. NCUA estimates that, on average, it would take an FCU's staff approximately 24 hours to collect the evidence of interaction and common interests and to draft a narrative to support its application to expand. Accordingly, NCUA estimates the aggregate information collection burden on FCUs that seek to add an area adjacent to the perimeter of an existing community consisting of a Single Political Jurisdiction, Core Based Statistical Area, Combined Statistical Area or rural district would be 24 hours times 1,090 FCUs for a total of 26,160 hours. NCUA is proposing to amend the current information collection control number 3133-0015 to account for these additional burden hours.

Organizations and individuals wishing to submit comments on this information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Attn: Shagufta Ahmed, Room 10226, New Executive Office Building, Washington, DC 20503, with a copy to

the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

NCUA will consider comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the NCUA, including whether the information will have a practical use;
- Evaluating the accuracy of NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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).

#### *Executive Order 13132*

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

#### *Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>77</sup>

#### **List of Subjects in 12 CFR Part 701**

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 19, 2015.

**Gerard S. Poliquin,**  
*Secretary of the Board.*

For the reasons stated above, NCUA proposes to amend 12 CFR part 701, appendix B, as follows:

### **PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS**

- 1. The authority for part 701 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 42 U.S.C. 4311-4312.

- 2. Appendix B to part 701 is revised to read as follows:

#### **Appendix B to Part 701—Chartering and Field of Membership Manual**

##### **Chapter 1—Federal Credit Union Chartering**

##### **I—Goals of NCUA Chartering Policy**

The National Credit Union Administration's (NCUA) chartering and field of membership policies are directed toward achieving the following goals:

- To encourage the formation of credit unions;
  - To uphold the provisions of the Federal Credit Union Act;
  - To promote thrift and credit extension;
  - To promote credit union safety and soundness; and
  - To make quality credit union service available to all eligible persons.
- NCUA may grant a charter to single occupational/associational groups, multiple groups, or communities if:
- The occupational, associational, or multiple groups possess an appropriate common bond or the community represents a well-defined local community, neighborhood, or rural district;
  - The subscribers are of good character and are fit to represent the proposed credit union; and
  - The establishment of the credit union is economically advisable.

Generally, these are the primary criteria that NCUA will consider. In unusual circumstances, however, NCUA may examine other factors, such as other federal law or public policy, in deciding if a charter should be approved. Unless otherwise noted, the policies outlined in this manual apply only to federal credit unions.

##### **II—Types of Charters**

The Federal Credit Union Act recognizes three types of federal credit union charters—single common bond (occupational and associational), multiple common bond (more than one group each having a common bond of occupation or association), and community.

<sup>77</sup> Pub. L. 105-277, 112 Stat. 2681 (1998).

The requirements that must be met to charter a federal credit union are described in Chapter 2 of this manual. Special rules for credit unions serving low-income groups are described in Chapter 3 of this manual.

If a federal credit union charter is granted, Section 5 of the charter will describe the credit union's field of membership, which defines those persons and entities eligible for membership. Generally, federal credit unions are only able to grant loans and provide services to persons within the field of membership who have become members of the credit union.

### III—Subscribers

Federal credit unions are generally organized by persons who volunteer their time and resources and are responsible for determining the interest, commitment, and economic advisability of forming a federal credit union. The organization of a successful federal credit union takes considerable planning and dedication.

Persons interested in organizing a federal credit union should contact one of the credit union trade associations or the NCUA regional office serving the state in which the credit union will be organized. Lists of NCUA offices and credit union trade associations are shown in the appendices. NCUA will provide information to groups interested in pursuing a federal charter and will assist them in contacting an organizer.

While anyone may organize a credit union, a person with training and experience in chartering new federal credit unions is generally the most effective organizer. However, extensive involvement by the group desiring credit union service is essential.

The functions of the organizer are to provide direction, guidance, and advice on the chartering process. The organizer also provides the group with information about a credit union's functions and purpose as well as technical assistance in preparing and submitting the charter application. Close communication and cooperation between the organizer and the proposed members are critical to the chartering process.

The Federal Credit Union Act requires that seven or more natural persons—the “subscribers”—present to NCUA for approval a sworn organization certificate stating at a minimum:

- The name of the proposed federal credit union;
- The location of the proposed federal credit union and the territory in which it will operate;
- The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;
- The initial par value of the shares;
- The detailed proposed field of membership; and
- The fact that the certificate is made to enable such persons to avail themselves of the advantages of the Federal Credit Union Act.

False statements on any of the required documentation filed in obtaining a federal credit union charter may be grounds for federal criminal prosecution.

### IV—Economic Advisability

#### IV.A—General

Before chartering a federal credit union, NCUA must be satisfied that the institution will be viable and that it will provide needed services to its members. Economic advisability, which is a determination that a potential charter will have a reasonable opportunity to succeed, is essential in order to qualify for a credit union charter.

NCUA will conduct an independent on-site investigation of each charter application to ensure that the proposed credit union can be successful. In general, the success of any credit union depends on: (a) The character and fitness of management; (b) the depth of the members' support; and (c) present and projected market conditions.

#### IV.B—Proposed Management's Character and Fitness

The Federal Credit Union Act requires NCUA to ensure that the subscribers are of good “general character and fitness.” Prospective officials and employees will be the subject of credit and background investigations. The investigation report must demonstrate each applicant's ability to effectively handle financial matters. Employees and officials should also be competent, experienced, honest and of good character. Factors that may lead to disapproval of a prospective official or employee include criminal convictions, indictments, and acts of fraud and dishonesty. Further, factors such as serious or unresolved past due credit obligations and bankruptcies disclosed during credit checks may disqualify an individual.

NCUA also needs reasonable assurance that the management team will have the requisite skills—particularly in leadership and accounting—and the commitment to dedicate the time and effort needed to make the proposed federal credit union a success.

Section 701.14 of NCUA's Rules and Regulations sets forth the procedures for NCUA approval of officials of newly chartered credit unions. If the application of a prospective official or employee to serve is not acceptable to the Office of Consumer Protection Director, the group can propose an alternate to act in that individual's place. If the charter applicant feels it is essential that the disqualified individual be retained, the individual may appeal the Office of Consumer Protection Director's decision to the NCUA Board. If an appeal is pursued, action on the application may be delayed. If the appeal is denied by the NCUA Board, an acceptable new applicant must be provided before the charter can be approved.

#### IV.C—Member Support

Economic advisability is a major factor in determining whether the credit union will be chartered. An important consideration is the degree of support from the field of membership. The charter applicant must be able to demonstrate that membership support is sufficient to ensure viability.

NCUA has not set a minimum field of membership size for chartering a federal credit union. Consequently, groups of any size may apply for a credit union charter and be approved if they demonstrate economic

advisability. However, it is important to note that often the size of the group is indicative of the potential for success. For that reason, a charter application with fewer than 3,000 primary potential members (*e.g.*, employees of a corporation or members of an association) may not be economically advisable. Therefore, a charter applicant with a proposed field of membership of fewer than 3,000 primary potential members may have to provide more support than an applicant with a larger field of membership. For example, a small occupational or associational group may be required to demonstrate a commitment for long-term support from the sponsor.

#### IV.D—Present and Future Market Conditions—Business Plan

The ability to provide effective service to members, compete in the marketplace, and to adapt to changing market conditions are key to the survival of any enterprise. Before NCUA will charter a credit union, a business plan based on realistic and supportable projections and assumptions must be submitted.

The business plan should contain, at a minimum, the following elements:

- Mission statement;
  - Analysis of market conditions, including if applicable, geographic, demographic, employment, income, housing, and other economic data;
  - Evidence of member support;
  - Goals for shares, loans, and for number of members;
  - Financial services needed/desired;
  - Financial services to be provided to members of all segments within the field of membership;
  - How/when services are to be implemented;
  - Organizational/management plan addressing qualification and planned training of officials/employees;
  - Continuity plan for directors, committee members and management staff;
  - Operating facilities, to include office space/equipment and supplies, safeguarding of assets, insurance coverage, etc.;
  - Type of record-keeping and data processing system;
  - Detailed semiannual pro forma financial statements (balance sheet, income and expense projections) for 1st and 2nd year, including assumptions—*e.g.*, loan and dividend rates;
  - Plans for operating independently;
  - Written policies (shares, lending, investments, funds management, capital accumulation, dividends, collections, etc.);
  - Source of funds to pay expenses during initial months of operation, including any subsidies, assistance, etc., and terms or conditions of such resources; and
  - Evidence of sponsor commitment (or other source of support) if subsidies are critical to success of the federal credit union.
- Evidence may be in the form of letters, contracts, financial statements from the sponsor, and any other such document on which the proposed federal credit union can substantiate its projections.

While the business plan may be prepared with outside assistance, the subscribers and



proposed officials must understand and support the submitted business plan.

#### **V—Steps in Organizing a Federal Credit Union**

##### *V.A—Getting Started*

Following the guidance contained throughout this policy, the organizers should submit wording for the proposed field of membership (the persons, organizations and other legal entities the credit union will serve) to NCUA early in the application process for written preliminary approval. The proposed field of membership must meet all common bond or community requirements.

Once the field of membership has been given preliminary approval, and the organizer is satisfied the application has merit, the organizer should conduct an organizational meeting to elect seven to ten persons to serve as subscribers. The subscribers should locate willing individuals capable of serving on the board of directors, credit committee, supervisory committee, and as chief operating officer/manager of the proposed credit union.

Subsequent organizational meetings may be held to discuss the progress of the charter investigation, to announce the proposed slate of officials, and to respond to any questions posed at these meetings.

If NCUA approves the charter application, the subscribers, as their final duty, will elect the board of directors of the proposed federal credit union. The new board of directors will then appoint the supervisory committee.

##### *V.B—Charter Application Documentation*

###### **V.B.1—General**

As discussed previously in this chapter, the organizer of a federal credit union charter must, at a minimum, provide evidence that:

- The group(s) possess an appropriate common bond or the geographical area to be served is a well-defined local community, neighborhood, or rural district;
- The subscribers, prospective officials, and employees are of good character and fitness; and
- The establishment of the credit union is economically advisable.

As part of the application process, the organizer must submit the following forms, which are available in appendix 4 of this manual:

- Federal Credit Union Investigation Report, NCUA 4001;
- Organization Certificate, NCUA 4008;
- Report of Official and Agreement To Serve, NCUA 4012;
- Application and Agreements for Insurance of Accounts, NCUA 9500; and
- Certification of Resolutions, NCUA 9501.

Each of these forms is described in more detail in the following sections.

###### **V.B.2—Federal Credit Union Investigation Report, NCUA 4001**

The application for a new federal credit union will be submitted on NCUA 4001. State-chartered credit unions applying for conversion to a federal charter will use NCUA 4000. (See Chapter 4 for a full discussion.) The organizer is required to certify the information and recommend approval or disapproval, based on the investigation of the request.

###### **V.B.3—Organization Certificate, NCUA 4008**

This document, which must be completed by the subscribers, includes the seven criteria established by the Federal Credit Union Act. NCUA staff assigned to the case will assist in the proper completion of this document.

###### **V.B.4—Report of Official and Agreement To Serve, NCUA 4012**

This form documents general background information of each official and employee of the proposed federal credit union. Each official and employee must complete and sign this form. The organizer must review each of the NCUA 4012s for elements that would prevent the prospective official or employee from serving. Further, such factors as serious, unresolved past due credit obligations and bankruptcies disclosed during credit checks may disqualify an individual.

###### **V.B.5—Application and Agreements for Insurance of Accounts, NCUA 9500**

This document contains the agreements with which federal credit unions must comply in order to obtain National Credit Union Share Insurance Fund (NCUSIF) coverage of member accounts. The document must be completed and signed by both the chief executive officer and chief financial officer. A federal credit union must qualify for federal share insurance.

###### **V.B.6—Certification of Resolutions, NCUA 9501**

This document certifies that the board of directors of the proposed federal credit union has resolved to apply for NCUSIF insurance of member accounts and has authorized the chief executive officer and recording officer to execute the Application and Agreements for Insurance of Accounts. Both the chief executive officer and recording officer of the proposed federal credit union must sign this form.

#### **VI—Name Selection**

It is the responsibility of the federal credit union organizers or officials of an existing credit union to ensure that the proposed federal credit union name or federal credit union name change does not constitute an infringement on the name of any corporation in its trade area. This responsibility also includes researching any service marks or trademarks used by any other corporation (including credit unions) in its trade area. NCUA will ensure, to the extent possible, that the credit union's name:

- Is not already being officially used by another federal credit union;
- Will not be confused with NCUA or another federal or state agency, or with another credit union; and
- Does not include misleading or inappropriate language.

The last three words in the name of every credit union chartered by NCUA must be "Federal Credit Union."

The word "community," while not required, can only be included in the name of federal credit unions that have been granted a community charter.

#### **VII—NCUA Review**

##### *VII.A—General*

Once NCUA receives a complete charter application package, an acknowledgment of receipt will be sent to the organizer. At some point during the review process, a staff member will be assigned to perform an on-site contact with the proposed officials and others having an interest in the proposed federal credit union.

NCUA staff will review the application package and verify its accuracy and reasonableness. A staff member will inquire into the financial management experience and the suitability and commitment of the proposed officials and employees, and will make an assessment of economic advisability. The staff member will also provide guidance to the subscribers in the proper completion of the Organization Certificate, NCUA 4008.

Credit and background investigations may be conducted concurrently by NCUA with other work being performed by the organizer and subscribers to reduce the likelihood of delays in the chartering process.

The staff member will analyze the prospective credit union's business plan for realistic projections, attainable goals, adequate service to all segments of the field of membership, sufficient start-up capital, and time commitment by the proposed officials and employees. Any concerns will be reviewed with the organizer and discussed with the prospective credit union's officials. Additional on-site contacts by NCUA staff may be necessary. The organizer and subscribers will be expected to take the steps necessary to resolve any issues or concerns. Such resolution efforts may delay processing the application.

NCUA staff will then make a recommendation to the Office of Consumer Protection Director regarding the charter application. The recommendation may include specific provisions to be included in a Letter of Understanding and Agreement. In most cases, NCUA will require the prospective officials to adhere to certain operational guidelines. Generally, the agreement is for a limited term of two to four years. A sample Letter of Understanding and Agreement is found in appendix 2 of this manual.

##### *VII.B—Office of Consumer Protection Director Approval*

Once approved, the board of directors of the newly formed federal credit union will receive a signed charter and standard bylaws from the Office of Consumer Protection Director. Additionally, the officials will be advised of the name of the examiner assigned responsibility for supervising and examining the credit union.

##### *VII.C—Office of Consumer Protection Director Disapproval*

When the Office of Consumer Protection Director disapproves any charter application, in whole or in part, the organizer will be informed in writing of the specific reasons for the disapproval. Where applicable, the Office of Consumer Protection Director will provide information concerning options or suggestions that the applicant could consider



for gaining approval or otherwise acquiring credit union service. The letter of denial will include the procedures for appealing the decision.

#### *VII.D—Appeal of Office of Consumer Protection Director Decision*

If the Office of Consumer Protection Director denies a charter application, in whole or in part, that decision may be appealed to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial and must address the specific reasons for denial. The appeal must be clearly identified as such and address the specific reason(s) the prospective group disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection Director. NCUA central office staff will make an independent review of the facts and present the appeal with a recommendation to the NCUA Board.

Before appealing, the prospective group may, within 30 days of the denial, provide supplemental information to the Office of Consumer Protection Director for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The Office of Consumer Protection Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

#### *VII.E—Commencement of Operations*

Assistance in commencing operations is generally available through the various credit union trade organizations listed in appendix 5 of this manual.

All new federal credit unions are also encouraged to establish a mentor relationship with a knowledgeable, experienced credit union individual or an existing, well-operated credit union. The mentor should provide guidance and assistance to the new credit union through attendance at meetings and general oversight. Upon request, NCUA will provide assistance in finding a qualified mentor.

#### **VIII—Future Supervision**

Each federal credit union will be examined regularly by NCUA to determine that it remains in compliance with applicable laws and regulations and to determine that it does not pose undue risk to the NCUSIF. The examiner will contact the credit union officials shortly after approval of the charter in order to arrange for the initial examination (usually within the first six months of operation).

The examiner will be responsible for monitoring the progress of the credit union and providing the necessary advice and guidance to ensure it is in compliance with applicable laws and regulations. The examiner will also monitor compliance with the terms of any required Letter of Understanding and Agreement. Typically, the examiner will require the credit union to submit copies of monthly board minutes and financial statements.

The Federal Credit Union Act requires all newly chartered credit unions, up to two years after the charter anniversary date, to obtain NCUA approval prior to appointment of any new board member, credit or supervisory committee member, or senior executive officer. Section 701.14 of the NCUA Rules and Regulations sets forth the notice and application requirements. If NCUA issues a Notice of Disapproval, the newly chartered credit union is prohibited from making the change.

NCUA may disapprove an individual serving as a director, committee member or senior executive officer if it finds that the competence, experience, character, or integrity of the individual indicates it would not be in the best interests of the members of the credit union or of the public to permit the individual to be employed by or associated with the credit union. If a Notice of Disapproval is issued, the credit union may appeal the decision to the NCUA Board.

#### **IX—Corporate Federal Credit Unions**

A corporate federal credit union is one that is operated primarily for the purpose of serving other credit unions. Corporate federal credit unions operate under and are administered by the NCUA Office of National Examinations and Supervision.

#### **X—Groups Seeking Credit Union Service**

NCUA will attempt to assist any group in chartering a credit union or joining an existing credit union. If the group is not eligible for federal credit union service, NCUA will refer the group to the appropriate state supervisory authority where different requirements may apply.

#### **XI—Field of Membership Designations**

NCUA will designate a credit union based on the following criteria:

**Single Occupational:** If a credit union serves a single occupational sponsor, such as ABC Corporation, it will be designated as an occupational credit union. A single occupational common bond credit union may also serve a trade, industry, or profession (TIP), such as all teachers.

**Single Associational:** If a credit union serves a single associational sponsor, such as the Knights of Columbus, it will be designated as an associational credit union.

**Multiple Common Bond:** If a credit union serves more than one group, each of which has a common bond of occupation and/or association, it will be designated as a multiple common bond credit union.

**Community:** All community credit unions will be designated as such, followed by a description of their geographic boundaries, including but not limited to city or county boundaries, roadways, rivers, transportation lines.

Credit unions desiring to confirm or submit an application to change their designations should contact the Office of Consumer Protection.

#### **XII—Foreign Branching**

Federal credit unions are permitted to serve foreign nationals within their fields of membership wherever they reside provided they have the ability, resources, and management expertise to serve such persons.

Before a credit union opens a branch outside the United States, it must submit an application to do so and have prior written approval of the regional director. A federal credit union may establish a service facility on a United States military installation or United States embassy without prior NCUA approval.

### **Chapter 2—Field of Membership Requirements for Federal Credit Unions**

#### **I—Introduction**

##### *I.A.1—General*

As set forth in Chapter 1, the Federal Credit Union Act provides for three types of federal credit union charters—single common bond (occupational or associational), multiple common bond (multiple groups), and community. Section 109 (12 U.S.C. 1759) of the Federal Credit Union Act sets forth the membership criteria for each of these three types of credit unions.

The field of membership, which is specified in Section 5 of the charter, defines those persons and entities eligible for membership. A single common bond federal credit union consists of one group having a common bond of occupation or association. A multiple common bond federal credit union consists of more than one group, each of which has a common bond of occupation or association. A community federal credit union consists of persons or organizations within a well-defined local community, neighborhood, or rural district.

Once chartered, a federal credit union can amend its field of membership; however, the same common bond or community requirements for chartering the credit union must be satisfied. Since there are differences in the three types of charters, special rules, which are fully discussed in the following sections of this chapter, may apply to each.

##### *I.A.2—Special Low-Income Rules*

Generally, federal credit unions can only grant loans and provide services to persons who have joined the credit union. The Federal Credit Union Act states that one of the purposes of federal credit unions is “to serve the productive and provident credit needs of individuals of modest means.” Although field of membership requirements are applicable, special rules set forth in Chapter 3 of this manual may apply to low-income designated credit unions and those credit unions assisting low-income groups or to a federal credit union that adds an underserved community to its field of membership.

#### **II—Occupational Common Bond**

##### *II.A.1—General*

A single occupational common bond federal credit union may include in its field of membership all persons and entities who share that common bond. NCUA permits a person’s membership eligibility in a single occupational common bond group to be established in five ways:

- Employment (or a long-term contractual relationship equivalent to employment) in a single corporation or other legal entity makes that person part of a single occupational common bond;

- Employment in a corporation or other legal entity with a controlling ownership interest (which shall not be less than 10 percent) in or by another legal entity makes that person part of a single occupational common bond;
- Employment in a corporation or other legal entity which is related to another legal entity (such as a company under contract and possessing a strong dependency relationship with another company) makes that person part of a single occupational common bond;
- Employment or attendance at a school makes that person part of a single occupational common bond (see Chapter 2, Section III.A.1 of this manual); or
- Employment in the same Trade, Industry, or Profession (TIP) (see Chapter 2, Section II.A.2 of this manual).

A geographic limitation is not a requirement for a single occupational common bond. However, for purposes of describing the field of membership, the geographic areas being served may be included in the charter. For example:

- Employees, officials, and persons who work regularly under contract in Miami, Florida for ABC Corporation and subsidiaries;
- Employees of ABC Corporation who are paid from \* \* \* \*;
- Employees of ABC Corporation who are supervised from \* \* \* \*;
- Employees of ABC Corporation who are headquartered in \* \* \* \*; and/or
- Employees of ABC Corporation who work in the United States.

The corporation or other legal entity (*i.e.*, the employer) may also be included in the common bond—*e.g.*, “ABC Corporation.” The corporation or legal entity will be defined in the last clause in Section 5 of the credit union’s charter.

A charter applicant must provide documentation to establish that the single occupational common bond requirement has been met.

Some examples of valid single occupational common bonds are:

- Employees of the Hunt Manufacturing Company who work in West Chester, Pennsylvania. (common bond—same employer with geographic definition);
- Employees of the Buffalo Manufacturing Company who work in the United States. (common bond—same employer with geographic definition);
- Employees, elected and appointed officials of municipal government in Parma, Ohio. (common bond—same employer with geographic definition);
- Employees of Johnson Soap Company and its majority owned subsidiary, Johnson Toothpaste Company, who work in, are paid from, are supervised from, or are headquartered in Augusta and Portland, Maine. (common bond—parent and subsidiary company with geographic definition);
- Employees of MMLLJS contractor who work regularly at the U.S. Naval Shipyard in Bremerton, Washington. (common bond—employees of contractors with geographic definition);
- Employees, doctors, medical staff, technicians, medical and nursing students

who work in or are paid from the Newport Beach Medical Center, Newport Beach, California. (single corporation with geographic definition);

- Employees of JLS, Incorporated and MJM, Incorporated working for the LKM Joint Venture Company in Catalina Island, California. (common bond—same employer—ongoing dependent relationship);
- Employees of and students attending Georgetown University. (common bond—same occupation);
- Employees of all the schools supervised by the Timbrook Board of Education in Timbrook, Georgia. (common bond—same employer); or
- All licensed nurses in Fairfax County, Virginia. (occupational common bond TIP).

In contrast, some examples of insufficiently defined single occupational common bonds are:

- Employees of manufacturing firms in Seattle, Washington. (no defined occupational sponsor; overly broad TIP);
- Persons employed or working in Chicago, Illinois. (no occupational common bond).

#### II.A.2—Trade, Industry, or Profession

A common bond based on employment in a trade, industry, or profession can include employment at any number of corporations or other legal entities that—while not under common ownership—have a common bond by virtue of producing similar products, providing similar services, or participating in the same type of business.

While proposed or existing single common bond credit unions have some latitude in defining a trade, industry, or profession occupational common bond, it cannot be defined so broadly as to include groups in fields which are not closely related. For example, the manufacturing industry, energy industry, communications industry, retail industry, or entertainment industry would not qualify as a TIP because each industry lacks the necessary commonality. However, textile workers, realtors, nurses, teachers, police officers, or U.S. military personnel are closely related and each would qualify as a TIP.

The common bond relationship must be one that demonstrates a narrow commonality of interests within a specific trade, industry, or profession. If a credit union wants to serve a physician TIP, it can serve all physicians, but that does not mean it can also serve all clerical staff in the physicians’ offices. However, if the TIP is based on the health care industry, then clerical staff would be able to be served by the credit union because they work in the same industry and have the same commonality of interests.

If a credit union wants to include the airline services industry, it can serve airline and airport personnel but not passengers. Clients or customers of the TIP are not eligible for credit union membership (*e.g.*, patients in hospitals). Any company that is involved in more than one industry cannot be included in an industry TIP (*e.g.*, a company that makes tobacco products, food products, and electronics). However, employees of these companies may be eligible for membership in a variety of trade/profession occupational common bond TIPs.

Although a TIP must be narrowly defined, and cannot include third-party vendors and other suppliers, it may include, on a case by case basis with NCUA approval, employees of types of entities that have a strong dependency relationship and work directly with other types of entities within the industry. As one example, an FCU may serve employees of companies within the Airline Transportation Industry that have a strong dependency relationship with airlines or airports, without the limitation that these employees work at an airport. This is provided they work directly with the following: Air transportation of freight, air courier services; air passenger services; airport baggage handling; airport security; commercial airport janitorial services; maintenance, servicing, and repair services; and on board airline food services. The employees of those entities have a narrow commonality of interests, share the single occupational common bond, and can be included within the Air Transportation Industry field of membership.

In general, except for credit unions serving a national field of membership or operating in multiple states, a geographic limitation is required for a TIP credit union. The geographic limitation will be part of the credit union’s charter and generally correspond to its current or planned operational area. More than one federal credit union may serve the same trade, industry, or profession, even if both credit unions are in the same geographic location.

This type of occupational common bond is only available to single common bond credit unions. A TIP cannot be added to a multiple common bond or community field of membership.

To obtain a TIP designation, the proposed or existing credit union must submit a request to the Office of Consumer Protection Director. New charter applicants must follow the documentation requirements in Chapter 1 of this manual. New charter applicants and existing credit unions must submit a business plan on how the credit union will serve the group with the request to serve the TIP. The business plan also must address how the credit union will verify the TIP. Examples of such verification include state licenses, professional licenses, organizational memberships, pay statements, union membership, or employer certification. The Office of Consumer Protection Director must approve this type of field of membership before a credit union can serve a TIP. Credit unions converting to a TIP can retain members of record but cannot add new members from its previous group or groups, unless it is part of the TIP.

Section II.B of this manual, on Occupational Common Bond Amendments, does not apply to a TIP common bond. Removing or changing a geographical limitation will be processed as a housekeeping amendment. If safety and soundness concerns are present, the Office of Consumer Protection Director may require additional information before the request can be processed.

Section II.H, on Other Persons Eligible for Credit Union Membership, applies to TIP based credit unions except for the corporate

account provision which only applies to industry based TIPs. Credit unions with industry based TIPs may include corporations as members because they have the same commonality of interests as all employees in the industry. For example, an airline service TIP (industry) can serve an airline carrier (corporate account); however, a nurses TIP (profession) could not serve a hospital (corporate account) because not everyone working in the hospital shares the same profession.

If a TIP designated credit union wishes to convert to a different TIP or employer-based occupational common bond, or different charter type, it only retains members of record after the conversion. The Office of Consumer Protection Director, for safety and soundness reasons, may approve a TIP designated credit union to convert to its original field of membership.

## **II.B—Occupational Common Bond Amendments**

### *II.B.1—General*

Section 5 of every single occupational federal credit union's charter defines the field of membership the credit union can legally serve. Only those persons or legal entities specified in the field of membership can be served. There are a number of instances in which Section 5 must be amended by NCUA.

First, a group sharing the credit union's common bond is added to the field of membership. This may occur through various ways including agreement between the group and the credit union directly, or through a merger, corporate acquisition, purchase and assumption (P&A), or spin-off.

Second, if the entire field of membership is acquired by another corporation, the credit union can serve the employees of the new corporation and any subsidiaries after receiving NCUA approval.

Third, a federal credit union qualifies to change its common bond from:

- A single occupational common bond to a single associational common bond;
- A single occupational common bond to a community charter; or
- A single occupational common bond to a multiple common bond.

Fourth, a federal credit union removes a portion of the group from its field of membership through agreement with the group, a spin-off, or because a portion of the group is no longer in existence.

An existing single occupational common bond federal credit union that submits a request to amend its charter must provide documentation to establish that the occupational common bond requirement has been met. The Office of Consumer Protection Director must approve all amendments to an occupational common bond credit union's field of membership.

### *II.B.2—Corporate Restructuring*

If the single common bond group that comprises a federal credit union's field of membership undergoes a substantial restructuring, the result is often that portions of the group are sold or spun off. This requires a change to the credit union's field of membership. NCUA will not permit a

single common bond credit union to maintain in its field of membership a sold or spun-off group to which it has been providing service unless the group otherwise qualifies for membership in the credit union or the credit union converts to a multiple common bond credit union.

If the group comprising the single common bond of the credit union merges with, or is acquired by, another group, the credit union can serve the new group resulting from the merger or acquisition after receiving a housekeeping amendment.

### *II.B.3—Economic Advisability*

Prior to granting a common bond expansion, NCUA will examine the amendment's likely effect on the credit union's operations and financial condition. In most cases, the information needed for analyzing the effect of adding a particular group will be available to NCUA through the examination and financial and statistical reports; however, in particular cases, the Office of Consumer Protection Director may require additional information prior to making a decision.

### *II.B.4—Documentation Requirements*

A federal credit union requesting a common bond expansion must submit an Application for Field of Membership Amendment (NCUA 4015-EZ) to the Office of Consumer Protection Director. An authorized credit union representative must sign the request.

## **II.C—NCUA's Procedures for Amending the Field of Membership**

### *II.C.1—General*

All requests for approval to amend a federal credit union's charter must be submitted to the Office of Consumer Protection Director.

### *II.C.2—Office of Consumer Protection Director Decision*

NCUA staff will review all amendment requests in order to ensure compliance with NCUA policy.

Before acting on a proposed amendment, the Office of Consumer Protection Director may require an on-site review. In addition, the Office of Consumer Protection Director may, after taking into account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. NCUA will carefully consider the economic advisability of expanding the field of membership of a credit union with financial or operational problems.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for

reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUA.

### *II.C.3—Office of Consumer Protection Director Approval*

If the Office of Consumer Protection Director approves the requested amendment, the credit union will be issued an amendment to Section 5 of its charter.

### *II.C.4—Office of Consumer Protection Director Disapproval*

When the Office of Consumer Protection Director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- Options to consider, if appropriate, for gaining approval; and
- Appeal procedure.

### *II.C.5—Appeal of Office of Consumer Protection Director Decision*

If a field of membership expansion request, merger, or spin-off is denied by staff, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial. The appeal must be clearly identified as such and must address the specific reason(s) the federal credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection, or as applicable, the appropriate regional office. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the office rendering the initial decision for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The office rendering the initial decision will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

## **II.D—Mergers, Purchase and Assumptions, and Spin-Offs**

In general, other than the addition of common bond groups, there are three additional ways a federal credit union with a single occupational common bond can expand its field of membership:

- By taking in the field of membership of another credit union through a common bond or emergency merger;
- By taking in the field of membership of another credit union through a common bond or emergency purchase and assumption (P&A); or

• By taking a portion of another credit union's field of membership through a common bond spin-off.

#### *II.D.1—Mergers*

Generally, the requirements applicable to field of membership expansions found in this chapter apply to mergers where the continuing credit union has a federal charter. That is, the two credit unions must share a common bond.

Where the merging credit union is state-chartered, the common bond rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

If a single occupational credit union wants to merge into a multiple common bond or community credit union, Section IV.D or Section V.D of this chapter, respectively, should be reviewed.

#### *II.D.2—Emergency Mergers*

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent recordkeeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any common bond restrictions. Under this authority, therefore, a single occupational common bond federal credit union may take into its field of membership any dissimilar charter type.

The common bond characteristic of the continuing credit union in an emergency merger does not change. That is, even though the merging credit union is a multiple common bond or community, the continuing credit union will remain a single common bond credit union. Similarly, if the merging credit union is also an unlike single common bond, the continuing credit union will

remain a single common bond credit union. Future common bond expansions will be based on the continuing credit union's original single common bond.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

#### *II.D.3—Purchase and Assumption (P&A)*

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation. In the few instances where a P&A may be appropriate, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency merger criteria are satisfied. However, if the P&A does not meet the emergency merger criteria, it must be processed under the common bond requirements.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities, without regard to common bond restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the purchased and/or assumed credit union's field of membership does not share a common bond with the purchasing and/or assuming credit union, then the continuing credit union's original common bond will be controlling for future common bond expansions.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

#### *II.D.4—Spin-Offs*

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new credit union or goes to an existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the affected credit unions have a common bond (applies only to single occupational credit unions);
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;

- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. All members of the group to be spun off (whether they voted in favor, against, or not at all) will be transferred if the spin-off is approved by the voting membership. Voting requirements for federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable. Spin-offs in the same region also require approval by the state regulator, as applicable. Spin-offs involving the creation of a new federally insured credit union require the approval of the Office of Consumer Protection Director. The Office of Consumer Protection also provides advice regarding field of membership compatibility when appropriate.

### **II.E—Overlaps**

#### *II.E.1—General*

An overlap exists when a group of persons is eligible for membership in two or more credit unions. NCUA will permit single occupational federal credit unions to overlap any other charter without performing an overlap analysis.

#### *II.E.2—Organizational Restructuring*

A federal credit union's field of membership will always be governed by the common bond descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the common bond described in Section 5. NCUA will permit a complete overlap of the credit unions' fields of membership.

If a sponsor organization sells off a group, new members can no longer be served unless they otherwise qualify for membership in the credit union or it converts to a multiple common bond charter.

Credit unions must submit documentation explaining the restructuring and providing information regarding the new organizational structure.

#### *II.E.3—Exclusionary Clauses*

An exclusionary clause is a limitation precluding the credit union from serving the primary members of a portion of a group otherwise included in its field of membership. NCUA no longer grants exclusionary clauses. Those granted prior to

the adoption of this new Chartering and Field of Membership Manual will remain in effect unless the credit unions agree to remove them or one of the affected credit unions submits a housekeeping amendment to have it removed.

#### II.F—Charter Conversion

A single occupational common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant federal credit union may be required to develop a detailed business plan as specified in Chapter 2, Section V.A.3 of this manual.

A single occupational common bond federal credit union may apply to convert to a multiple common bond charter by adding a non-common bond group that is within a reasonable proximity of a service facility. Groups within the existing charter may be retained and continue to be served. However, future amendments, including any expansions of the original single common bond group, must be done in accordance with multiple common bond policy.

#### II.G—Removal of Groups From the Field of Membership

A credit union may request removal of a portion of the common bond group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit union or refuses to provide needed support; or
- The group initiates action to be removed from the field of membership.

When a federal credit union requests an amendment to remove a group from its field of membership, the Office of Consumer Protection Director will determine why the credit union desires to remove the group. If the Office of Consumer Protection Director concurs with the request, membership will continue for those who are already members under the “once a member, always a member” provision of the Federal Credit Union Act.

#### II.H—Other Persons Eligible for Credit Union Membership

A number of persons, by virtue of their close relationship to a common bond group, may be included, at the charter applicant’s option, in the field of membership. These include the following:

- Spouses of persons who died while within the field of membership of this credit union;

- Employees of this credit union;
- Persons retired as pensioners or annuitants from the above employment;
- Volunteers;
- Members of the immediate family or household;
- Honorably discharged veterans who served in any of the Armed Services of the United States listed in this charter;
- Organizations of such persons; and
- Corporate or other legal entities in this charter.

Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Household is defined as persons living in the same residence maintaining a single economic unit.

Membership eligibility is extended only to individuals who are members of an “immediate family or household” of a credit union member. It is not necessary for the primary member to join the credit union in order for the immediate family or household member of the primary member to join, provided the immediate family or household clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join in order for that person’s immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

Volunteers, by virtue of their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or school.

Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as “once a member, always a member.” The “once a member, always a member” provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.

#### III—Associational Common Bond

##### III.A.1—General

A single associational federal credit union may include in its field of membership, regardless of location, all members and employees of a recognized association. A single associational common bond consists of individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests. Separately chartered associational groups can establish a single common bond relationship if they are integrally related and share common goals and purposes. For example, two or more churches of the same denomination, Knights of Columbus Councils, or locals of the same union can qualify as a single associational common bond. Individuals and groups eligible for membership in a single associational credit union can include the following:

- Natural person members of the association (for example, members of a union or church members);
- Non-natural person members of the association;
- Employees of the association (for example, employees of the labor union or employees of the church); and
- The association.

Generally, a single associational common bond does not include a geographic definition and can operate nationally. However, a proposed or existing federal credit union may limit its field of membership to a single association or geographic area. NCUA may impose a geographic limitation if it is determined that the applicant credit union does not have the ability to serve a larger group or there are other operational concerns. All single associational common bonds should include a definition of the group that may be served based on the association’s charter, bylaws, and any other equivalent documentation.

Applicants for a single associational common bond federal credit union charter or a field of membership amendment to include an association must provide, at the request of NCUA, a copy of the association’s charter, bylaws, or other equivalent documentation, including any legal documents required by the state or other governing authority. The associational sponsor itself may also be included in the field of membership—*e.g.*, “Sprocket Association”—and will be shown in the last clause of the field of membership.

##### III.A.1.a—Threshold Requirement Regarding the Purpose for Which an Associational Group Is Formed and the Totality of the Circumstances Criteria

As a threshold matter, when reviewing an application to include an association in a federal credit union’s field of membership, NCUA will determine if the association has been formed primarily for the purpose of expanding credit union membership. If NCUA makes such a determination, then the analysis ends and the association is denied inclusion in the federal credit union’s field of membership. If NCUA determines that the association was formed to serve some other separate function as an organization, then NCUA will apply the following totality of the circumstances test to determine if the association satisfies the associational common bond requirements. The totality of the circumstances test consists of the following factors:

1. Whether the association provides opportunities for members to participate in the furtherance of the goals of the association;
2. Whether the association maintains a membership list;
3. Whether the association sponsors other activities;
4. Whether the association’s membership eligibility requirements are authoritative;
5. Whether members pay dues;
6. Whether the members have voting rights; to meet this requirement, members need not vote directly for an officer, but may vote for a delegate who in turn represents the members’ interests;
7. The frequency of meetings; and

8. Separateness—NCUA reviews if there is corporate separateness between the group and the federal credit union. The group and the federal credit union must operate in a way that demonstrates the separate corporate existence of each entity. Specifically, this means the federal credit union's and the group's respective business transactions, accounts, and corporate records are not intermingled.

No one factor alone is determinative of membership eligibility as an association. The totality of the circumstances controls over any individual factor in the test. However, NCUA's primary focus will be on factors 1–4 of this section.

#### III.A.1.b—Pre-Approved Groups

NCUA automatically approves the below groups as satisfying the associational common bond provisions. NCUA only approves regular members of an approved group. Honorary, affiliate, or non-regular members do not qualify.

These groups are:

- (1) Alumni associations;
- (2) Religious organizations, including churches or groups of related churches;
- (3) Electric cooperatives;
- (4) Homeowner associations;
- (5) Labor unions;
- (6) Scouting groups;
- (7) Parent teacher associations (PTAs) organized at the local level to serve a single school district;
- (8) Chamber of commerce groups (members only and not employees of members);
- (9) Athletic booster clubs whose members have voting rights;
- (10) Fraternal organizations or civic groups with a mission of community service whose members have voting rights;
- (11) Organizations having a mission based on preserving or furthering the culture of a particular national or ethnic origin; and
- (12) Organizations promoting social interaction or educational initiatives among persons sharing a common occupational profession.

#### III.A.1.c—Additional Information

A support group whose members are continually changing or whose duration is temporary may not meet the single associational common bond criteria. Each class of member will be evaluated based on the totality of the circumstances. Individuals or honorary members who only make donations to the association are not eligible to join the credit union.

Student groups (*e.g.*, students enrolled at a public, private, or parochial school) may constitute either an associational or occupational common bond. For example, students enrolled at a church sponsored school could share a single associational common bond with the members of that church and may qualify for a federal credit union charter. Similarly, students enrolled at a university, as a group by itself, or in conjunction with the faculty and employees of the school, could share a single occupational common bond and may qualify for a federal credit union charter.

Tenant groups, consumer groups, and other groups of persons having an "interest in" a particular cause and certain consumer

cooperatives may also qualify as an association.

Associations based primarily on a client-customer relationship do not meet associational common bond requirements. Health clubs are an example of a group not meeting associational common bond requirements, including YMCAs. However, having an incidental client-customer relationship does not preclude an associational charter as long as the associational common bond requirements are met. For example, a fraternal association that offers insurance, which is not a condition of membership, may qualify as a valid associational common bond.

#### III.A.2—Subsequent Changes to Association's Bylaws

If the association's membership or geographical definitions in its charter and bylaws are changed subsequent to the effective date stated in the field of membership, the credit union must submit the revised charter or bylaws for NCUA's consideration and approval prior to serving members of the association added as a result of the change.

#### III.A.3—Sample Single Associational Common Bonds

Some examples of associational common bonds are:

- Regular members of Locals 10 and 13, IBEW, in Florida, who qualify for membership in accordance with their charter and bylaws in effect on May 20, 2001;
- Members of the Hoosier Farm Bureau in Grant, Logan, or Lee Counties of Indiana, who qualify for membership in accordance with its charter and bylaws in effect on March 7, 1997;
- Members of the Shalom Congregation in Chevy Chase, Maryland;
- Regular members of the Corporate Executives Association, located in Westchester, New York, who qualify for membership in accordance with its charter and bylaws in effect on December 1, 1997;
- Members of the University of Wisconsin Alumni Association, located in Green Bay, Wisconsin;
- Members of the Marine Corps Reserve Officers Association; or
- Members of St. John's Methodist Church and St. Luke's Methodist Church, located in Toledo, Ohio.

Some examples of insufficiently defined single associational common bonds are:

- All Lutherans in the United States (too broadly defined); or
- Veterans of U.S. military service (group is too broadly defined; no formal association of all members of the group).

Some examples of unacceptable single associational common bonds are:

- Alumni of Amos University (no formal association);
- Customers of Fleetwood Insurance Company (policyholders or primarily customer/client relationships do not meet associational standards);
- Employees of members of the Reston, Virginia, Chamber of Commerce (not a sufficiently close tie to the associational common bond); or
- Members of St. John's Lutheran Church and St. Mary's Catholic Church located in

Anniston, Alabama (churches are not of the same denomination).

### III.B—Associational Common Bond Amendments

#### III.B.1—General

Section 5 of every associational federal credit union's charter defines the field of membership the credit union can legally serve. Only those persons who, or legal entities that, join the credit union and are specified in the field of membership can be served. There are three instances in which Section 5 must be amended by NCUA.

First, a group that shares the credit union's common bond is added to the field of membership. This may occur through various ways including agreement between the group and the credit union directly, or through a merger, purchase and assumption (P&A), or spin-off.

Second, a federal credit union qualifies to change its common bond from:

- A single associational common bond to a single occupational common bond;
- A single associational common bond to a community charter; or
- A single associational common bond to a multiple common bond.

Third, a federal credit union removes a portion of the group from its field of membership through agreement with the group, a spin-off, or a portion of the group that is no longer in existence.

An existing single associational federal credit union that submits a request to amend its charter must provide documentation to establish that the associational common bond requirement has been met. The Office of Consumer Protection Director must approve all amendments to an associational common bond credit union's field of membership.

#### III.B.2—Organizational Restructuring

If the single common bond group that comprises a federal credit union's field of membership undergoes a substantial restructuring, the result is often that portions of the group are sold or spun off. This is an event requiring a change to the credit union's field of membership. NCUA may not permit a single associational credit union to maintain in its field of membership a sold or spun-off group to which it has been providing service unless the group otherwise qualifies for membership in the credit union or the credit union converts to a multiple common bond credit union.

If the group comprising the single common bond of the credit union merges with, or is acquired by, another group, the credit union can serve the new group resulting from the merger or acquisition after receiving a housekeeping amendment.

#### III.B.3—Economic Advisability

Prior to granting a common bond expansion, NCUA will examine the amendment's likely impact on the credit union's operations and financial condition. In most cases, the information needed for analyzing the effect of adding a particular group will be available to NCUA through the examination and financial and statistical reports; however, in particular cases, the Office of Consumer Protection Director may

require additional information prior to making a decision.

#### *III.B.4—Documentation Requirements*

A federal credit union requesting a common bond expansion must submit an Application for Field of Membership Amendment (NCUA 4015-EZ) to the Office of Consumer Protection Director. An authorized credit union representative must sign the request.

### **III.C—NCUA Procedures for Amending the Field of Membership**

#### *III.C.1—General*

All requests for approval to amend a federal credit union's charter must be submitted to the Office of Consumer Protection Director.

#### *III.C.2—Office of Consumer Protection Director Decision*

NCUA staff will review all amendment requests in order to ensure conformance to NCUA policy.

Before acting on a proposed amendment, the Office of Consumer Protection Director may require an on-site review. In addition, the Office of Consumer Protection Director may, after taking into account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. The economic advisability of expanding the field of membership of a credit union with financial or operational problems must be carefully considered.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUSIF.

#### *III.C.3—Office of Consumer Protection Director Approval*

If the Office of Consumer Protection Director approves the requested amendment, the credit union will be issued an amendment to Section 5 of its charter.

#### *III.C.4—Office of Consumer Protection Director Disapproval*

When the Office of Consumer Protection Director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- Options to consider, if appropriate, for gaining approval; and
- Appeal procedures.

#### *III.C.5—Appeal of Office of Consumer Protection Director Decision*

If a field of membership expansion request, merger, or spin-off is denied by staff, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial and must be clearly identified as such and address the reason(s) the federal credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection, or as applicable, the appropriate regional office. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the office rendering the initial decision for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The office rendering the initial decision will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

### **III.D—Mergers, Purchase and Assumptions, and Spin-Offs**

In general, other than the addition of common bond groups, there are three additional ways a federal credit union with a single associational common bond can expand its field of membership:

- By taking in the field of membership of another credit union through a common bond or emergency merger;
- By taking in the field of membership of another credit union through a common bond or emergency purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a common bond spin-off.

#### *III.D.1—Mergers*

Generally, the requirements applicable to field of membership expansions found in this section apply to mergers where the continuing credit union is a federal charter. That is, the two credit unions must share a common bond.

Where the merging credit union is state-chartered, the common bond rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

If a single associational credit union wants to merge into a multiple common bond or community credit union, Section IV.D or

Section V.D of this chapter, respectively, should be reviewed.

#### *III.D.2—Emergency Mergers*

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record-keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any common bond restrictions. Under this authority, therefore, a single associational common bond federal credit union may take into its field of membership any dissimilar charter type.

The common bond characteristic of the continuing credit union in an emergency merger does not change. That is, even though the merging credit union is a multiple common bond or community, the continuing credit union will remain a single common bond credit union. Similarly, if the merging credit union is an unlike single common bond, the continuing credit union will remain a single common bond credit union. Future common bond expansions will be based on the continuing credit union's single common bond.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

#### *III.D.3—Purchase and Assumption (P&A)*

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation. In the few instances where a P&A may be appropriate, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency merger



criteria are satisfied. However, if the P&A does not meet the emergency merger criteria, it must be processed under the common bond requirements.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities, without regard to common bond restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the purchased and/or assumed credit union's field of membership does not share a common bond with the purchasing and/or assuming credit union, then the continuing credit union's original common bond will be controlling for future common bond expansions.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

#### *III.D.4—Spin-Offs*

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new credit union or goes to an existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the affected credit unions have the same common bond (applies only to single associational credit unions);
  - Which assets, liabilities, shares, and capital are to be transferred;
  - The financial impact the spin-off will have on the affected credit unions;
  - The ability of the acquiring credit union to effectively serve the new members;
  - The proposed spin-off date; and
  - Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. All members of the group to be spun off (whether they voted in favor, against, or not at all) will be transferred if the spin-off is approved by the voting membership. Voting requirements for

federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable. Spin-offs in the same region also require approval by the state regulator, as applicable. Spin-offs involving the creation of a new federally insured credit union require the approval of the Office of Consumer Protection Director. The Office of Consumer Protection also provides advice regarding field of membership compatibility when appropriate.

### **III.E—Overlaps**

#### *III.E.1—General*

An overlap exists when a group of persons is eligible for membership in two or more credit unions. NCUA will permit single associational federal credit unions to overlap any other charters without performing an overlap analysis.

#### *III.E.2—Organizational Restructuring*

A federal credit union's field of membership will always be governed by the common bond descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the common bond described in Section 5. NCUA will permit a complete overlap of the credit unions' fields of membership. If a sponsor organization sells off a group, new members can no longer be served unless they otherwise qualify for membership in the credit union or it converts to a multiple common bond.

Credit unions must submit documentation explaining the restructuring and providing information regarding the new organizational structure.

#### *III.E.3—Exclusionary Clauses*

An exclusionary clause is a limitation precluding the credit union from serving the primary members of a portion of a group otherwise included in its field of membership. NCUA no longer grants exclusionary clauses. Those granted prior to the adoption of this new Chartering and Field of Membership Manual will remain in effect unless the credit unions agree to remove them or one of the affected credit unions submits a housekeeping amendment to have it removed.

### **III.F—Charter Conversions**

A single associational common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant

federal credit union may be required to develop a detailed business plan as specified in Chapter 2, Section V.A.3 of this manual.

A single associational common bond federal credit union may apply to convert to a multiple common bond charter by adding a non-common bond group that is within a reasonable proximity of a service facility. Groups within the existing charter may be retained and continue to be served. However, future amendments, including any expansions of the original single common bond group, must be done in accordance with multiple common bond policy.

### **III.G—Removal of Groups From the Field of Membership**

A credit union may request removal of a portion of the common bond group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit union or refuses to provide needed support; or
- The group initiates action to be removed from the field of membership.

When a federal credit union requests an amendment to remove a group from its field of membership, the Office of Consumer Protection Director will determine why the credit union desires to remove the group. If the Office of Consumer Protection Director concurs with the request, membership will continue for those who are already members under the "once a member, always a member" provision of the Federal Credit Union Act.

### **III.H—Other Persons Eligible for Credit Union Membership**

A number of persons by virtue of their close relationship to a common bond group may be included, at the charter applicant's option, in the field of membership. These include the following:

- Spouses of persons who died while within the field of membership of this credit union;
- Employees of this credit union;
- Volunteers;
- Members of the immediate family or household;
- Honorably discharged veterans who served in any of the Armed Services of the United States in this charter;
- Organizations of such persons; and
- Corporate or other legal entities in this charter.

Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Household is defined as persons living in the same residence maintaining a single economic unit.

Membership eligibility is extended only to individuals who are members of an "immediate family or household" of a credit



union member. It is not necessary for the primary member to join the credit union in order for the immediate family or household member of the primary member to join, provided the immediate family or household clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join in order for that person's immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

Volunteers, by virtue of their close relationship with a sponsor group, may be included. One example is volunteers working at a church.

Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as "once a member, always a member." The "once a member, always a member" provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.

#### **IV—Multiple Occupational/Associational Common Bonds**

##### *IV.A.1—General*

A federal credit union may be chartered to serve a combination of distinct, definable single occupational and/or associational common bonds. This type of credit union is called a multiple common bond credit union. Each group in the field of membership must have its own occupational or associational common bond. For example, a multiple common bond credit union may include two unrelated employers, or two unrelated associations, or a combination of two or more employers or associations. Additionally, these groups must be within reasonable geographic proximity of the credit union. That is, the groups must be within the service area of one of the credit union's service facilities. These groups are referred to as select groups. A multiple common bond credit union cannot include a TIP or expand using single common bond criteria.

Employment in a corporation or other legal entity which is related to another legal entity (such as a company under contract and possessing a strong dependency relationship with another company) makes that person part of the occupational common bond of a select employee group within a multiple common bond.

A multiple common bond credit union is also able to serve the employees of tenants who work in an industrial park, such as a shopping mall or office park, without listing each occupational group, provided that each tenant employee group has fewer than 3,000 employees at the location. In addition, only employees who work at the facility during the tenancy are eligible for membership. New tenants would be eligible for membership subject to the above requirements.

A federal credit union's service area is the area that can reasonably be served by the service facilities accessible to the groups within the field of membership. The service

area will most often coincide with that geographic area primarily served by the service facility. Additionally, the groups served by the credit union must have access to the service facility. The non-availability of other credit union service is a factor to be considered in determining whether the group is within reasonable proximity of a credit union wishing to add the group to its field of membership.

A service facility includes the means for a multiple common bond credit union to accept shares for members' accounts, accept loan applications from them or disburse loans to them. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, a credit union owned electronic facility, or a credit union's transactional Web site that meets the above listed transactional requirements (a "transactional Web site"). A credit union's transactional Web site that meets these requirements may be accessed by a computer, smart phone, tablet, or similar technological device. This definition of service facility does not meet the requirement that a credit union establish and maintain an office or facility in an underserved area.

The select group as a whole will be considered to be within a credit union's service area when:

- A majority of the persons in a select group live, work, or gather regularly within the service area;
- The group's headquarters is located within the service area; or
- The group's "paid from" or "supervised from" location is within the service area.

##### *IV.A.2—Sample Multiple Common Bond Field of Membership*

An example of a multiple common bond field of membership is:

"The field of membership of this federal credit union shall be limited to the following:

1. Employees of Teltex Corporation who work in Wilmington, Delaware;
2. Partners and employees of Smith & Jones, Attorneys at Law, who work in Wilmington, Delaware;
3. Members of the M&L Association in Wilmington, Delaware, who qualify for membership in accordance with its charter and bylaws in effect on December 31, 1997;
4. Employees of tenants with fewer than 3,000 employees of MJB Office Park who work in MJB Office Park's Wilmington, Delaware location."

#### **IV.B—Multiple Common Bond Amendments**

##### *IV.B.1—General*

Section 5 of every multiple common bond federal credit union's charter defines the field of membership and select groups the credit union can legally serve. Only those persons or legal entities specified in the field of membership can be served. There are a number of instances in which Section 5 must be amended by NCUA.

First, a new select group is added to the field of membership. This may occur through agreement between the group and the credit union directly, or through a merger, corporate acquisition, purchase and assumption (P&A), or spin-off.

Second, a federal credit union qualifies to change its charter from:

- A single occupational or associational charter to a multiple common bond charter;
- A multiple common bond to a single occupational or associational charter;
- A multiple common bond to a community charter; or
- A community to a multiple common bond charter.

Third, a federal credit union removes a group from its field of membership through agreement with the group, a spin-off, or because the group no longer exists.

##### *IV.B.2—Numerical Limitation of Select Groups*

An existing multiple common bond federal credit union that submits a request to amend its charter must provide documentation to establish that the multiple common bond requirements have been met. The Office of Consumer Protection Director must approve all amendments to a multiple common bond credit union's field of membership.

NCUA will approve groups to a credit union's field of membership if the agency determines in writing that the following criteria are met:

- The credit union has not engaged in any unsafe or unsound practice, as determined by the Office of Consumer Protection Director, with input from the appropriate regional director, which is material during the one year period preceding the filing to add the group;

- The credit union is "adequately capitalized" pursuant to part 702 of NCUA's Rules and Regulations. For low-income credit unions or credit unions chartered less than ten years, the Office of Consumer Protection Director, with input from the appropriate regional director, may determine that a less than "adequately capitalized" credit union can qualify for an expansion if it is making reasonable progress toward becoming "adequately capitalized." For any other credit union, the Office of Consumer Protection Director, with input from the appropriate regional director, may determine that a less than "adequately capitalized" credit union can qualify for an expansion if it is making reasonable progress toward becoming "adequately capitalized," and the addition of the group would not adversely affect the credit union's capitalization level;

- The credit union has the administrative capability to serve the proposed group and the financial resources to meet the need for additional staff and assets to serve the new group;

- Any potential harm the expansion may have on any other credit union and its members is clearly outweighed by the probable beneficial effect of the expansion. With respect to a proposed expansion's effect on other credit unions, the requirements on overlapping fields of membership set forth in Section IV.E of this chapter are also applicable; and

- If the formation of a separate credit union by such group is not practical and consistent with reasonable standards for the safe and sound operation of a credit union.

Additional information is required for groups of 3,000 or more primary potential

members requesting to be added to a multiple common bond credit union. For groups between 3,000 and 4,999 potential members, NCUA requires documentation indicating the group has a lack of available subsidies, interest among the group's members, and sufficient resources. For such cases the NCUA will accept a written statement indicating these conditions exist as sufficient documentation the group cannot form its own credit union. Groups with 5,000 or more members will be subject to the standard application process as discussed later in this chapter, requiring a group to fully describe its inability to establish a new single common bond credit union.

#### *IV.B.3—Documentation Requirements*

A multiple common bond credit union requesting a select group expansion must submit a formal written request, using the Application for Field of Membership Amendment (NCUA 4015 or NCUA 4015-EZ) to the Office of Consumer Protection Director. An authorized credit union representative must sign the request.

The NCUA 4015-EZ (for groups less than 3,000 potential members) must be accompanied by the following:

- A letter, or equivalent documentation, from the group requesting credit union service. This letter must indicate:
  - That the group wants to be added to the applicant federal credit union's field of membership;
  - The number of persons currently included within the group to be added and their locations; and
  - The group's proximity to credit union's nearest service facility.
  - The most recent copy of the group's charter and bylaws or equivalent documentation (for associational groups).

The NCUA 4015 (for groups between 3,000 and 4,999 primary potential members) must be accompanied by the following:

- A letter, or equivalent documentation, from the group requesting credit union service. This letter must indicate:
  - That the group wants to be added to the federal credit union's field of membership;
  - Whether the group presently has other credit union service available;
  - The number of persons currently included within the group to be added and their locations;
  - The group's proximity to credit union's nearest service facility, and
  - Why the formation of a separate credit union for the group is not practical or consistent with safety and soundness standards because of a lack of available subsidies, interest among the group's members, and sufficient resources.

The NCUA 4015 (for groups of 5,000 or more primary potential members) must be accompanied by the following:

- A letter, or equivalent documentation, from the group requesting credit union service. This letter must indicate:
  - That the group wants to be added to the federal credit union's field of membership;
  - Whether the group presently has other credit union service available;
  - The number of persons currently included within the group to be added and their locations;

- The group's proximity to credit union's nearest service facility, and

- Why the formation of a separate credit union for the group is not practical or consistent with safety and soundness standards. A credit union need not address every item on the list, simply those issues that are relevant to its particular request:

Member location—whether the membership is widely dispersed or concentrated in a central location.

Demographics—the employee turnover rate, economic status of the group's members, and whether the group is more apt to consist of savers and/or borrowers.

Market competition—the availability of other financial services.

Desired services and products—the type of services the group desires in comparison to the type of services a new credit union could offer.

Sponsor subsidies—the availability of operating subsidies.

The desire of the sponsor—the extent of the sponsor's interest in supporting a credit union charter.

Employee interest—the extent of the employees' interest in obtaining a credit union charter.

Evidence of past failure—whether the group previously had its own credit union or previously filed for a credit union charter.

Administrative capacity to provide services—will the group have the management expertise to provide the services requested.

- If the group is eligible for membership in any other credit union, documentation must be provided to support inclusion of the group under the overlap standards set forth in Section IV.E of this chapter; and
- The most recent copy of the group's charter and bylaws or equivalent documentation (for associational groups).

#### *IV.B.4—Corporate Restructuring*

If a select group within a federal credit union's field of membership undergoes a substantial restructuring, a change to the credit union's field of membership may be required if the credit union is to continue to provide service to the select group. NCUA permits a multiple common bond credit union to maintain in its field of membership a sold, spun-off, or merged select group to which it has been providing service. This type of amendment to the credit union's charter is not considered an expansion; therefore, the criteria relating to adding new groups are not applicable.

When two groups merge and each is in the field of membership of a credit union, then both (or all affected) credit unions can serve the resulting merged group, subject to any existing geographic limitation and without regard to any overlap provisions. However, the credit unions cannot serve the other multiple groups that may be in the field of membership of the other credit union.

### **IV.C—NCUA's Procedures for Amending the Field of Membership**

#### *IV.C.1—General*

All requests for approval to amend a federal credit union's charter must be submitted to the Office of Consumer Protection Director.

#### *IV.C.2—Office of Consumer Protection Director Decision*

NCUA staff will review all amendment requests in order to ensure conformance to NCUA policy.

Before acting on a proposed amendment, the Office of Consumer Protection Director may require an on-site review. In addition, the Office of Consumer Protection Director may, after taking into account the significance of the proposed field of membership amendment, require the applicant to submit a business plan addressing specific issues.

The financial and operational condition of the requesting credit union will be considered in every instance. An expanded field of membership may provide the basis for reversing adverse trends. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union's adverse trends. The applicant credit union must clearly establish that the approval of the expanded field of membership meets the requirements of Section IV.B.2 of this chapter and will not increase the risk to the NCUSIF.

#### *IV.C.3—Office of Consumer Protection Director Approval*

If the Office of Consumer Protection Director approves the requested amendment, the credit union will be issued an amendment to Section 5 of its charter.

#### *IV.C.4—Office of Consumer Protection Director Disapproval*

When the Office of Consumer Protection Director disapproves any application, in whole or in part, to amend the field of membership under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- Options to consider, if appropriate, for gaining approval; and
- Appeal procedure.

#### *IV.C.5—Appeal of Office of Consumer Protection Director Decision*

If a field of membership expansion request, merger, or spin-off is denied by staff, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial and must be clearly identified as such and address the reason(s) the federal credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection or, as applicable, the appropriate regional office. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the office rendering the initial decision for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The office rendering the initial decision will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal

process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

#### **IV.D—Mergers, Purchase and Assumptions, and Spin-Offs**

In general, other than the addition of select groups, there are three additional ways a multiple common bond federal credit union can expand its field of membership:

- By taking in the field of membership of another credit union through a merger;
- By taking in the field of membership of another credit union through a purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a spin-off.

##### *IV.D.1—Voluntary Mergers*

###### **a. All Select Groups in the Merging Credit Union's Field of Membership Have Less Than 3,000 Primary Potential Members**

A voluntary merger of two or more federal credit unions is permissible as long as each select group in the merging credit union's field of membership has less than 3,000 primary potential members. While the merger requirements outlined in Section 205 of the Federal Credit Union Act must still be met, the requirements of Chapter 2, Section IV.B.2 of this manual are not applicable.

###### **b. One or More Select Groups in the Merging Credit Union's Field of Membership Has 3,000 or More Primary Potential Members**

If the merging credit unions serve the same group, and the group consists of 3,000 or more primary potential members, then the ability to form a separate credit union analysis is not required for that group. If the merging credit union has any other groups consisting of 3,000 or more primary potential members, special requirements apply. NCUA will analyze each group of 3,000 or more primary potential members, except as noted above, to determine whether the formation of a separate credit union by such a group is practical. If the formation of a separate credit union by such a group is not practical because the group lacks sufficient volunteer and other resources to support the efficient and effective operations of a credit union or does not meet the economic advisable criteria outlined in Chapter 1 of this manual, the group may be merged into a multiple common bond credit union. If the formation of a separate credit union is practical, the group must be spun-off before the merger can be approved.

###### **c. Merger of a Single Common Bond Credit Union Into a Multiple Common Bond Credit Union**

A financially healthy single common bond credit union with a primary potential membership of 3,000 or more cannot merge into a multiple common bond credit union, absent supervisory reasons, unless the continuing credit union already serves the same group.

###### **d. Merger Approval**

If the merger is approved, the qualifying groups within the merging credit union's field of membership will be transferred intact

to the continuing credit union and can continue to be served.

Where the merging credit union is state-chartered, the field of membership rules applicable to a federal credit union apply.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

##### *IV.D.2—Supervisory Mergers*

The NCUA may approve the merger of any federally insured credit union when safety and soundness concerns are present without regard to the 3,000 numerical limitation. The credit union need not be insolvent or in danger of insolvency for NCUA to use this statutory authority. Examples constituting appropriate reasons for using this authority are: Abandonment of the management and/or officials and an inability to find replacements, loss of sponsor support, serious and persistent record-keeping problems, sustained material decline in financial condition, or other serious or persistent circumstances.

##### *IV.D.3—Emergency Mergers*

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record-keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any field of membership restrictions including numerical limitation requirements. Under this authority, any single occupational or associational common bond, multiple common bond, or community charter may merge into a multiple common bond credit union and that credit union can continue to serve the merging credit union's field of membership. Subsequent field of membership expansions of the continuing multiple common bond credit union must be

consistent with multiple common bond policies.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

##### *IV.D.4—Purchase and Assumption (P&A)*

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. Generally, the requirements applicable to field of membership expansions found in this chapter apply to purchase and assumptions where the purchasing credit union is a federal charter.

A P&A has limited application because, in most cases, the failing credit union must be placed into involuntary liquidation.

However, in the few instances where a P&A may occur, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency criteria are satisfied. Specified loans, shares, and certain other designated assets and liabilities, without regard to field of membership restrictions, may also be acquired without changing the character of the continuing federal credit union for purposes of future field of membership amendments. Subsequent field of membership expansions must be consistent with multiple common bond policies.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

##### *IV.D.5—Spin-Offs*

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All common bond requirements apply regardless of whether the spun-off group becomes a new charter or goes to an existing federal charter.

The request for approval of a spun-off group must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a group, membership notice and voting requirements and procedures are the same as for mergers (see part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. All members of the group to be spun off (whether they voted in favor, against, or not at all) will be transferred if the spin-off is approved by the voting membership. Voting requirements for federally insured state credit unions are governed by state law.

Spin-offs involving federally insured credit unions in different NCUA regions must be approved by all regional directors where the credit unions are headquartered and the state regulators, as applicable. Spin-offs in the same region also require approval by the state regulator, as applicable.

#### IV.E—Overlaps

##### IV.E.1—General

An overlap exists when a group of persons is eligible for membership in two or more credit unions, including state charters. An overlap is permitted when the expansion's beneficial effect in meeting the convenience and needs of the members of the group proposed to be included in the field of membership outweighs any adverse effect on the overlapped credit union.

Credit unions must investigate the possibility of an overlap with federally insured credit unions prior to submitting an expansion request if the group has 5,000 or more primary potential members. If cases arise where the assurance given to the Office of Consumer Protection Director concerning the unavailability of credit union service is inaccurate, the misinformation may be grounds for removal of the group from the federal credit union's charter.

When an overlap situation requiring analysis does arise, officials of the expanding credit union must ascertain the views of the overlapped credit union. If the overlapped credit union does not object, the applicant must submit a letter or other documentation to that effect. If the overlapped credit union does not respond, the expanding credit union must notify NCUA in writing of its attempt to obtain the overlapped credit union's comments.

NCUA will approve an overlap if the expansion's beneficial effect in meeting the convenience and needs of the members of the group outweighs any adverse effect on the overlapped credit union.

In reviewing the overlap, the Office of Consumer Protection Director will consider:

- The view of the overlapped credit union(s);
- Whether the overlap is incidental in nature—the group of persons in question is so small as to have no material effect on the original credit union;
- Whether there is limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time;
- Whether the original credit union fails to provide requested service;

- Financial effect on the overlapped credit union;
- The desires of the group(s);
- The desire of the sponsor organization; and
- The best interests of the affected group and the credit union members involved.

Generally, if the overlapped credit union does not object, and NCUA determines that there is no safety and soundness problem, the overlap will be permitted.

Potential overlaps of a federally insured state credit union's field of membership by a federal credit union will generally be analyzed in the same way as if two federal credit unions were involved. Where a federally insured state credit union's field of membership is broadly stated, NCUA will exclude its field of membership from any overlap protection.

NCUA will permit multiple common bond federal credit unions to overlap community charters without performing an overlap analysis.

##### IV.E.2—Overlap Issues as a Result of Organizational Restructuring

A federal credit union's field of membership will always be governed by the field of membership descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of any select group listed in Section 5. Where acquisitions are made which add a new subsidiary, the group cannot be served until the subsidiary is included in the field of membership through a housekeeping amendment.

A federal credit union's field of membership will always be governed by the field of membership descriptions contained in Section 5 of its charter. Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of any select group listed in Section 5. Where acquisitions are made which add a new subsidiary, the group cannot be served until the subsidiary is included in the field of membership through a housekeeping amendment.

Overlaps may occur as a result of restructuring or merger of the parent organization. When such overlaps occur, each credit union must request a field of membership amendment to reflect the new groups each wishes to serve. The credit union can continue to serve any current group in its field of membership that is acquiring a new group or has been acquired by a new group. The new group cannot be served by the credit union until the field of membership amendment is approved by NCUA.

Credit unions affected by organizational restructuring or merger should attempt to resolve overlap issues among themselves. Unless an agreement is reached limiting the overlap resulting from the corporate restructuring, NCUA will permit a complete overlap of the credit unions' fields of membership. When two groups merge, or one

group is acquired by the other, and each is in the field of membership of a credit union, both (or all affected) credit unions can serve the resulting merged or acquired group, subject to any existing geographic limitation and without regard to any overlap provisions. This is accomplished through a housekeeping amendment.

Credit unions must submit to NCUA documentation explaining the restructuring and provide information regarding the new organizational structure.

##### IV.E.3—Exclusionary Clauses

An exclusionary clause is a limitation precluding the credit union from serving the primary members of a portion of a group otherwise included in its field of membership. NCUA no longer grants exclusionary clauses. Those granted prior to the adoption of this new Chartering and Field of Membership Manual will remain in effect unless the credit unions agree to remove them or one of the affected credit unions submits a housekeeping amendment to have it removed.

#### IV.F—Charter Conversion

A multiple common bond federal credit union may apply to convert to a community charter provided the field of membership requirements of the community charter are met. Groups within the existing charter which cannot qualify in the new charter cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion. Members of record can continue to be served. Also, in order to support a case for a conversion, the applicant federal credit union may be required to develop a detailed business plan as specified in Chapter 2, Section V.A.3 of this manual.

A multiple common bond federal credit union may apply to convert to a single occupational or associational common bond charter provided the field of membership requirements of the new charter are met. Groups within the existing charter, which do not qualify in the new charter, cannot be served except for members of record, or groups or communities obtained in an emergency merger or P&A. A credit union must notify all groups that will be removed from the field of membership as a result of conversion.

#### IV.G—Credit Union Requested Removal of Groups From the Field of Membership

A credit union may request removal of a group from its field of membership for various reasons. The most common reasons for this type of amendment are:

- The group is within the field of membership of two credit unions and one wishes to discontinue service;
- The federal credit union cannot continue to provide adequate service to the group;
- The group has ceased to exist;
- The group does not respond to repeated requests to contact the credit union or refuses to provide needed support;
- The group initiates action to be removed from the field of membership; or

• The federal credit union wishes to convert to a single common bond.

When a federal credit union requests an amendment to remove a group from its field of membership, the Office of Consumer Protection Director will determine why the credit union desires to remove the group. If the Office of Consumer Protection Director concurs with the request, membership will continue for those who are already members under the “once a member, always a member” provision of the Federal Credit Union Act.

#### **IV.H—NCUA Supervisory Action To Remove Groups From the Field of Membership**

NCUA has in place quality control processes that protect the integrity of its field of membership requirements. As part of this obligation, NCUA’s Office of Consumer Protection will randomly select groups added through NCUA’s Field of Membership Internet Application (FOMIA) system for quality assurance reviews even if the expansion application meets all the conditions for approval. Each FCU is responsible for obtaining certain documentation when seeking to add groups to its field of membership through FOMIA. In addition, as indicated in the FOMIA User Instruction Guide, available on NCUA’s Web site, an FCU must permanently retain the documentation from the select group requesting service and the Confirmation Certificate generated at the time the FOMIA request is submitted to NCUA.

As part of the quality assurance process, OCP reserves the right to request this documentation at any time. If the FCU fails to provide this documentation when OCP requests it, OCP may consider removing the group from the FCU’s field of membership and restricting the FCU from using the FOMIA system for future requests. Specifically, as part of the FOMIA quality assurance process, OCP staff will do the following:

1. Within 10 days of receiving an application selected for a quality assurance review, notify the FCU of the documentation OCP requires. The FCU will have 15 days to provide the necessary documentation. OCP staff will respond to the FCU with a determination on the quality assurance review of the association within 15 days of receiving the requested information;

2. After receiving the additional documentation, if any concerns remain outstanding, OCP staff will again correspond with the FCU and provide a 15-day time frame for correcting the concern. OCP staff will respond to the FCU with a determination on the quality assurance review of the association within 15 days of receiving the requested information; and

3. If the FCU does not provide the requested documentation, or cannot correct the concern, the OCP Director will deny the application and notify the credit union of its appeal rights.

#### **IV.I—NCUA Investigation of Potential Field of Membership Violations**

NCUA’s Office of Consumer Protection (OCP) is responsible for investigating field of membership complaints from the public, and

matters referred to it from the field. It also pursues corrective action as needed for FCUs with confirmed field of membership violations. Although circumstances can vary with each case, OCP staff will generally adhere to the following process for investigating and addressing potential field of membership violations:

1. Initially correspond with management to outline concerns and request clarifying information within 60 days. OCP staff will also provide context as to the source of OCP’s concerns, such as the discovery of new information about a particular group or an examination finding brought to OCP’s attention;

2. If OCP does not receive the requested information within 60 days, it will notify the FCU and again request the required information be provided within 30 days;

3. After receiving the additional documentation, if any concerns remain outstanding, OCP staff will again correspond with the FCU to provide a 60-day time frame for addressing the concern; and

4. If the FCU is unable to correct the concern, and after consultation with the Office of General Counsel and the appropriate Regional Office, and in accordance with agency guidelines for administrative actions, OCP will remove the group from the FCU’s field of membership pursuant to authority delegated by the NCUA Board. Removal of a group is treated the same as an initial denial under the Chartering Manual. In any adverse final determination on removal under the above delegations, OCP will notify the FCU of its appeal rights.

NCUA considers the removal of an association from an FCU’s field of membership as an action of last resort. If a group is removed, the FCU can no longer add new members from the group, but can continue serving those who are already members of the FCU under the “once a member, always a member” provision of the Federal Credit Union Act. Also, if the group subsequently qualifies due to changes to the group itself, management can submit a new application at that time.

#### **IV.J—Other Persons Eligible for Credit Union Membership**

A number of persons, by virtue of their close relationship to a common bond group, may be included, at the charter applicant’s option, in the field of membership. These include the following:

- Spouses of persons who died while within the field of membership of this credit union;

- Employees of this credit union;
- Persons retired as pensioners or annuitants from the above employment;

- Volunteers;
- Members of the immediate family or household;

- Honorably discharged veterans who served in any of the Armed Services of the United States in this charter;

- Organizations of such persons; and
- Corporate or other legal entities in this charter.

Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents,

stepchildren, stepsiblings, and adoptive relationships.

Household is defined as persons living in the same residence maintaining a single economic unit.

Membership eligibility is extended only to individuals who are members of an “immediate family or household” of a credit union member. It is not necessary for the primary member to join the credit union in order for the immediate family or household member of the primary member to join, provided the immediate family or household clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join in order for that person’s immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

Volunteers, by virtue of their close relationship with a sponsor group, may be included. Examples include volunteers working at a hospital or church.

Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as “once a member, always a member.” The “once a member, always a member” provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.

#### **V—Community Charter Requirements**

##### *V.A.1—General*

There are two types of community charters. One is based on a single, geographically well-defined local community or neighborhood; the other is a rural district. More than one credit union may serve the same community.

NCUA recognizes four types of affinity on which both a community charter and a rural district can be based—persons who live in, worship in, attend school in, or work in the community or rural district. Businesses and other legal entities within the community boundaries or rural district may also qualify for membership.

NCUA has established the following requirements for community charters:

- The geographic area’s boundaries must be clearly defined; and
- The area is a well-defined local community or a rural district.

##### *V.A.2—Definition of Well-Defined Local Community and Rural District*

In addition to the documentation requirements in Chapter 1 of this manual to charter a credit union, a community credit union applicant must provide additional documentation addressing the proposed area to be served and community service policies.

An applicant has the burden of demonstrating to NCUA that the proposed community area meets the statutory requirements of being: (1) Well-defined, and (2) a local community or rural district.

“Well-defined” means the proposed area has specific geographic boundaries. Geographic boundaries may include a city,

township, county (single, multiple, or portions of a county) or their political equivalent, an individual Congressional district, school districts, or a clearly identifiable neighborhood. Although state boundaries are well-defined areas, states themselves do not meet the requirement that the proposed area be a local community or rural district.

The well-defined local community requirement is met if:

- **Single Political Jurisdiction**—The area to be served is in a recognized Single Political Jurisdiction, *i.e.*, a city, county, or their political equivalent, or any contiguous portion thereof. A Congressional district qualifies as Single Political Jurisdiction. If redistricting were to redraw the boundaries of a Congressional district into two or more Congressional districts, an FOM consisting of the original Congressional district would no longer be available to be served by any other credit union.

- **Statistical Area**—The area is a designated Core Based Statistical Area or allowing a portion thereof, or in the case of a Core Based Statistical Area with Metropolitan Divisions, the area is a Metropolitan Division or is a portion thereof; or

- The area is a designated a Combined Statistical Area or a portion thereof; AND

- The Core Based Statistical Area, Metropolitan Division or Combined Statistical Area, or the portion thereof, must have a population of 2.5 million or less people.

- **Compelling Evidence of Interaction or Common Interests**—In lieu of a statistical area as defined above, this option applies when an area is substantially a Core Based Statistical Area or Combined Statistical Area, but also has an additional portion falling outside, and which is immediately adjacent to, the Core Based Statistical Area or Combined Statistical Area, and thus may demonstrate a sufficient level of interaction to qualify as a local community. For these situations, applicants have the option of submitting a narrative to NCUA to discuss how the residents meet the requirements for being a local community. NCUA will base its decision on a consideration of the following factors with respect to the proposed service area in its entirety:

**Economic Hub:** Evidence indicates residents commonly travel to a geographically compact locale within the area for work and major commerce needs. Traffic flows, the presence of common or related industries, or unified economic planning demonstrate how the locales have economic interdependence.

**Population Center:** Area has a dominant county or municipality with a significant portion of the area's population and evidence exists to support the relevance of the population center to all residents within the area.

**Quasi-Governmental Agencies:** A quasi-governmental agency, such as a regional planning commission, covers the proposed service area in its entirety and derives its leadership from the area to advance meaningful objectives advancing the residents' common interests in economic development and/or improving quality of

life. Success of agency in meeting its mission depends upon collaboration from throughout the area.

**Government Designations:** A division of a federal or state agency specifically designates the proposed service area as its area of coverage or as a target area for specific programs.

**Shared Public Services/Facilities:** Formal agreements exist that provide for a common need shared by all of the residents, such as common police or fire protection, or public utilities.

**Colleges and Universities:** Evidence exists to demonstrate the common relevance of an institution or institutions to the entire area, such as unique educational initiatives to support economic objectives benefiting all residents and/or partnerships with local businesses or high schools.

The rural district requirement is met if:

- **Rural District**—
- The district has well-defined, contiguous geographic boundaries;

- The total population of the district does not exceed 1,000,000.

- Either more than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by either the Consumer Financial Protection Bureau or the United States Census Bureau, OR the district has a population density of 100 persons or fewer per square mile; and

- The boundaries of the well-defined rural district do not exceed the outer boundaries of the states that are *immediately contiguous* to the state in which the credit union maintains its headquarters (*i.e.*, not to exceed the outer perimeter of the layer of states immediately surrounding the headquarters state). The affinities that apply to rural districts are the same as those that apply to well-defined local communities. The OMB definitions of Core Based Statistical Area and Metropolitan Division may be found at <https://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b-13-01.pdf>. Access to these definitions is available through the main page of the **Federal Register** Web site at <http://www.gpoaccess.gov/fr/index.html> and on NCUA's Web site at <http://www.ncua.gov>.

The requirements in Chapter 2, Sections V.A.4 through V.G. of this manual also apply to a credit union that serves a rural district.

#### V.A.3—Previously Approved Communities

If prior to July 26, 2010 NCUA has determined that a specific geographic area is a well-defined local community, then a new applicant need not reestablish that fact as part of its application to serve the exact area. The new applicant must, however, note NCUA's previous determination as part of its overall application. An applicant applying for an area after that date that is not exactly the same as the previously approved well defined local community must comply with the current criteria in place for determining a well-defined local community.

#### V.A.4—Business Plan Requirements for a Community Credit Union

A community credit union is frequently more susceptible to competition from other local financial institutions and generally does

not have substantial support from any single sponsoring company or association. As a result, a community credit union will often encounter financial and operational factors that differ from an occupational or associational charter. Its diverse membership may require special marketing programs targeted to different segments of the community. For example, the lack of payroll deduction creates special challenges in the development and promotion of savings programs and in the collection of loans. Accordingly, to support an application for a community charter, an applicant Federal credit union must develop a business plan incorporating the following data:

- Pro forma financial statements for a minimum of 24 months after the proposed conversion, including the underlying assumptions and rationale for projected member, share, loan, and asset growth;

- Anticipated financial impact on the credit union, including the need for additional employees and fixed assets, and the associated costs;

- A description of the current and proposed office/branch structure, including a general description of the location(s); parking availability, public transportation availability, drive-through service, lobby capacity, or any other service feature illustrating community access;

- A marketing plan addressing how the community will be served for the 24-month period after the proposed conversion to a community charter, including detailing: how the credit union will implement its business plan; the unique needs of the various demographic groups in the proposed community; how the credit union will market to each group, particularly underserved groups; which community-based organizations the credit union will target in its outreach efforts; the credit union's marketing budget projections dedicating greater resources to reaching new members; and the credit union's timetable for implementation, not just a calendar of events;

- Details, terms and conditions of the credit union's financial products, programs, and services to be provided to the entire community; and

- Maps showing the current and proposed service facilities, ATMs, political boundaries, major roads, and other pertinent information.

An existing Federal credit union may apply to convert to a community charter. Groups currently in the credit union's field of membership, but outside the new community credit union's boundaries, may not be included in the new community charter. Therefore, the credit union must notify groups that will be removed from the field of membership as a result of the conversion. Members of record can continue to be served.

Before approval of an application to convert to a community credit union, NCUA must be satisfied that the credit union will be viable and capable of providing services to its members.

Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plans submitted with their applications. Additionally, NCUA will

follow-up with an FCU every year for three years after the FCU has been granted a new or expanded community charter, and at any other intervals NCUA believes appropriate, to determine if the FCU is satisfying the terms of its marketing and business plans. An FCU failing to satisfy those terms will be subject to supervisory action. As part of this review process, the regional office will report to the NCUA Board instances where an FCU is failing to satisfy the terms of its marketing and business plan and indicate what supervisory actions the region intends to take.

#### V.A.5—Community Boundaries

The geographic boundaries of a community Federal credit union are the areas defined in its charter. The boundaries can usually be defined using political borders, streets, rivers, railroad tracks, or other static geographical feature.

A community that is a recognized legal entity may be stated in the field of membership—for example, “Gus Township, Texas,” “Isabella City, Georgia,” or “Fairfax County, Virginia.”

A community that is a recognized Core Based Statistical Area must state in the field of membership the political jurisdiction(s) that comprise the Core Based Statistical Area.

#### V.A.6—Special Community Charters

A community field of membership may include persons who work or attend school in a particular industrial park, shopping mall, office building or complex, or similar development. The proposed field of membership must have clearly defined geographic boundaries.

#### V.A.7—Sample Community Fields of Membership

A community charter does not have to include all four affinities (*i.e.*, live, work, worship, or attend school in a community). Some examples of community fields of membership are:

- Persons who live, work, worship, or attend school in, and businesses located in the area of Johnson City, Tennessee, bounded by Fern Street on the north, Long Street on the east, Fourth Street on the south, and Elm Avenue on the west;
- Persons who live or work in Green County, Maine;
- Persons who live, worship, work (or regularly conduct business in), or attend school on the University of Dayton campus, in Dayton, Ohio;
- Persons who work for businesses located in Clifton Country Mall, in Clifton Park, New York;
- Persons who live, work, or worship in the Binghamton, New York, Core Based Statistical Area, consisting of Broome and Tioga Counties, New York (a qualifying Core Based Statistical Area in its entirety);
- Persons who live, work, worship, or attend school in the portion of the Oklahoma City, OK Metropolitan Statistical Area that includes Canadian and Oklahoma counties, Oklahoma (two contiguous counties in a portion of a qualifying Core Based Statistical Area that has seven counties in total); or

- Persons who live, work, worship, or attend school in Uinta County or Lincoln County, Wyoming, a rural district.

Some examples of insufficiently defined local communities, neighborhoods, or rural districts are:

- Persons who live or work within and businesses located within a ten-mile radius of Washington, DC (using a radius does not establish a well-defined area);
- Persons who live or work in the industrial section of New York, New York. (not a well-defined neighborhood, community, or rural district); or
- Persons who live or work in the greater Boston area. (not a well-defined neighborhood, community, or rural district).

Some examples of unacceptable local communities, neighborhoods, or rural districts are:

- Persons who live or work in the State of California. (does not meet the definition of local community, neighborhood, or rural district).

#### V.B—Field of Membership Amendments

A community credit union may amend its field of membership by adding additional affinities or removing exclusionary clauses. This can be accomplished with a housekeeping amendment.

A community credit union also may expand its geographic boundaries. Persons who live, work, worship, or attend school within the proposed well-defined local community, neighborhood or rural district must have common interests and/or interact. The credit union must follow the requirements of Section V.A.4 of this chapter.

A community credit union that is based on a Single Political Jurisdiction, a Statistical Area (*e.g.*, Core Based Statistical Area or Combined Statistical Area) or a rural district may expand its geographic boundaries to add a bordering area, provided the area is well defined and the credit union demonstrates by subjective evidence that persons who live, work, worship, or attend school within the proposed expanded community (*i.e.*, on both sides of the boundary separating the existing community and the bordering area) have common interests and/or interact. Such a credit union applying to expand its geographic boundaries to add a bordering area must follow a streamlined version of the business plan requirements of Section V.A.4 of this chapter and the expanded community would be subject to the corresponding population limit—2.5 million in the case of a Core Based Statistical Area, and 1 million in the case of a rural district. The streamlined business plan requirements for adding a bordering area are:

- Anticipated marginal financial impact on the credit union of adding the proposed bordering area, including the need for additional employees and fixed assets, and the associated costs;
- A description of the current and, if applicable, proposed office/branch structure specific to serving the proposed bordering area;
- A marketing plan addressing how the new community will be served for the 24-month period after the proposed expansion of a community charter, including detailing

how the credit union will address the unique needs of any demographic groups in the proposed bordering community not presently served by the credit union and how the credit union will market to any new groups; and

- Details, terms and conditions of any new financial products, programs, and services to be introduced as part of this expansion.

#### V.C—NCUA Procedures for Amending the Field of Membership

##### V.C.1—General

All requests for approval to amend a community credit union’s charter must be submitted to the Office of Consumer Protection Director. If a decision cannot be made within a reasonable period of time, the Office of Consumer Protection Director will notify the credit union.

##### V.C.2—NCUA’s Decision

The financial and operational condition of the requesting credit union will be considered in every instance. The economic advisability of expanding the field of membership of a credit union with financial or operational problems must be carefully considered.

In most cases, field of membership amendments will only be approved for credit unions that are operating satisfactorily. Generally, if a federal credit union is having difficulty providing service to its current membership, or is experiencing financial or other operational problems, it may have more difficulty serving an expanded field of membership.

Occasionally, however, an expanded field of membership may provide the basis for reversing current financial problems. In such cases, an amendment to expand the field of membership may be granted notwithstanding the credit union’s financial or operational problems. The applicant credit union must clearly establish that the expanded field of membership is in the best interest of the members and will not increase the risk to the NCUSIF.

##### V.C.3—NCUA Approval

If the requested amendment is approved by NCUA, the credit union will be issued an amendment to Section 5 of its charter.

##### V.C.4—NCUA Disapproval

When NCUA disapproves any application to amend the field of membership, in whole or in part, under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedures.

##### V.C.5—Appeal of Office of Consumer Protection Director Decision

If a field of membership expansion request, merger, or spin-off is denied by staff, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial and must be clearly identified as such and address the specific reason(s) the federal credit union disagrees with the denial. A copy of the appeal must



be sent to the Office of Consumer Protection or, as applicable, the appropriate regional office. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the office rendering the initial decision for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The office rendering the initial decision will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

#### **V.D.—Mergers, Purchase and Assumptions, and Spin-Offs**

There are three additional ways a community federal credit union can expand its field of membership:

- By taking in the field of membership of another credit union through a merger;
- By taking in the field of membership through a purchase and assumption (P&A); or
- By taking a portion of another credit union's field of membership through a spin-off.

##### *V.D.1—Standard Mergers*

Generally, the requirements applicable to field of membership expansions apply to mergers where the continuing credit union is a community federal charter.

Where both credit unions are community charters, the continuing credit union must meet the criteria for expanding the community boundaries. A community credit union cannot merge into a single occupational/associational, or multiple common bond credit union, except in an emergency merger. However, a single occupational or associational, or multiple common bond credit union can merge into a community charter as long as the merging credit union has a service facility within the community boundaries or a majority of the merging credit union's field of membership would qualify for membership in the community charter. While a community charter may take in an occupational, associational, or multiple common bond credit union in a merger, it will remain a community charter.

Groups within the merging credit union's field of membership located outside of the community boundaries may not continue to be served. The merging credit union must notify groups that will be removed from the field of membership as a result of the merger. However, the credit union may continue to serve members of record.

Where a state-chartered credit union is merging into a community federal credit union, the continuing federal credit union's field of membership will be worded in accordance with NCUA policy. Any subsequent field of membership expansions must comply with applicable amendment procedures.

Mergers must be approved by the NCUA regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union, and, as applicable, the state regulators.

##### *V.D.2—Emergency Mergers*

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

If not corrected, conditions that could lead to insolvency include, but are not limited to:

- Abandonment by management;
- Loss of sponsor;
- Serious and persistent record-keeping problems; or
- Serious and persistent operational concerns.

In an emergency merger situation, NCUA will take an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any field of membership restrictions, including the service facility requirement. Under this authority, a federal credit union may take in any dissimilar field of membership.

Even though the merging credit union is a single common bond credit union or multiple common bond credit union or community credit union, the continuing credit union will remain a community charter. Future community expansions will be based on the continuing credit union's original community area.

Emergency mergers involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the merging credit union and, as applicable, the state regulators.

##### *V.D.3—Purchase and Assumption (P&A)*

Another alternative for acquiring the field of membership of a failing credit union is through a consolidation known as a P&A. Generally, the requirements applicable to community expansions found in this chapter apply to purchase and assumptions where the purchasing credit union is a federal charter.

A P&A has limited application because, in most instances, the failing credit union must be placed into involuntary liquidation.

However, in the few instances where a P&A may occur, the assuming federal credit union, as with emergency mergers, may acquire the entire field of membership if the emergency criteria are satisfied.

In a P&A processed under the emergency criteria, specified loans, shares, and certain other designated assets and liabilities may also be acquired without regard to field of membership restrictions and without changing the character of the continuing federal credit union for purposes of future field of membership amendments.

If the P&A does not meet the emergency criteria, then only members of record can be obtained unless they otherwise qualify for membership in the community charter.

P&As involving federally insured credit unions in different NCUA regions must be approved by the regional director where the continuing credit union is headquartered, with the concurrence of the regional director of the purchased and/or assumed credit union and, as applicable, the state regulators.

##### *V.D.4—Spin-Offs*

A spin-off occurs when, by agreement of the parties, a portion of the field of membership, assets, liabilities, shares, and capital of a credit union are transferred to a new or existing credit union. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

All field of membership requirements apply regardless of whether the spun-off group goes to a new or existing federal charter.

The request for approval of a spin-off must be supported with a plan that addresses, at a minimum:

- Why the spin-off is being requested;
- What part of the field of membership is to be spun off;
- Whether the field of membership requirements are met;
- Which assets, liabilities, shares, and capital are to be transferred;
- The financial impact the spin-off will have on the affected credit unions;
- The ability of the acquiring credit union to effectively serve the new members;
- The proposed spin-off date; and
- Disclosure to the members of the requirements set forth above.

The spin-off request must also include current financial statements from the affected credit unions and the proposed voting ballot.

For federal credit unions spinning off a portion of the community, membership notice and voting requirements and procedures are the same as for mergers (see part 708 of the NCUA Rules and Regulations), except that only the members directly affected by the spin-off—those whose shares are to be transferred—are permitted to vote. Members whose shares are not being transferred will not be afforded the opportunity to vote. All members of the group to be spun off (whether they voted in favor, against, or not at all) will be transferred if the spin-off is approved by the voting membership. Voting requirements for federally insured state credit unions are governed by state law.



**V.E—Overlaps***V.E.1—General*

Generally, an overlap exists when a group of persons is eligible for membership in two or more credit unions. NCUA will permit community credit unions to overlap any other charters without performing an overlap analysis.

*V.E.2—Exclusionary Clauses*

An exclusionary clause is a limitation precluding the credit union from serving the primary members of a portion of a group or community otherwise included in its field of membership. NCUA no longer grants exclusionary clauses. Those granted prior to the adoption of this new Chartering and Field of Membership Manual will remain in effect unless the credit unions agree to remove them or one of the affected credit unions submits a housekeeping amendment to have it removed.

**V.F—Charter Conversions**

A community federal credit union may convert to a single occupational or associational, or multiple common bond credit union. The converting credit union must meet all occupational, associational, and multiple common bond requirements, as applicable. The converting credit union may continue to serve members of record of the prior field of membership as of the date of the conversion, and any groups or communities obtained in an emergency merger or P&A. A change to the credit union's field of membership and designated common bond will be necessary.

A community credit union may convert to serve a new geographical area provided the field of membership requirements of V.A.3 of this chapter are met. Members of record of the original community can continue to be served.

**V.G—Other Persons With a Relationship to the Community**

A number of persons who have a close relationship to the community may be included, at the charter applicant's option, in the field of membership. These include the following:

- Spouses of persons who died while within the field of membership of this credit union;
- Employees of this credit union;
- Volunteers in the community;
- Members of the immediate family or household; and
- Organizations of such persons

Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Household is defined as persons living in the same residence maintaining a single economic unit.

Membership eligibility is extended only to individuals who are members of an "immediate family or household" of a credit union member. It is not necessary for the primary member to join the credit union in order for the immediate family or household member of the primary member to join, provided the immediate family or household

clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join in order for that person's immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as "once a member, always a member." The "once a member, always a member" provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.

**Chapter 3—Low-Income Credit Unions and Credit Unions Serving Underserved Areas****I—Introduction**

One of the primary reasons for the creation of federal credit unions is to make credit available to people of modest means for provident and productive purposes. To help NCUA fulfill this mission, the agency has established special operational policies for federal credit unions that serve low-income groups and underserved areas. The policies provide a greater degree of flexibility that will enhance and invigorate capital infusion into low-income groups, low-income communities, and underserved areas. These unique policies are necessary to provide credit unions serving low-income groups with financial stability and potential for controlled growth and to encourage the formation of new charters as well as the delivery of credit union services in low-income communities.

**II—Low-Income Credit Union***II.A—Defined*

A credit union serving predominantly low-income members may be designated as a low-income credit union. Section 701.34 of NCUA's Rules and Regulations defines the term "low-income members" as those members:

- Who make less than 80 percent of the average for all wage earners as established by the Bureau of Labor Statistics; or
- Whose median family income falls at or below 80 percent of the median family income for the nation as established by the Census Bureau.

The term "low-income members" also includes members who are full-time or part-time students in a college, university, high school, or vocational school.

To obtain a low-income designation from NCUA, an existing credit union must establish that a majority of its members meet the low-income definition. An existing community credit union that serves a geographic area where a majority of residents meet the annual income standard is presumed to be serving predominantly low-income members. A low-income designation for a new credit union charter may be based on a majority of the potential membership.

*II.B—Special Programs*

A credit union with a low-income designation has greater flexibility in accepting nonmember deposits insured by the NCUSIF, are exempt from the aggregate loan limit on business loans, and may offer secondary capital accounts to strengthen its capital base. It also may participate in special funding programs such as the Community Development Revolving Loan Program for Credit Unions (CDRLP) if it is involved in the stimulation of economic development and community revitalization efforts.

The CDRLP provides both loans and grants for technical assistance to low-income credit unions. The requirements for participation in the revolving loan program are in part 705 of the NCUA Rules and Regulations. Only operating credit unions are eligible for participation in this program.

*II.C—Low-Income Documentation*

A federal credit union charter applicant or existing credit union wishing to receive a low-income designation should forward a separate request for the designation to the Office of Consumer Protection Director, along with appropriate documentation supporting the request.

For community charter applicants, the supporting material should include the median family income or annual wage figures for the community to be served. If this information is unavailable, the applicant should identify the individual zip codes or census tracts that comprise the community and NCUA will assist in obtaining the necessary demographic data.

Similarly, if single occupational or associational or multiple common bond charter applicants cannot supply income data on its potential members, they should provide the Office of Consumer Protection Director with a list which includes the number of potential members, sorted by their residential zip codes, and NCUA will assist in obtaining the necessary demographic data.

An existing credit union can perform a loan or membership survey to determine if the credit union is primarily serving low-income members.

*II.D—Third-Party Assistance*

A low-income federal credit union charter applicant may contract with a third party to assist in the chartering and low-income designation process. If the charter is granted, a low-income credit union may contract with a third party to provide necessary management services. Such contracts should not exceed the duration of one year subject to renewal.

*II.E—Special Rules for Low-Income Federal Credit Unions*

In recognition of the unique efforts needed to help make credit union service available to low-income groups, NCUA has adopted special rules that pertain to low-income credit union charters, as well as field of membership additions for low-income credit unions. These special rules provide additional latitude to enable underserved, low-income individuals to gain access to credit union service.

NCUA permits credit union chartering and field of membership amendments based on

associational groups formed for the sole purpose of making credit union service available to low-income persons. The association must be defined so that all of its members will meet the low-income definition of § 701.34 of the NCUA Rules and Regulations. Any multiple common bond credit union can add low-income associations to their fields of membership.

A low-income designated community federal credit union has additional latitude in serving persons who are affiliated with the community. In addition to serving members who live, work, worship, or attend school in the community, a low-income community federal credit union may also serve persons who participate in programs to alleviate poverty or distress, or who participate in associations headquartered in the community.

Examples of a low-income designated community and an associational-based low-income federal credit union are as follows:

- Persons who live in [the target area]; persons who work, worship, attend school, or participate in associations headquartered in [the target area]; persons participating in programs to alleviate poverty or distress which are located in [the target area]; incorporated and unincorporated organizations located in [the target area] or maintaining a facility in [the target area]; and organizations of such persons.

- Members of the Canarsie Economic Assistance League, in Brooklyn, NY, an association whose members all meet the low-income definition of § 701.34 of the NCUA Rules and Regulations.

### III—Service to Underserved Communities

#### III.A—General

A multiple common bond federal credit union may include in its field of membership, without regard to location, an “underserved area” as defined by the Federal Credit Union Act. 12 U.S.C. 1759(c)(2). The addition of an “underserved area” will not change the charter type of the multiple common bond federal credit union. More than one multiple common-bond federal credit union can serve the same “underserved area,” provided each credit union is approved as provided below.

By adding an “underserved area,” a multiple common bond federal credit union does not become eligible to receive the benefits afforded to low-income designated credit unions, such as expanded use of nonmember deposits and access to the Community Development Revolving Loan Program for Credit Unions.

#### III.B—“Underserved Area” Defined

The Federal Credit Union Act defines an “underserved area” as (1) a “local community, neighborhood, or rural district” that (2) meets the definition of an “investment area” under section 103(16) of the Community Development Banking and Financial Institutions Act of 1994 (“CDFI”), 12 U.S.C. 4702(16), and (3) is “underserved by other depository institutions” based on data of the NCUA Board and the federal banking agencies.

#### III.B.1—Local Community

To be eligible for approval as “underserved,” a proposed area must be a well-defined local community, neighborhood, or rural district as defined in Chapter 2, sections V.A.1. and V.A.2. of this manual.

#### III.B.2—Investment Area

To be approved as an “underserved area,” the proposed area must meet the CDFI definition of an “investment area.” *Id.* Section 4702(16). A proposed area that, at the time the credit union applies, is designated in its entirety as an Empowerment Zone or Enterprise Community (*id.* Section 1391) automatically qualifies as an “investment area”; no further criteria of an “investment area” must be met. *Id.* Section 4702(16)(B). A proposed area that is not designated as such must qualify as an “investment area” under “the objective criteria of economic distress” developed by the CDFI Fund (“distress criteria”) based on current decennial U.S. Census data, and also must have “significant unmet needs” for loans and financial services that credit unions are authorized to offer to their members. *Id.* Section 4702(16)(A).

*III.B.2.a—Economic Distress Criteria Geographic Unit(s) By Proposed Area’s Location.* The location of a proposed “underserved area” either within or outside of a Metropolitan Statistical Area corresponding to the most recent completed decennial census published by the U.S. Bureau of the Census (“decennial Census”) determines the geographic unit(s) that apply to determine whether the area meets the distress criteria.

*Within a Metropolitan Statistical Area.* For a proposed area located, in whole or in part, within a Metropolitan Statistical Area, the permissible geographic units (“Metro units”) for implementing the economic distress criteria are: (i) A census tract; (ii) a block group; and (iii) an American Indian or Alaskan Native area. 12 CFR 1805.201(b)(3)(ii)(B) (2008). For ease of implementation, it is advisable to use a census tract as the proposed area’s Metro unit.

*Outside a Metropolitan Statistical Area.* For a proposed area that is located entirely outside a Metropolitan Statistical Area, the permissible units (“Non-Metro units”) for implementing the economic distress criteria are: (i) A county or equivalent area; (ii) a minor civil division that is a unit of local government; (iii) an incorporated place; (iv) a census tract; (v) a block numbering area; (vi) a block group; and (vii) an American Indian or Alaskan Native area. *Id.* For ease of implementation, it is advisable to use either a census tract or county, as the case may be, as the proposed area’s Non-Metro unit.

*Proposed Area Consisting of a Single Metro Unit.* A proposed area consisting of a single whole Metro unit (*e.g.*, a single census tract located within a Metropolitan Statistical Area) must meet one of the following distress criteria, as reported by the most recent decennial Census:

- *Unemployment.* The proposed area’s unemployment rate is at least 1.5 times the national average; or

- *Poverty.* At least 20 percent (20%) of the proposed area’s population lives in poverty; or

- *Median Family Income.* The proposed area’s Median Family Income (“MFI”) is at or below 80 percent (80%) of either the MFI of the corresponding Metropolitan Statistical Area, or of the national MFI for Metro Areas, whichever is greater; or

- *Other Criterion.* Any other economic distress criterion the CDFI Fund may adopt in the future.

*Id.* § 1805.201(b)(3)(ii)(D)(1), (b)(3)(ii)(D)(2)(i) and (b)(3)(ii)(D)(3) (2008).

*Proposed Area Consisting of a Single Non-Metro Unit.* A proposed area consisting of a single whole Non-Metro unit (*e.g.*, a single county located outside a Metropolitan Statistical Area) must meet one of the following distress criteria, as reported by the most recent decennial Census:

- *Unemployment.* The proposed area’s unemployment rate is at least 1.5 times the national average; or

- *Poverty.* At least 20 percent (20%) of the proposed area’s population lives in poverty; or

- *Median Family Income.* The proposed area’s MFI is at or below 80 percent (80%) of either the corresponding state’s Non-Metro MFI or the national MFI for Non-Metro Areas, whichever is greater; or

- *Other Criterion.* Any other economic distress criterion the CDFI Fund may adopt in the future.

*Id.* § 1805.201(b)(3)(ii)(D)(1), (b)(3)(ii)(D)(2)(ii) and (b)(3)(ii)(D)(3) (2008). Alternatively, a proposed area consisting of a single Non-Metro county (located outside a Metropolitan Statistical Area) may instead meet either of the following two criteria, as reported by the decennial Census:

- *County Population Loss.* County’s population loss of at least 10 percent (10%) between the most recent and the preceding decennial Census; or

- *County Migration Loss.* County’s net migration loss of at least 5 percent (5%) in the 5-year period preceding the most recent decennial Census.

*Id.* § 1805.201(b)(3)(ii)(D)(4) and (5) (2008).

*Proposed Area Consisting of Multiple Contiguous Units.* When a proposed area consists of either multiple contiguous Metro units (*e.g.*, a group of adjoining census tracts) or multiple contiguous Non-Metro units (*e.g.*, a group of adjoining counties), a population threshold applies when implementing the economic distress criteria. At least 85 percent (85%) of the area’s total population must reside within the units that are “distressed,” *i.e.*, that meet one of the applicable economic distress criteria above, as reported by the decennial Census (Unemployment, Poverty and MFI for census tracts plus, for counties only, Population Loss and Migration Loss); the balance of the area’s population may reside in the non-“distressed” tract(s). The population threshold is met, and the whole proposed area qualifies as “distressed,” when the “distressed” units represent at least 85 percent of the area’s total population.

#### III.B.2.b—Proposed Area’s “Significant Unmet Needs”

A proposed area that is “distressed” also must display “significant unmet needs” for

loans or for one or more of the financial services credit unions are authorized to offer. To meet this criterion, the credit union must include within its Business Plan a section, one page in length, entitled "Significant Unmet Needs for Credit Union Services" ("SUN section") that establishes the existence of such unmet needs by identifying the credit and depository needs of the community and detailing how the credit union plans to serve those needs. The credit union may choose which among the following "credit and depository needs" to address in the SUN section: Loans, share draft accounts, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and similar services. The existence of each "credit and depository need" the credit union identifies and plans to serve must be supported by objective reasons and/or accompanying documentation derived from an identified, authoritative source of the credit union's choice. Third-party documentation generally is the most compelling.

#### III.B.3—Underserved by Other Depository Institutions

A proposed area that meets the CDFI definition of an "investment area" (*i.e.*, is "distressed" and has "significant unmet needs") must also be underserved by other insured depository institutions, including credit unions. 12 U.S.C. 1759(c)(2)(A)(ii). This statutory criterion is met when the concentration of depository institution facilities among the population of the proposed area's non-"distressed" tracts—which sets a benchmark level of adequate service—is greater than the concentration of facilities among the population of all of the proposed area's census tracts combined. This establishes the area's concentration of facilities ratio. If there are no non-"distressed" tracts within a proposed area, a non-"distressed" census tract or larger geographic unit (*e.g.*, city or county) of the credit union's choice that adjoins the proposed area may be used to set the benchmark concentration ratio.

Without regard to a proposed area's location within or outside a Metropolitan Statistical Area, this criterion compares two ratios: The ratio of facilities to the population of the non-"distressed" tracts (the benchmark) versus the same facilities-to-population ratio among all the tracts of the proposed area as a whole. If the benchmark ratio is greater than the ratio for the whole area, then the area is "underserved by other depository institutions," and vice versa.

When, as the result of an initial Concentration of Facilities ratio calculation, a proposed area does not qualify as "underserved by other depository institutions," NCUA will exclude non-depository banks (*e.g.*, trust companies) and non-community credit unions (*i.e.*, those institutions unable to serve the general public) from the computation. For the purposes of this analysis, a multiple common bond credit union already serving the area as an underserved area is considered able to serve the general public. With both of these exclusions, NCUA will recalculate the concentration of facilities ratio to determine

whether, as a result, the proposed area qualifies as "underserved by other depository institutions."

As one alternative to the concentration of facilities ratio, a proposed area will qualify as "underserved by other depository institutions" if it is designated an "underserved county" by NCUA based on data produced by the Consumer Financial Protection Bureau (available at: <http://www.consumerfinance.gov/guidance/#ruralunderserved>). NCUA will make its list of "underserved counties" available on its Web site.

As another alternative to the concentration of facilities ratio, a proposed area will qualify as "underserved by other depository institutions" if the credit seeking to serve it, using a metric of its own choosing that is based on NCUA or other Federal banking agency data, establishes to NCUA's satisfaction that the proposed area is "underserved by other depository institutions."

#### III.C—NCUA Approval

If NCUA approves the request to add an "underserved area," the credit union will be issued an amendment to Section 5 of its charter.

#### III.D—Approval to Serve an Already Approved "Underserved Area"

Once a credit union is initially approved to serve an "underserved area," other credit unions that subsequently apply may be approved to serve the same area. To be approved, the area must qualify as "underserved" at the time the new applicant applies. An applicant must demonstrate the area continues to be "distressed", as provided above, only if a new decennial Census has been published since the date the area was last approved. In any case, the applicant must demonstrate that the area still has "significant unmet needs" for loans or credit union services (to qualify as an "investment area"), and remains "underserved by other depository institutions" (to qualify as "underserved").

#### III.E—Business Plan

A federal credit union that desires to include an underserved community in its field of membership must first develop, and submit for approval, a business plan specifying how it will serve the community. In addition, the business plan must include a SUN section as provided in Section III.B.2.b. above. The credit union will be expected to regularly review the business plan to determine if the community is being adequately served. The Office of Consumer Protection Director may require periodic service status reports from a credit union about the "underserved area" to ensure that the needs of the community are being met, and must require such reports before NCUA allows a multiple common bond federal credit union to add an additional "underserved area."

#### III.F—Service Facility

Once an "underserved area" has been added to a federal credit union's field of membership, the credit union must establish within two years, and maintain, an office or

service facility in the community. A service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted and loans are disbursed. By definition, a service facility includes a credit union-owned branch, a shared branch, a mobile branch, or an office operated on a regularly scheduled weekly basis or a credit union owned electronic facility that meets, at a minimum, the above requirements. This definition does not include an ATM or the credit union's Internet Web site.

### IV—Appeal Procedures for Denial of Underserved Area

#### IV.A—NCUA Disapproval

When NCUA disapproves any application to add an "underserved area" in whole or in part, under this chapter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- Options to consider, if appropriate, for gaining approval; and
- Appeal procedures.

#### IV.B—Appeal of Office of Consumer Protection Director Decision

If the Office of Consumer Protection Director denies an "underserved area" request, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial. The appeal must be clearly identified as such and address the specific reason(s) the federal credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Protection Director for reconsideration. A reconsideration will contain new and material evidence addressing the reasons for the initial denial. The Office of Consumer Protection Director will have 30 days from the date of the receipt of the request for reconsideration to make a final decision. If the request is again denied, the applicant may proceed with the appeal process within 60 days of the date of the last denial. A second request for reconsideration will be treated as an appeal to the NCUA Board.

## Chapter 4—Charter Conversions

### I—Introduction

A charter conversion is a change in the jurisdictional authority under which a credit union operates.

Federal credit unions receive their charters from NCUA and are subject to its supervision, examination, and regulation.

State-chartered credit unions are incorporated in a particular state, receiving their charter from the state agency responsible for credit unions and subject to the state's regulator. If the state-chartered credit union's deposits are federally insured, it will also fall under NCUA's jurisdiction.

A federal credit union's power and authority are derived from the Federal Credit

Union Act and NCUA Rules and Regulations. State-chartered credit unions are governed by state law and regulation. Certain federal laws and regulations also apply to federally insured state chartered credit unions.

There are two types of charter conversions: Federal charter to state charter and state charter to federal charter. Common bond and community requirements are not an issue from NCUA's standpoint in the case of a federal to state charter conversion. The procedures and forms relevant to both types of charter conversion are included in appendix 4 of this manual.

## II—Conversion of a State Credit Union to a Federal Credit Union

### II.A—General Requirements

Any state-chartered credit union may apply to convert to a federal credit union. In order to do so it must:

- Comply with state law regarding conversion and file proof of compliance with NCUA;
- File the required conversion application, proposed federal credit union organization certificate, and other documents with NCUA;
- Comply with the requirements of the Federal Credit Union Act, *e.g.*, chartering and reserve requirements; and
- Be granted federal share insurance by NCUA.

Conversions are treated the same as any initial application for a federal charter, including an on-site examination by NCUA where appropriate. NCUA will also consult with the appropriate state authority regarding the credit union's current financial condition, management expertise, and past performance. Since the applicant in a conversion is an ongoing credit union, the economic advisability of granting a charter is more readily determinable than in the case of an initial charter applicant.

A converting state credit union's field of membership must conform to NCUA's chartering policy. The field of membership will be phrased in accordance with NCUA chartering policy. However, if the converting credit union is a multiple group charter and the new federal charter is a multiple group, then the new federal charter may retain in its field of membership any group that the state credit union was serving at the time of conversion. Subsequent changes must conform to NCUA chartering policy in effect at that time.

If the converting credit union is a community charter and the new federal charter is community-based, it must meet the community field of membership requirements set forth in Chapter 2, Section V of this manual. If the state-chartered credit union's community boundary is more expansive than the approved federal boundary, only members of record outside of the new community boundary may continue to be served.

The converting credit union, regardless of charter type, may continue to serve members of record. The converting credit union may retain in its field of membership any group or community added pursuant to state emergency provisions.

### II.B—Submission of Conversion Proposal to NCUA

The following documents must be submitted with the conversion proposal:

- Conversion of State Charter to Federal Charter (NCUA 4000);
- Organization Certificate (NCUA 4008). Only Part (3) and the signature/notary section should be completed and, where applicable, signed by the credit union officials.
- Report of Officials and Agreement to Serve (NCUA 4012);
- The Application to Convert From State Credit Union to Federal Credit Union (NCUA 4401);
- The Application and Agreements for Insurance of Accounts (NCUA 9500);
- Certification of Resolution (NCUA 9501);
- Written evidence regarding whether the state regulator is in agreement with the conversion proposal; and
- Business plan, as appropriate, including the most current financial report and delinquent loan schedule.

If the state charter is applying to become a federal community charter, it must also comply with the documentation requirements included in Chapter 2, Section V.A.2 of this manual.

### II.C—NCUA Consideration of Application To Convert

#### II.C.1—Review by the Office of Consumer Protection Director

The application will be reviewed to determine that it is complete and that the proposal is in compliance with Section 125 of the Federal Credit Union Act. This review will include a determination that the state credit union's field of membership is in compliance with NCUA's chartering policies. The Office of Consumer Protection Director may make further investigation into the proposal and may require the submission of additional information to support the request to convert.

#### II.C.2—On-Site Review

NCUA may conduct an on-site examination of the books and records of the credit union. Non-federally insured credit unions will be assessed an insurance application fee.

#### II.C.3—Approval by the Office of Consumer Protection Director and Conditions to the Approval

The conversion will be approved by the Office of Consumer Protection Director if it is in compliance with Section 125 of the Federal Credit Union Act and meets the criteria for federal insurance. Where applicable, the Office of Consumer Protection Director will specify any special conditions that the credit union must meet in order to convert to a federal charter, including changes to the credit union's field of membership in order to conform to NCUA's chartering policies. Some of these conditions may be set forth in a Letter of Understanding and Agreement (LUA), which requires the signature of the officials and the appropriate NCUA regional director.

#### II.C.4—Notification

The Office of Consumer Protection Director will notify both the credit union and the state regulator of the decision on the conversion.

### II.C.5—NCUA Disapproval

When NCUA disapproves any application to convert to a federal charter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- Options to consider, if appropriate, for gaining approval; and
- Appeal procedures.

### II.C.6—Appeal of Office of Consumer Protection Director Decision

If a conversion to a federal charter is denied by the Office of Consumer Protection Director, the applicant credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial. The appeal must be clearly identified as such and address the specific reason(s) the credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of Consumer Protection Director for reconsideration. The request will not be considered as an appeal, but a request for reconsideration by the Office of Consumer Protection Director. The Office of Consumer Protection Director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the application is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the Office of Consumer Protection Director.

### II.D—Action by Board of Directors

#### II.D.1—General

Upon being informed of the Office of Consumer Protection Director's preliminary approval, the board must:

- Comply with all requirements of the state regulator that will enable the credit union to convert to a federal charter and cease being a state credit union;
- Obtain a letter or official statement from the state regulator certifying that the credit union has met all of the state requirements and will cease to be a state credit union upon its receiving a federal charter. A copy of this document must be submitted to the Office of Consumer Protection Director;
- Obtain a letter from the private share insurer (includes excess share insurers), if applicable, certifying that the credit union has met all withdrawal requirements. A copy of this document must be submitted to the Office of Consumer Protection Director; and
- Submit a statement of the action taken to comply with any conditions imposed by the Office of Consumer Protection Director in the preliminary approval of the conversion proposal and, if applicable, submit the signed LUA.

#### II.D.2—Application for a Federal Charter

When the Office of Consumer Protection Director has received evidence that the board of directors has satisfactorily completed the actions described above, the federal charter

and new Certificate of Insurance will be issued.

The credit union may then complete the conversion as discussed in the following section. A denial of a conversion application can be appealed. Refer to Section II.C.6 of this chapter.

#### *II.E—Completion of the Conversion*

##### *II.E.1—Effective Date of Conversion*

The date on which the Office of Consumer Protection Director approves the Organization Certificate and the Application and Agreements for Insurance of Accounts is the date on which the credit union becomes a federal credit union. The Office of Consumer Protection Director will notify the credit union and the state regulator of the date of the conversion.

##### *II.E.2—Assumption of Assets and Liabilities*

As of the effective date of the conversion, the federal credit union will be the owner of all of the assets and will be responsible for all of the liabilities and share accounts of the state credit union.

##### *II.E.3—Board of Directors' Meeting*

Upon receipt of its federal charter, the board will hold its first meeting as a federal credit union. At this meeting, the board will transact such business as is necessary to complete the conversion as approved and to operate the credit union in accordance with the requirements of the Federal Credit Union Act and NCUA Rules and Regulations.

As of the commencement of operations, the accounting system, records, and forms must conform to the standards established by NCUA.

##### *II.E.4—Credit Union's Name*

Changing of the credit union's name on all signage, records, accounts, investments, and other documents should be accomplished as soon as possible after conversion. The credit union has 180 days from the effective date of the conversion to change its signage and promotional material. This requires the credit union to discontinue using any remaining stock of "state credit union" stationery immediately, and discontinue using credit cards, ATM cards, etc., within 180 days after the effective date of the conversion, or the reissue date whichever is later. The Office of Consumer Protection Director has the discretion to extend the timeframe for an additional 180 days. Member share drafts with the state-chartered name can be used by the members until depleted.

##### *II.E.5—Reports to NCUA*

Within 10 business days after commencement of operations, the recently converted federal credit union must submit to the Office of Consumer Protection Director the following:

- Report of Officials (NCUA 4501); and
- Financial and Statistical Reports, as of the commencement of business of the federal credit union.

### **III—Conversion of a Federal Credit Union to a State Credit Union**

#### *III.A—General Requirements*

Any federal credit union may apply to convert to a state credit union. In order to do so, it must:

- Notify NCUA prior to commencing the process to convert to a state charter and state the reason(s) for the conversion;
- Comply with the requirements of Section 125 of the Federal Credit Union Act that enable it to convert to a state credit union and to cease being a federal credit union; and
- Comply with applicable state law and the requirements of the state regulator.

It is important that the credit union provide an accurate disclosure of the reasons for the conversion. These reasons should be stated in specific terms, not as generalities. The federal credit union converting to a state charter remains responsible for the entire operating fee for the year in which it converts.

#### *III.B—Special Provisions Regarding Federal Share Insurance*

If the federal credit union intends to continue federal share insurance after the conversion to a state credit union, it must submit an Application for Insurance of Accounts (NCUA 9600) to the Office of Consumer Protection Director at the time it requests approval of the conversion proposal. The Office of Consumer Protection Director has the authority to approve or disapprove the application.

If the converting federal credit union does not intend to continue federal share insurance or if its application for continued insurance is denied, insurance will cease in accordance with the provisions of Section 206 of the Federal Credit Union Act.

If, upon its conversion to a state credit union, the federal credit union will be terminating its federal share insurance or converting from federal to non-federal share insurance, it must comply with the membership notice and voting procedures set forth in Section 206 of the Federal Credit Union Act and part 708 of NCUA's Rules and Regulations, and address the criteria set forth in Section 205(c) of the Federal Credit Union Act.

Where the state credit union will be non-federally insured, federal insurance ceases on the effective date of the charter conversion. If it will be otherwise uninsured, then federal insurance will cease one year after the date of conversion subject to the restrictions in Section 206(d)(1) of the Federal Credit Union Act. In either case, the state credit union will be entitled to a refund of the federal credit union's NCUSIF capitalization deposit after the final date on which any of its shares are federally insured.

The NCUA Board reserves the right to delay the refund of the capitalization deposit for up to one year if it determines that payment would jeopardize the NCUSIF.

#### *III.C—Submission of Conversion Proposal to NCUA*

Upon approval of a proposition for conversion by a majority vote of the board of directors at a meeting held in accordance with the federal credit union's bylaws, the conversion proposal will be submitted to the Office of Consumer Protection Director and will include:

- A current financial report;
- A current delinquent loan schedule;

- An explanation and appropriate documents relative to any changes in insurance of member accounts;
- A resolution of the board of directors;
- A proposed Notice of Special Meeting of the Members (NCUA 4221);
- A copy of the ballot to be sent to all members (NCUA 4506);
- If the credit union intends to continue with federal share insurance, an application for insurance of accounts (NCUA 9600);
- Evidence that the state regulator is in agreement with the conversion proposal; and
- A statement of reasons supporting the request to convert.

#### *III.D—Approval of Proposal to Convert*

##### *III.D.1—Review by the Office of Consumer Protection Director*

The proposal will be reviewed to determine that it is complete and is in compliance with Section 125 of the Federal Credit Union Act. The Office of Consumer Protection Director may make further investigation into the proposal and require the submission of additional information to support the request.

##### *III.D.2—Conditions to the Approval*

The Office of Consumer Protection Director will specify any special conditions that the credit union must meet in order to proceed with the conversion.

##### *III.D.3—Approval by the Office of Consumer Protection Director*

The proposal will be approved by the Office of Consumer Protection Director if it is in compliance with Section 125 and, in the case where the state credit union will no longer be federally insured, the notice and voting requirements of Section 206 of the Federal Credit Union Act.

##### *III.D.4—Notification*

The Office of Consumer Protection Director will notify both the credit union and the state regulator of the decision on the proposal.

##### *III.D.5—NCUA Disapproval*

When NCUA disapproves any application to convert to a state charter, the applicant will be informed in writing of the:

- Specific reasons for the action;
- If appropriate, options or suggestions that could be considered for gaining approval; and
- Appeal procedures.

##### *III.D.6—Appeal of Office of Consumer Protection Director Decision*

If the Office of Consumer Protection Director denies a conversion to a state charter, the federal credit union may appeal the decision to the NCUA Board. An appeal must be sent to the NCUA Board Secretary within 60 days of the date of denial. The appeal must be clearly identified as such and address the specific reason(s) the federal credit union disagrees with the denial. A copy of the appeal must be sent to the Office of Consumer Protection. NCUA central office staff will make an independent review of the facts and present the appeal to the NCUA Board with a recommendation.

Before appealing, the credit union may, within 30 days of the denial, provide supplemental information to the Office of

Consumer Protection Director for reconsideration. The request will not be considered as an appeal, but a request for reconsideration by the Office of Consumer Protection Director. The Office of Consumer Protection Director will have 30 business days from the date of the receipt of the request for reconsideration to make a final decision. If the application is again denied, the credit union may proceed with the appeal process to the NCUA Board within 60 days of the date of the last denial by the Office of Consumer Protection Director.

### III.E—Approval of Proposal by Members

The members may not vote on the proposal until it is approved by the Office of Consumer Protection Director. Once approval of the proposal is received, the following actions will be taken by the board of directors:

- The proposal must be submitted to the members for approval and a date set for a meeting to vote on the proposal. The proposal may be acted on at the annual meeting or at a special meeting for that purpose. The members must also be given the opportunity to vote by written ballot to be filed by the date set for the meeting.
- Members must be given advance notice (NCUA 4221) of the meeting at which the proposal is to be submitted. The notice must:
  - Specify the purpose, time and place of the meeting;
  - Include a brief, complete, and accurate statement of the reasons for and against the proposed conversion, including any effects it could have upon share holdings, insurance of member accounts, and the policies and practices of the credit union;
  - Specify the costs of the conversion, *i.e.*, changing the credit union's name, examination and operating fees, attorney and consulting fees, tax liability, etc.;
  - Inform the members that they have the right to vote on the proposal at the meeting, or by written ballot to be filed not later than the date and time announced for the annual meeting, or at the special meeting called for that purpose;
  - Be accompanied by a Federal to State Conversion—Ballot for Conversion Proposal (NCUA 4506); and
  - State in bold face type that the issue will be decided by a majority of members who vote.
- The proposed conversion must be approved by a majority of all of the members who vote on the proposal, a quorum being present, in order for the credit union to proceed further with the proposition, provided federal insurance is maintained. If the proposed state-chartered credit union will not be federally insured, 20 percent of the total membership must participate in the voting, and of those, a majority must vote in favor of the proposal. Ballots cast by members who did not attend the meeting but who submitted their ballots in accordance with instructions above will be counted with votes cast at the meeting. In order to have a suitable record of the vote, the voting at the meeting should be by written ballot as well.
- The board of directors shall, within 10 days, certify the results of the membership vote to the Office of Consumer Protection

Director. The statement shall be verified by affidavits of the Chief Executive Officer and the Recording Officer on NCUA 4505.

### III.F—Compliance With State Laws

If the proposal for conversion is approved by a majority of all members who voted, the board of directors will:

- Ensure that all requirements of state law and the state regulator have been accommodated;
- Ensure that the state charter or the license has been received within 90 days from the date the members approved the proposal to convert; and
- Ensure that the Office of Consumer Protection Director is kept informed as to progress toward conversion and of any material delay or of substantial difficulties which may be encountered.

If the conversion cannot be completed within the 90-day period, the Office of Consumer Protection Director should be informed of the reasons for the delay. The Office of Consumer Protection Director may set a new date for the conversion to be completed.

### III.G—Completion of Conversion

In order for the conversion to be completed, the following steps are necessary:

- The board of directors will submit a copy of the state charter to the Office of Consumer Protection Director within 10 days of its receipt. This will be accompanied by the federal charter and the federal insurance certificate. A copy of the financial reports as of the preceding month-end should be submitted at this time.
- The Office of Consumer Protection Director will notify the credit union and the state regulator in writing of the receipt of evidence that the credit union has been authorized to operate as a state credit union.
- The credit union shall cease to be a federal credit union as of the effective date of the state charter.
- If the Office of Consumer Protection Director finds a material deviation from the provisions that would invalidate any steps taken in the conversion, the credit union and the state regulator shall be promptly notified in writing. This notice may be either before or after the copy of the state charter is filed with the Office of Consumer Protection Director. The notice will inform the credit union as to the nature of the adverse findings. The conversion will not be effective and completed until the improper actions and steps have been corrected.
- Upon ceasing to be a federal credit union, the credit union shall no longer be subject to any of the provisions of the Federal Credit Union Act, except as may apply if federal share insurance coverage is continued. The successor state credit union shall be immediately vested with all of the assets and shall continue to be responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place. Operation of the credit union from this point will be in accordance with the requirements of state law and the state regulator.
- If the Office of Consumer Protection Director is satisfied that the conversion has

been accomplished in accordance with the approved proposal, the federal charter will be canceled.

- There is no federal requirement for closing the records of the federal credit union at the time of conversion or for the manner in which the records shall be maintained thereafter. The converting credit union is advised to contact the state regulator for applicable state requirements.
- The credit union shall neither use the words "Federal Credit Union" in its name nor represent itself in any manner as being a federal credit union.
- Changing of the credit union's name on all signage, records, accounts, investments, and other documents should be accomplished as soon as possible after conversion. Unless it violates state law, the credit union has 180 days from the effective date of the conversion to change its signage and promotional material. This requires the credit union to discontinue using any remaining stock of "federal credit union" stationery immediately, and discontinue using credit cards, ATM cards, etc., within 180 days after the effective date of the conversion, or the reissue date, whichever is later. The Office of Consumer Protection Director has the discretion to extend the timeframe for an additional 180 days. Member share drafts with the federal chartered name can be used by the members until depleted. If the state credit union is not federally insured, it must change its name and must immediately cease using any credit union documents referencing federal insurance.
- If the state credit union is to be federally insured, the Office of Consumer Protection Director will issue a new insurance certificate.

## APPENDIX 1—GLOSSARY

These definitions apply only for use with this manual. Definitions are not intended to be all inclusive or comprehensive. This manual, the Federal Credit Union Act, and NCUA Rules and Regulations, as well as state laws, may be used for further reference.

*Adequately capitalized*—A credit union is considered "adequately capitalized" when it meets the "adequately capitalized" definition in part 702 of NCUA's Rules and Regulations. A multiple common bond credit union must be "adequately capitalized" in order to add new groups to its charter. The Office of Consumer Protection Director, with input from the appropriate regional director, may determine that a less than "adequately capitalized" credit union can qualify for an expansion if it is making reasonable progress toward becoming "adequately capitalized," and the addition of the group would not adversely affect the credit union's capitalization level.

*Affinity*—A relationship upon which a community charter is based. Acceptable affinities include living, working, worshiping, or attending school in a community.

*Appeal*—The right of a credit union or charter applicant to request a formal review of the Office of Consumer Protection or regional director's adverse decision by the National Credit Union Administration Board.

**Associational common bond**—A common bond comprised of members and employees of a recognized association. It includes individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.

**Business plan**—Plan submitted by a charter applicant or existing federal credit union addressing the economic advisability of a proposed charter or field of membership addition.

**Charter**—The document which authorizes a group to operate as a credit union and defines the fundamental limits of its operating authority, generally including the persons the credit union is permitted to accept for membership. Charters are issued by the National Credit Union Administration for federal credit unions and by the designated state chartering authority for credit unions organized under the laws of that state.

**Common bond**—The characteristic or combination of characteristics which distinguishes a particular group of persons from the general public. There are two common bonds which can serve as a basis for a group forming a federal credit union or being included in an existing federal credit union's field of membership: Occupational—employment by the same company, related companies or in a trade, industry, or profession (TIP); and associational—membership in the same association.

**Community credit union**—A credit union whose field of membership consists of persons who live, work, worship, or attend school in the same well-defined local community, neighborhood, or rural district.

**Credit union**—A member-owned, not-for-profit cooperative financial institution formed to permit those in the field of membership specified in the charter to save, borrow, and obtain related financial services.

**Economic advisability**—An overall evaluation of the credit union's or charter applicant's ability to operate successfully.

**Emergency merger**—Pursuant to Section 205(h) of the Federal Credit Union Act, authority of NCUA to merge two credit unions without regard to common bond policy.

**Exclusionary clause**—A limitation, written in a credit union's charter, which precludes the credit union from serving a portion of a group which otherwise could be included in its field of membership.

**Federal share insurance**—Insurance coverage provided by the National Credit Union Share Insurance Fund and administered by the National Credit Union Administration. Coverage is provided for qualified accounts in all federal credit unions and participating state credit unions.

**Field of membership**—The persons (including organizations and other legal entities) a credit union is permitted to accept for membership.

**Household**—Persons living in the same residence maintaining a single economic unit.

**Housekeeping Amendment**—A field of membership amendment to delete groups, change group names, change group locations,

remove exclusionary clauses, and to add other persons eligible for credit union membership by virtue of their close relationship to a common bond group or the community for community charters.

**Immediate family member**—A spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

**In danger of insolvency**—In making the determination that a particular credit union is in danger of insolvency, NCUA will establish that the credit union falls into one or more of the following categories:

1. The credit union's net worth is declining at a rate that will render it insolvent within 24 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

2. The credit union's net worth is declining at a rate that will take it under two percent (2%) net worth within 12 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

3. The credit union's net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months. In making its determination on the prospect of achieving adequate capitalization, NCUA will assume that, if adverse economic conditions are affecting the value of the credit union's assets and liabilities, including property values and loan delinquencies related to unemployment, these adverse conditions will not further deteriorate.

**Letter of Understanding and Agreement**—Agreement between NCUA and federal credit union officials not to engage in certain activities and/or to establish reasonable operational goals. These are normally entered into with new charter applicants for a limited time.

**Mentor**—An individual who provides guidance and assistance to newly chartered, small, or low-income credit unions. All new federal credit unions are encouraged to establish a mentor relationship with a trained, experienced credit union individual or an existing credit union.

**Metropolitan Statistical Area**—The Office of Management and Budget defines a metropolitan statistical area as an urbanized area that has at least one urbanized area in excess of 50,000 and "comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting."

**Merger**—Absorption by one credit union of all of the assets, liabilities and equity of another credit union. Mergers must be approved by the National Credit Union Administration and by the appropriate state regulator whenever a state credit union is involved.

**Multiple common bond credit union**—A credit union whose field of membership consists of more than one group, each of

which has a common bond of occupation or association.

**Occupational common bond**—Employment by the same entity or related entities or a Trade, Industry, or Profession.

**Once a member, always a member**—A provision of the Federal Credit Union Act which permits an individual to remain a member of the credit union until he or she chooses to withdraw or is expelled from the membership of the credit union. Under this provision, leaving a group that is named in the credit union's charter does not terminate an individual's membership in the credit union.

**Organizations of such persons**—An organization or organizations composed exclusively of persons who are within the field of membership of the credit union.

**Overlap**—The situation which results when a group is eligible for membership in more than one credit union.

**Primary potential members**—Members or employees who belong to an associational or occupational group.

**Purchase and assumption**—Purchase of all or part of the assets of and assumption of all or part of the liabilities of one credit union by another credit union. The purchased and assumed credit union must first be placed into involuntary liquidation.

**Service area**—The area that can reasonably be served by the service facilities accessible to the groups within the field of membership.

**Service facility**—Includes the means for a multiple common bond credit union to accept shares for a member's account, accept loan applications from the member, or disburse funds on approved loans. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned electronic facility that meets, at a minimum, these transactional requirements. A service facility also includes a shared branch or a shared branch network if either: (1) The credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or (2) the service facility is local to the credit union and the credit union is an authorized participant in the service center. For purposes of serving an underserved area, a service facility does not include an informational or transactional Web site, an ATM or an interest in a shared branch network.

**Single associational common bond credit union**—A credit union whose field of membership includes members and employees of a recognized association.

**Single common bond credit union**—A credit union whose field of membership consists of one group which has a common bond of occupation or association.

**Single occupational common bond credit union**—A credit union whose field of membership consists of employees of the same entity or related entities or part of a Trade, Industry, or Profession (TIP).

**Spin-off**—The transfer of a portion of the field of membership, assets, liabilities, shares, and capital of one credit union to a new or existing credit union.

*Subscribers*—For a federal credit union, at least seven individuals who sign the charter application and pledge at least one share.

*Trade, Industry, or Profession (TIP)*—A single occupational common bond credit union based on employment in a trade, industry, or profession including employment at any number of corporations or other legal entities that while not under

common ownership—have a common bond by virtue of producing similar products, providing similar services, or participating in the same type of business.

*Underserved community*—A local community, neighborhood, or rural district that is an “investment area” as defined in Section 103(16) of the Community Development Banking and Financial

Institutions Act of 1994. The area must also be underserved based on other NCUA and federal banking agency data.

*Unsafe or unsound practice*—Any action, or lack of action, which would result in an abnormal risk or loss to the credit union, its members, or the National Credit Union Share Insurance Fund.

**BILLING CODE 7535-01-P**



**APPENDIX 2****LETTER OF UNDERSTANDING AND AGREEMENT**

To the Board of Directors and Other Officials  
\_\_\_\_\_ Federal Credit Union

Since the purposes of credit unions are to promote thrift and to make funds available for loans to credit union members for provident and productive purposes, and since newly chartered credit unions do not generally have sufficient reserves to cover large losses on loans or meet unduly large liquidity requirements, Federal insurance coverage of member accounts under the National Credit Union Share Insurance Fund will be granted to the above named credit union subject to the conditions listed in this Letter of Understanding and Agreement and in the Organization Certificate and Application and Agreements for Insurance of Accounts. These terms are listed below and are subject to acceptance by authorized credit union officials.

1. The credit union will refrain from soliciting or accepting brokered fund deposits from any source without the prior written approval of the Regional Director.
2. The credit union will refrain from the making of large loans, that is, loans in excess of 5 percent of unimpaired capital and surplus, to any one member or group of members without the prior written approval of the Regional Director.
3. The credit union will not establish or invest in a Credit Union Service Organization (CUSO) without the prior written approval of the Regional Director.
4. The credit union will not enter into any insurance programs whereby the credit union member finances the payment of insurance premiums through loans from the credit union.
5. Any special insurance plan/program, that is, insurance other than usual and normal surety bonding or casualty or liability or loan protection and life savings insurance coverage, which the credit union officials intend to undertake, will be submitted to the Regional Director of the National Credit Union Administration for written approval prior to the officials committing the credit union thereto.
6. The credit union will prepare and mail to the district examiner financial and statistical reports as required by the Federal Credit Union Act and Bylaws by the 20th of each month following that for which the report is prepared.
7. As the credit union's officials gain experience and the credit union achieves target levels of growth and profitability, the above terms and conditions may be renegotiated by the two parties.

We, the undersigned officials of the \_\_\_\_\_ Federal Credit Union, as authorized by the board of directors, acknowledge receipt of and agree to the attached Letter of Understanding and Agreement dated \_\_\_\_\_.

This Letter of Understanding and Agreement has been voluntarily entered into with the National Credit Union Administration. We agree to comply with all terms and conditions expressed in this Letter of Understanding and Agreement.

Should the NCUA Board determine that these terms and conditions have not been complied with or that the board of directors or other officials have not conducted the affairs of the credit

B-1

union in a sound and prudent manner, the NCUA Board may terminate insurance coverage of the credit union. If actions by the officials, in violation of this Letter of Understanding and Agreement, cause the credit union to become insolvent, the officials assume such personal liability as may result from their actions.

The term of this Letter of Understanding and Agreement shall be for the period of at least 24 months from the date the credit union is insured. This Letter of Understanding and Agreement may, at the option of the Regional Director, be extended for an additional 24 months at the end of the initial term of this agreement.

Dated this \_\_\_\_\_ of \_\_\_\_\_  
(day) (month) (year)

NATIONAL CREDIT UNION ADMINISTRATION BOARD  
ON BEHALF OF THE NATIONAL CREDIT UNION SHARE INSURANCE FUND

\_\_\_\_\_  
Office of Consumer Protection Director

\_\_\_\_\_ Federal Credit Union

By:

\_\_\_\_\_  
Chief Executive Officer Date

\_\_\_\_\_  
Chief Financial Officer Date

\_\_\_\_\_  
Secretary Date

**APPENDIX 3****NCUA OFFICES****OFFICE OF CONSUMER PROTECTION**

1775 Duke Street  
Alexandria, VA 22314-3428

Phone: 703-518-1150  
Fax: 703-518-6672  
EMAIL: dcamail@ncua.gov

Within the Office of Consumer Protection, the Division of Consumer Access and Division of Consumer Access – South share the responsibility for chartering and field-of-membership matters, low-income designations, charter conversions and bylaw amendments.

**REGION 1 – ALBANY**

9 Washington Square  
Washington Avenue Extension  
Albany, NY 12205

Phone: 518-862-7400  
Fax: 518-862-7420  
EMAIL: Region1@ncua.gov

Region 1 is responsible for all federally insured credit unions in Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New York, Rhode Island, Vermont, and Wisconsin.

**REGION 2 – CAPITAL**

1900 Duke Street, Suite 300  
Alexandria, VA 22314

Phone: 703-519-4600  
Fax: 703-519-4620  
EMAIL: Region2@ncua.gov

Region 2 is headquartered in Alexandria, Virginia, and encompasses the states of Delaware, Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia, and the District of Columbia.

**REGION 3 – ATLANTA**

7000 Central Parkway, Suite 1600  
Atlanta, GA 30328-4598

Phone: 678-443-3000  
Fax: 678-443-3020  
EMAIL: Region3@ncua.gov

States in Region 3 include Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, as well as Puerto Rico and the U.S. Virgin Islands.

**REGION 4 – AUSTIN**

4807 Spicewood Springs Rd.  
Suite 5200  
Austin, TX 78759-8490

Phone: 512-342-5600  
Fax: 512-342-5620  
EMAIL: Region4@ncua.gov

Region 4, headquartered in Austin Texas, covers Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

**REGION 5 – TEMPE**

1230 W. Washington Street  
Suite 301  
Tempe, AZ 85281

Phone: 602-302-6000  
Fax: 602-302-6024  
EMAIL: Region5@ncua.gov

Region 5 headquartered in Tempe, Arizona, covers Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington.

**APPENDIX 4****NCUA FORMS**

<u>Form Number</u>	<u>Form Title</u>
NCUA 4000	Conversion of State Charter to a Federal Charter – Federal Credit Union Investigation Report
NCUA 4001	Federal Credit Union Investigation Report
NCUA 4008	Organization Certificate
NCUA 4009	Approval of Organization Certificate and Certification of Insurance
NCUA 4012	Report of Official and Agreement to Serve
NCUA 4015	Application for Field of Membership Amendment (use for all multiple common bond expansions involving groups of 5,000 or more persons)
NCUA 4015-A	Application for Field of Membership Amendment (use for all multiple common bond expansions involving groups of 3,000 to 4,999 persons)
NCUA 4015-EZ	Application for Field of Membership Amendment (use for all single common bond expansions and multiple common bond expansions involving groups of less than 3,000 persons)
NCUA 4221	Notice of Meeting of Members to Convert from a Federal to State Chartered Credit Union
NCUA 4401	Application to Convert from a State to a Federal Credit Union
NCUA 4505	Affidavit - Proof of Results of Membership Vote - Proposed Conversion From Federal Credit Union to State Credit Union
NCUA 4506	Federal to State Conversion - Ballot for Conversion Proposal
NCUA 9500	Application and Agreements for Insurance of Accounts
NCUA 9501	Certification of Resolutions
NCUA 9600	Information to be Provided in Support of the Application of a State Chartered Credit Union for Insurance of Accounts

## CONVERSION OF STATE CHARTER TO FEDERAL CHARTER

## FEDERAL CREDIT UNION INVESTIGATION REPORT

This report must be filled in completely and submitted with the other completed forms listed in Chapter 4 and in the instructions for this form.

## A. INFORMATION FOR CHARTER AND BYLAWS

1. Proposed Name: \_\_\_\_\_ Federal Credit Union  
Second Choice of Name: \_\_\_\_\_ Federal Credit Union

2. Contact Person \_\_\_\_\_  
Bus. Tel. No./Area Code: \_\_\_\_\_ Res. Tel. No./Area Code \_\_\_\_\_

3. The credit union will maintain its office at:

\_\_\_\_\_ (City) \_\_\_\_\_ (County) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip)

4. Permanent mailing address of credit union:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Define proposed field of membership (Attach a copy of current state charter field of membership):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The board will have (an odd number 5 to 15) \_\_\_\_\_ members; the credit committee (an odd number, 3 to 7) \_\_\_\_\_ members; the supervisory committee (3 to 5) \_\_\_\_\_ members. Each official must complete a Report of Official and Agreement to Serve (NCUA 4012) which is to be submitted with this investigation report.

**B. CHARACTER AND FITNESS OF SUBSCRIBERS**

7. Type or print the list of the subscribers who have signed the organization certificate (7 not more than 10 persons). Names should be IDENTICAL to signatures on the Organization Certificate (NCUA 4008). Each subscriber listed below has subscribed to at least one share in accordance with Section 103 of the Federal Credit Union Act:

<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>
<b>Name:</b>	<b>Address:</b>
<b>Occupation:</b>	<b>Years of Membership:</b>

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**ANY ADDITIONAL COMMENTS OR INFORMATION THAT IS DEEMED PERTINENT OR HELPFUL IN GIVING CONSIDERATION TO THIS APPLICATION SHOULD BE INCLUDED AS AN ATTACHMENT.**

**The undersigned certifies that to the best of his/her knowledge and belief the above information is true and correct.**

**I do (do not) recommend that a charter be granted to this group.**

**Signature \_\_\_\_\_, Organizer**

**Organizer's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**

**FORM 4000 INSTRUCTIONS****A. INFORMATION FOR CHARTERS AND BYLAWS**

The subscriber should select a name for the proposed credit union. It is the responsibility of the federal credit union organizers to ensure that the proposed federal credit union name does not constitute an infringement on the name of any corporation in its trade area. The last three words in the name must be "Federal Credit Union." Since the name selected should not duplicate exactly the name of an existing credit union, item 1 provides space for a second choice.

The territory of operations of a Federal credit union is described in the field of membership, item 5. The principal office of the credit union will usually be maintained at a location described in the field of membership.

The proposed field of membership should be defined so clearly that it leaves no room for any doubt as to whom the credit union is to serve or the area which it is to operate. Corporations and other organizations referred to in the definition of the field of membership should be designated by the exact names rather than by some local or popular contraction of these names. Any segment of a larger organization should be identified with the parent. The field of membership for each type of common bond and samples are discussed in detail in Chapter 2 of the *"Chartering and Field of Membership Manual."*

With the guidance of the organizer, the subscribers to the Organization Certificate decide on the number of directors and credit committee members. The board and credit committee must be composed of an odd number of members. The supervisory committee is appointed by the board of directors.

**B. CHARACTER AND FITNESS OF SUBSCRIBERS**

The names and address of the subscribers should be recorded legibly and completely in item 7 of this report. It is from this information that the National Credit Union Administration prepares Section 3 of the charter. The names of the subscribers must be IDENTICAL to their signatures on the Organization Certificate.



**C. SUBMITTAL OF CHARTER APPLICATION**

In addition to this Investigation Report, the following should be submitted to the appropriate regional director of NCUA:

1. Application to Convert, NCUA 4401 – one original;
2. Written evidence regarding whether the state regulator is in agreement with the conversion proposal;
3. Application and Agreements for Insurance of Accounts, NCUA 9500 - one original;
4. Certificate of Resolution, NCUA 9501 - one original;
5. Organization Certificate, NCUA 4008 - one notarized original. At least seven, *but no more than ten persons*, must sign the organization certificate. The person administering the oath must not be one of the subscribers. The oath on the organization certificate must be executed and show the notary's seal and date the commission expires as required by State law;
6. Report of Official and Agreement to Serve, NCUA 4012 – one original for each board member, credit committee member, and supervisory committee member;
7. Most current financial report and delinquent loan schedule; and
8. Business Plan - refer to Chapter 1 of the *Chartering and Field of Membership Manual* for a discussion of the components of an acceptable business plan.

FEDERAL CREDIT UNION INVESTIGATION REPORT

This form must be filled in completely and submitted with the other completed forms listed in the instructions to this form.

A. INFORMATION FOR CHARTER AND BYLAWS

1. Proposed name: \_\_\_\_\_ Federal Credit Union
Second choice: \_\_\_\_\_ Federal Credit Union

2. Contact Person: \_\_\_\_\_
Business Tel.: \_\_\_\_\_
Residence Tel.: \_\_\_\_\_
Address: \_\_\_\_\_

3. The credit union will maintain its offices at:
\_\_\_\_\_
(City, State, County, Zip Code)

3a. Proposed permanent mailing address of credit union:
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

4. Define proposed field of membership: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

5. The board will have (an odd number, 5 to 15) \_\_\_\_\_ members; the credit committee will have (an odd number, 3 to 7) \_\_\_\_\_ members; the supervisory committee will have (3 to 5) \_\_\_\_\_ members. Each official must complete a Report of Official and Agreement to Serve (NCUA 4012) which is to be submitted with this investigation report.

**B. ECONOMIC ADVISABILITY OF ORGANIZING PROPOSED CREDIT UNION**

(Attach a separate sheet if space available is not adequate.)

**GENERAL INFORMATION**

1. Potential membership: \_\_\_\_\_

**NOTE:** Number of employees for occupational, active members for associational (or families for religious groups), or population per most recent census for community-type fields of membership.

2. Potential interest (survey results).

**NOTE:** Sample must consist of a minimum of 250 potential members. Copy of survey form(s) utilized should be attached.

Number of people surveyed: \_\_\_\_\_  
Number of people responding to survey: \_\_\_\_\_  
Number of people pledging an initial deposit: \_\_\_\_\_  
Total dollars pledged: \$ \_\_\_\_\_  
Number pledging systematic savings: \_\_\_\_\_  
Total dollars pledged (per month): \$ \_\_\_\_\_

3. Number of persons attending the charter-organization meeting: \_\_\_\_\_

4. Attach a business plan containing, at a minimum, the following elements:

- mission statement;
- analysis of market conditions, including if applicable, geographic, demographic, employment, income, housing, and other economic data;
- evidence of member support;
- goals for shares, loans, and for number of members;
- financial services needed/desired;
- financial services to be provided to members of all segments within the field of membership;
- how/when services are to be implemented;
- organizational/management plan addressing qualification and planned training of officials/employees;

- continuity plan for directors, committee members, and management staff;
- operating facilities, to include office space/equipment and supplies, safeguarding of assets, insurance coverage, etc.;
- type of record keeping and data processing system;
- detailed semiannual pro forma financial statements (balance sheet, income and expense projections) for 1st and 2nd year, including assumptions - e.g., loan and dividend rates;
- plans for operating independently;
- written policies (shares, lending, investments, funds management, capital accumulation, dividends, collections, etc.);
- source of funds to pay expenses during initial months of operation, including any subsidies, assistance, etc., and terms or conditions of such resources; and
- evidence of sponsor commitment (or other source of support) if subsidies are critical to success of the federal credit union. Evidence may be in the form of letters, contracts, financial statements from the sponsor, and any other such document on which the proposed federal credit union can substantiate its projections.

5. What potential difficulties do you detect in the elected officials carrying out their management responsibilities or in the FCU achieving its stated objectives?

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6. What provisions have been made to overcome potential difficulties?

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Dates of planned contacts by organizer to determine progress and to assist the group:

First Contact Date: \_\_\_\_\_  
 Second Contact Date: \_\_\_\_\_  
 Third Contact Date: \_\_\_\_\_

**SPECIFIC INFORMATION - OCCUPATIONAL (same company) CHARTER APPLICANTS**

1. How long has the sponsor company been in existence? \_\_\_\_\_
  
2. What was the highest number of employees during the past three years? \_\_\_\_\_ Lowest number during the past three years? \_\_\_\_\_ If a large variance, please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Are there any contemplated changes in the corporate structure of the company? \_\_\_\_\_ If yes, explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Have there been any significant changes in the corporate structure in the past three years? \_\_\_\_\_ If yes, please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. Are there any negotiations now in progress between management and labor that could lead to work stoppages? \_\_\_\_\_ If yes, please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. If the credit union cannot operate on the employer's property, explain how the credit union will be able to transact business effectively with the members.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7. If the employees to be served by the credit union work in more than one location or city, identify each location with the corresponding number of employees working at each. \_\_\_\_\_**

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**8. Are there other employees of the company who are not being included in the proposed field of membership? \_\_\_\_\_ If so, give the number and location of the other employees and explain why they are not included in the proposed credit union's field of membership. \_\_\_\_\_**

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**SPECIFIC INFORMATION - OCCUPATIONAL (trade, industry or profession)  
CHARTER APPLICANTS**

**1. Explain how the credit union will be able to transact business effectively with the members.** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPECIFIC INFORMATION - ASSOCIATIONAL CHARTER APPLICANTS**

**1. State the purpose and goals of the organization sponsoring this charter.**

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**2. List the types of activities and their frequency, which the organization sponsors that provide contact among the members and from which common loyalties, mutual benefits, and mutual interests are developed.** \_\_\_\_\_

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**3. In what year was the organization established? \_\_\_\_\_ Is it incorporated? \_\_\_\_\_  
Where is the headquarters located? \_\_\_\_\_**

**4. Give statistics as to trends in membership during the last five years.** \_\_\_\_\_

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**5. What is the frequency of membership meetings? \_\_\_\_\_  
Average attendance: \_\_\_\_\_ Dues required: \$ \_\_\_\_\_**

**6. State the geographic territory where members reside.** \_\_\_\_\_

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**7. Submit a copy of the current bylaws of the association, the constitution, articles of incorporation, or equivalent documentation and recent financial statements, i.e. balance sheet, and income and expense statement, with this application.**

**8. If the bylaws, constitution, articles of incorporation, or equivalent documentation provide for more than one type of membership and if all classes of membership are to be included in the credit union's field of membership, provide justification for the inclusion of other than "regular" members.**

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**SPECIFIC INFORMATION – MULTIPLE COMMON BOND CHARTER APPLICANTS**

**1. Explain how the credit union will be able to transact business effectively with the members.** \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SPECIFIC INFORMATION - COMMUNITY CHARTER APPLICANTS**

**1. Community charters must be based on a well-defined local community, neighborhood, or rural district where individuals have common interests and/or interact. Please refer to Chapter 2, Section V of the "Chartering and Field of Membership Manual" when answering this question.**

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**2. Provide a map which clearly outlines the credit union's proposed community boundaries and identify proposed service facilities.**

**C. CHARACTER AND FITNESS OF SUBSCRIBERS**

**1. List of subscribers who have signed the Organization Certificate (7 not more than 10 persons). Names should be IDENTICAL to signature on the Organization Certificate (NCUA 4008). Each subscriber listed below has subscribed to at least one share in accordance with Section 103 of the Federal Credit Union Act:**

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Occupation:** \_\_\_\_\_  
**Years of Residence:** \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Years of Residence: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Years of Residence: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Years of Residence: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Years of Residence: \_\_\_\_\_

2. Are all of the subscribers within the field of membership? \_\_\_\_\_ Do they appear to be representative of the group described in the definition of the field of membership? \_\_\_\_\_ If not, explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Does your investigation indicate that the subscribers are persons of good character? \_\_\_\_\_ If not, explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. From your investigation, is it your judgment that the directors and committee members are persons of good character, and that they have the ability and determination to operate a credit union satisfactorily? \_\_\_\_\_ If not, explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Does it appear that there are any factions within the group which may render smooth and efficient credit union operations difficult? \_\_\_\_\_ If so, explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Is there any indication that the proposed credit union would be used for selfish gain by any person or group of persons within the group to be served? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Is an application for a State Charter now pending? \_\_\_\_\_

8. Has the group ever had a credit union? \_\_\_\_\_ If so, when did it liquidate or merge? \_\_\_\_\_

ANY ADDITIONAL COMMENTS OR INFORMATION THAT IS DEEMED PERTINENT OR HELPFUL IN GIVING CONSIDERATION TO THIS APPLICATION SHOULD BE INCLUDED AS AN ATTACHMENT.

The undersigned certifies that to the best of their knowledge and belief the above information is true and correct.

I do (do not) recommend that a charter be granted to this group.

Signature: \_\_\_\_\_, Organizer

Organizer's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No.: \_\_\_\_\_ Date: \_\_\_\_\_

**FORM 4001 INSTRUCTIONS****A. INFORMATION FOR CHARTER AND BYLAWS**

The subscriber should select a name for the proposed credit union. It is the responsibility of the federal credit union organizers to ensure that the proposed federal credit union name does not constitute an infringement on the name of any corporation in its trade area. The last three words in the name must be "Federal Credit Union." Since the name selected should not duplicate exactly the name of an existing credit union, Item 1 provides space for a second choice.

The territory of operations of a Federal Credit Union is described in the field of membership, item 4. The principal office of the credit union will usually be maintained at a location described in the field of membership.

The proposed field of membership should be defined so clearly that it leaves no room for any doubt as to whom the credit union is to serve or the area which it is to operate. Corporations and other organizations referred to in the definition of the field of membership should be designated by the exact names rather than by some local or popular contraction of these names. The field of membership for each type of common bond and samples are discussed in detail in Chapter 2 of the *"Chartering and Field of Membership Manual."*

With the guidance of the organizer, the subscribers to the Organization Certificate decide on the number of directors and credit committee members. The board and credit committee must be composed of an odd number of members. The supervisory committee is appointed by the board of directors.

**B. ECONOMIC ADVISABILITY OF ORGANIZING PROPOSED CREDIT UNION**

This section of the report contains information on the required business plan elements and other information needed to make a decision on the economic advisability of chartering the proposed credit union.

**C. CHARACTER AND FITNESS OF SUBSCRIBERS**

The names and addresses of the subscribers should be recorded legibly and completely in item C. 1. of this report. It is from this information that the National Credit Union Administration prepares Section 3 of the charter. The names of the subscribers must be IDENTICAL to their signatures on the Organization Certificate.

**D. SUBMITTAL OF CHARTER APPLICATION**

In addition to this Investigation Report, the following should be submitted to the appropriate regional director of NCUA:

1. **Organization Certificate, NCUA 4008** - one notarized original. At least seven, *but no more than ten persons*, must sign the organization certificate. The person administering the oath must not be one of the subscribers. The oath on the organization certificate must be executed and show the notary's seal and date the commission expires as required by State law;
2. **Report of Official and Agreement to Serve, NCUA 4012** – one original for each board member, credit committee member, and supervisory committee member;
3. **Business Plan** - refer to Part B, question 4 of this form and Chapter 1 of the *Chartering and Field of Membership Manual* for a discussion of the components of an acceptable business plan;
4. **Application and Agreements for Insurance of Accounts, NCUA 9500** - one original; and
5. **Certification of Resolutions, NCUA 9501** - one original.



**NATIONAL CREDIT UNION ADMINISTRATION**

---

**FEDERAL CREDIT UNION**

**(A corporation chartered under  
the laws of the United States)**

**CHARTER NO. \_\_\_\_\_**

**NCUA 4008  
PAGE 1**

**ORGANIZATION CERTIFICATE**

\_\_\_\_\_ **FEDERAL CREDIT UNION**

Charter No. \_\_\_\_\_

**TO NATIONAL CREDIT UNION ADMINISTRATION:**

**We, the undersigned, do hereby associate ourselves as a Federal Credit Union for the purposes indicated in and in accordance with the provisions of the Federal Credit Union Act, (12 U.S.C. 1751 et seq.). We hereby request approval of this organization certificate; we hereby apply for insurance of member accounts; we agree to comply with the requirements of said Act, with the terms of this organization certificate and with all laws, rules, and regulations now or hereafter applicable to Federal Credit Unions.**

- (1) The name of this credit union shall be \_\_\_\_\_ Federal Credit Union.
- (2) This credit union will maintain its office and will operate in the territory described in the field of membership.

- (3) The names and addresses of the subscribers to this certificate and the number of shares subscribed by each are as follows:

NAME	ADDRESS	SHARES

- (4) The par value of the shares of this credit union will be stated in the bylaws.
- (5) The field of membership shall be limited to those having the following common bond: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (6) The term of this credit union's existence shall be perpetual: Provided, however, that upon the finding that this credit union is bankrupt or insolvent or has violated any provision of this organization certificate, of the bylaws, of the Federal Credit Union Act including any amendments thereto or thereof, or of any regulations issued thereunder, this organization certificate may be suspended or revoked under the provisions of Section 120(b) of the Federal Credit Union Act.
- (7) This certificate is made to enable the undersigned to avail themselves of the advantages of said Act.
- (8) The management of this credit union, the conduct of its affairs, and the powers, duties, and privileges of its directors, officers, committees and membership shall be set forth in the approved bylaws and any approved amendments thereto or thereof.

IN WITNESS THEREOF we<sup>1</sup> have here unto subscribed our names this

_____	_____	_____
(day)	(month)	(year)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Subscribed before me, an officer competent to  
 administer oaths, at \_\_\_\_\_  
CITY/STATE

this \_\_\_\_\_  
(day) (month) (year)

Signed \_\_\_\_\_

Title \_\_\_\_\_  
*(Notary public or other competent officer)*

<sup>1</sup> At least seven signers none of whom should administer the oath.

---

**APPROVAL OF ORGANIZATION CERTIFICATE  
AND  
CERTIFICATION OF INSURANCE**

Pursuant to the provisions of the Federal Credit Union Act (12 U.S.C. 1751 et. Seq.), the foregoing organization certificate and insurance of member accounts of \_\_\_\_\_ Federal Credit Union are approved this

\_\_\_\_\_  
(day)

\_\_\_\_\_  
(month)

\_\_\_\_\_  
(year)

\_\_\_\_\_  
CHAIRPERSON  
NATIONAL CREDIT UNION ADMINISTRATION

REPORT OF OFFICIAL AND AGREEMENT TO SERVE

TO: NATIONAL CREDIT UNION ADMINISTRATION

Proposed \_\_\_\_\_ Federal Credit Union

Title of Prospective Position: \_\_\_\_\_

Name: \_\_\_\_\_  
Mr./Ms./Mrs. Last, First, Middle

Maiden Name (If Different From Above): \_\_\_\_\_

Address (Res.): \_\_\_\_\_  
Street, City, State, Zip Code

Telephone Number: ( ) \_\_\_\_\_

Place of Birth: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
City/State/Country

Employer: \_\_\_\_\_

Social Security Number (Optional): \_\_\_\_\_

Type of Business: \_\_\_\_\_

Number of years with present employer: \_\_\_\_\_ Your position title: \_\_\_\_\_

Education background (enter highest grade completed)  
High School: \_\_\_\_\_ College: \_\_\_\_\_ Major Field of Study: \_\_\_\_\_

Other training or experience:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Are you willing to accept the position of trust for which you have been selected and to remain in office until a qualified successor is found? \_\_\_ YES \_\_\_ NO

Have you been informed as to the general duties and responsibilities of an official of the proposed Federal Credit Union and are you willing to devote the time necessary to familiarize yourself with and to perform your duties?  
\_\_\_ YES \_\_\_ NO

Estimated number of hours per month you will be able to volunteer: \_\_\_\_\_

**IF THE ANSWER IS YES TO THE FOLLOWING QUESTION, PLEASE PROVIDE INFORMATION AS INSTRUCTED ON THE FOLLOWING PAGE:**

Have you ever been convicted of any **CRIMINAL OFFENSE** involving dishonesty or a breach of trust?  YES  NO

To facilitate the process of obtaining a credit and background check, please provide the following:

1. Any other names which you have used: \_\_\_\_\_ and,
2. Previous address, (if your address changed over the past 2 years):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Name of Spouse: \_\_\_\_\_

**READ THE FOLLOWING CAREFULLY BEFORE SIGNING**

**CERTIFICATION AND AGREEMENT TO SERVE**

I certify that the information provided on this form is true and correct. Further, I, the undersigned, having been duly designated to occupy the position(s) indicated above, do hereby agree to serve in the above-stated office(s) of this proposed credit union until the first annual meeting held in accordance with the Federal Credit Union Act and the bylaws of this credit union and until the election of my successor(s). I further pledge to carry out the duties and responsibilities commensurate with said office(s) as promulgated by the Federal Credit Union Act and the bylaws of this credit union. I have read the Privacy Act Notice that follows.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**PRIVACY ACT NOTICE**

The Privacy Act of 1974 (Public Law 93-579) requires that you be advised as to the legal authority, purpose and uses of the information solicited by this form. Pursuant to Sections 104 and 205(d) of the Federal Credit Union Act, the information in this form is requested for the purpose of completing the investigation required for a new Federal credit union. The information in this form will be primarily used in considering the soundness of the management for the proposed Federal credit union. However, this form may be disclosed to any of the following sources: a congressional office in response to your inquiry to that office; an appropriate Federal, state or local authority in the investigation or enforcement of a statute or regulation; or employees of a Federal agency for audit purposes. Failure to complete this form or omission of any item of information, except for disclosure of your social security number, may result in a delay in the process for chartering the proposed Federal credit union. In accordance with Section 792.68 of NCUA's regulations, you are not required to furnish your social security number on this form. Your social security number, if voluntarily provided, will be used to more easily verify the information required by this form. No penalty will result to you as a management official or to the chartering of the proposed Federal credit union if you do not provide your social security number.

Further information needed if answer to CRIMINAL OFFENSE question on the previous page was YES:

**CRIMINAL OFFENSE:**

Nature of offense: \_\_\_\_\_  
Date of occurrence: \_\_\_\_\_ Date of conviction: \_\_\_\_\_  
Sentence conferred: \_\_\_\_\_

(Attach a separate sheet if space provided is not adequate)



**CRIMINAL OFFENSE GUIDELINES**

The Federal Credit Union Act, Subchapter II, Section 205(d), requires that, except with the written consent of the NCUA Board, no person shall serve as director, officer, committee member, or employee of an insured credit union who has been convicted or who is hereafter convicted, of any criminal offense involving dishonesty or breach of trust. To assist the NCUA Board in making a determination of the fitness of a person who is selected to serve and who the organizer believes is qualified to serve as an official, the specific information above will need to be furnished.

If the NCUA Board believes that, in view of the facts presented and the date of the offense, they can give their consent to the appointment they will so advise that person in writing. If on the other hand, the NCUA Board believes after careful consideration that they cannot in good conscience give their written consent to the appointment they will contact the organizer and ask that another person be selected for the position. The person selected will have to complete a Report of Official and Agreement to Serve.

An indication of whether the bonding company would agree to provide coverage should be included if the person is to serve as treasurer. Bonding company agrees to provide coverage:  YES  NO

**AUTHORIZATION TO OBTAIN A CREDIT REPORT**

The National Credit Union Administration (NCUA) may evaluate the competence, experience, character, and integrity of any individual who is to serve as an official, employee, or committee member of a federally insured credit union, in accordance with §1790a of the Federal Credit Union Act and Chapter 1, §V.B.4 of the NCUA Chartering and Field of Membership Manual.

NCUA may disapprove any individual whose employment it believes will not be in the best interest of the credit union or of the public. To assist in the evaluation process, NCUA may obtain and review an individual's credit report.

Your signature on this document authorizes NCUA to obtain a copy of your credit report.

\_\_\_\_\_

Last

First

Middle

Social Security Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

\_\_\_\_\_

Signature

Date

<b>APPLICATION FOR FIELD OF MEMBERSHIP AMENDMENT</b> <b>NCUA FORM 4015</b>
---

**USE FOR MULTIPLE COMMON BOND EXPANSION FOR GROUPS OF  
5,000 OR MORE PERSONS**

*Attach a separate application for each group included in your request for expansion. The application must be complete or it will be returned unprocessed.*

1. Name and address of credit union: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 \_\_\_\_\_ Charter Number: \_\_\_\_\_  
 \_\_\_\_\_
2. Name and address of group: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***If the group is an association:***

- Include a statement indicating whether the association has been formed primarily for the purpose of expanding credit union membership. Such a group is not eligible for inclusion in a multiple common bond credit union unless it qualifies as a low-income association; and***

***If the group is an association AND it is NOT one of the categories of pre-approved groups outlined in Chapter 2, Section III.A.1.b of the Chartering Manual:***

- Include a copy of the association's Charter/Bylaws or other equivalent organizational documentation.***

3. Provide the proposed field of membership wording. Use the example wording found in NCUA's *Chartering and Field of Membership Manual*, Chapter 2, Section IV.A.2.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. How many primary potential members (excluding immediate family and household members) are in the group:

\_\_\_\_\_

5. (a) What service facility<sup>1</sup> which accepts share deposits, loan applications, or disburses loans, is within reasonable proximity of the group (Reference Chapter 2, Section IV.A.1):

\_\_\_\_\_

(b) Describe the service facility (e.g., office location, mobile branch, transactional website):

\_\_\_\_\_  
\_\_\_\_\_

(c) Describe the service area<sup>2</sup> primarily served by the above service facility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Is the group in the field of membership of any other credit union? Yes \_\_\_  
No \_\_\_

If yes, and the overlapped credit union is not a community credit union or a non-federally insured credit union, please address the following:

Provide the name and location of the other servicing credit union:

\_\_\_\_\_  
\_\_\_\_\_

Include a letter from the overlapped credit union indicating whether it concurs or objects to the overlap. If the overlapped credit union objects or fails to respond, document attempts to resolve the issue:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> A service facility includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, a credit union owned electronic facility, or a credit union's transactional website.

<sup>2</sup> A federal credit union's service area is the area that can reasonably be served by the service facility accessible to the groups within the field of membership. It will most often coincide with that geographic area primarily served by the service facility.

- Explain how the expansion's beneficial effect in meeting the convenience and needs of the members of the group clearly outweighs any adverse effect on the overlapped credit union:

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7. Attach a letter, or equivalent documentation, from the group requesting credit union service indicating:

- that the group wants to be added to the federal credit union's field of membership;
- whether the group presently has other credit union service available;
- the number of persons currently included within the group to be added and the group's location(s);
- how the group is within reasonable proximity to the credit union; and
- why the formation of a separate credit union for the group is not practical  
*The criteria for demonstrating formation of a separate credit union is not practical are outlined in Chapter 2, Section IV.B.2 of NCUA's Chartering and Field of Membership Manual.*

8. Other comments:

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Name and title of credit union board-authorized representative (e.g., President/CEO):

\_\_\_\_\_  
 (Typed/Printed Name) (Signature) (Date)

**APPLICATION FOR FIELD OF MEMBERSHIP AMENDMENT  
NCUA FORM 4015-A**

**USE FOR MULTIPLE COMMON BOND EXPANSION FOR GROUPS OF  
3,000 to 4,999 PERSONS**

*Attach a separate application for each group included in your request for expansion.  
The application must be complete or it will be returned unprocessed.*

1. Name and address of credit union: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
Charter Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Name and address of group: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***If the group is an association:***

***Include a statement indicating whether the association has been formed primarily for the purpose of expanding credit union membership. Such a group is not eligible for inclusion in a multiple common bond credit union unless it qualifies as a low-income association; and***

***If the group is an association AND it is NOT one of the categories of pre-approved groups outlined in Chapter 2, Section III.A.1.b of the Chartering Manual:***

***Include a copy of the association's Charter/Bylaws or other equivalent organizational documentation.***

3. Provide the proposed field of membership wording. Use the example wording found in NCUA's *Chartering and Field of Membership Manual*, Chapter 2, Section IV.A.2.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. How many primary potential members (excluding immediate family and household members) are in the group:

\_\_\_\_\_

5. (a) What service facility<sup>1</sup> which accepts share deposits, loan applications, or disburses loans, is within reasonable proximity of the group (Reference Chapter 2, Section IV.A.1):

\_\_\_\_\_

- (b) Describe the service facility (e.g., office location, mobile branch, transactional website):

\_\_\_\_\_  
\_\_\_\_\_

- (c) Describe the service area<sup>2</sup> primarily served by the above service facility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Attach a letter, or equivalent documentation, from the group requesting credit union service indicating:

- that the group wants to be added to the federal credit union's field of membership
- the number of persons currently included within the group to be added and the group's location(s);
- how the group is within reasonable proximity to the credit union; and
- the formation of a separate credit union for the group is not practical.

*Include a statement indicating the formation of a separate credit union is not practical because the group lacks available subsidies, interest among the group's members, and sufficient resources. No additional information or documentation is necessary.*

<sup>1</sup> A service facility includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, a credit union owned electronic facility, or a credit union's transactional website.

<sup>2</sup> A federal credit union's service area is the area that can reasonably be served by the service facility accessible to the groups within the field of membership. It will most often coincide with that geographic area primarily served by the service facility.

7. Other comments:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name and title of credit union board-authorized representative (e.g., President/CEO):

\_\_\_\_\_

(Typed/Printed Name)                      (Signature)                      (Date)



<b>APPLICATION FOR FIELD OF MEMBERSHIP AMENDMENT</b> <b>NCUA FORM 4015-EZ</b>
--

**USE FOR MULTIPLE COMMON BOND EXPANSIONS OF LESS THAN 3,000  
PERSONS AND ALL SINGLE COMMON BOND EXPANSIONS**

*Attach a separate application for each group included in your request for expansion. The application must be complete or it will be returned unprocessed.*

1. Name and address of credit union: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 \_\_\_\_\_ Charter Number: \_\_\_\_\_  
 \_\_\_\_\_

2. Name and address of group: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***If the group is an association:***

***Include a statement indicating whether the association has been formed primarily for the purpose of expanding credit union membership. Such a group is not eligible for inclusion in a multiple common bond credit union unless it qualifies as a low-income association; and***

***If the group is an association AND it is NOT one of the categories of pre-approved groups outlined in Chapter 2, Section III.A.1.b of the Chartering Manual:***

***Include a copy of the association's Charter/Bylaws or other equivalent organizational documentation.***

3. Provide the proposed field of membership wording: \_\_\_\_\_  
 \_\_\_\_\_

4. **Multiple Common Bond Expansions Only:** Attach a letter, or equivalent documentation, from the group requesting credit union service indicating:

- that the group wants to be added to the federal credit union's field of membership;
- the number of persons to be added and the group's location(s); and
- how the group is within reasonable proximity to the credit union.

5. **Single Common Bond Expansions Only:** How the group shares the occupational or associational common bond \_\_\_\_\_  
How many primary potential members (excluding immediate family and household members) are in the group: \_\_\_\_\_

Name and title of credit union board-authorized representative (e.g., President/CEO):

\_\_\_\_\_  
(Typed/Printed Name and Title)      (Signature)      (Date)

**NOTICE OF MEETING OF MEMBERS TO CONVERT  
FROM A FEDERAL TO A STATE CHARTERED CREDIT UNION**

\_\_\_\_\_ FEDERAL CREDIT UNION

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

**THIS PROPOSITION WILL BE DECIDED BY A MAJORITY OF THE MEMBERS WHO VOTE.**

Notice is hereby given that a meeting of the members of \_\_\_\_\_ Federal Credit Union has been called and will be held at \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_.M. for the purpose of considering and voting upon the following resolution:

**"RESOLVED, That the \_\_\_\_\_ Federal Credit Union be converted to a credit union chartered under the laws of the State of \_\_\_\_\_ and that its operation under Federal charter be discontinued.**

**RESOLVED FURTHER, That the board of directors and the officers of this credit union and are hereby authorized and directed to do all things necessary to effect and to complete the conversion of this credit union from a Federal to State-chartered credit union."**

**The board of directors of this credit union has given careful consideration to the advantages and the disadvantages of the proposed conversion and believes it to be in the best interest of the members for the following reasons:**

**The proposed conversion would result in the following disadvantages or adverse changes in services and benefits to the members of the credit union:**

**The proposed conversion would result in the following costs of conversion (i.e. changing the credit unions name, examination and operating fees, attorney and consulting fees, tax liability, etc):**

**The board of directors recommends that the members approve the proposal to convert to a State charter.**

**The members' accounts will  will not  continue to be insured by the National Credit Union Share Insurance Fund.**

**Attached is your ballot. You are urged to bring your ballot to the meeting and to cast your vote after hearing the discussion of the proposal. If you cannot attend the meeting, you are urged to mark your vote, date and sign your ballot, and return it to the following address by no later than the date and the time announced for the meeting of the members:**

**BY ORDER OF THE BOARD  
OF DIRECTORS**

\_\_\_\_\_  
TITLE: \_\_\_\_\_  
(CHAIRPERSON)

\_\_\_\_\_  
TITLE: \_\_\_\_\_  
(BOARD SECRETARY)

Issued \_\_\_\_\_ (Date)

**APPLICATION TO CONVERT FROM A STATE TO A FEDERAL CREDIT UNION**

The \_\_\_\_\_ Credit Union of \_\_\_\_\_ (city), \_\_\_\_\_ (State),  
Incorporated under the laws of the State of \_\_\_\_\_ on \_\_\_\_\_ by decision of  
its board of directors, hereby makes application to the National Credit Union  
Administration to convert to a Federal credit union.

1. Field of membership. Provide a copy of the credit union's charter, articles of  
incorporation or bylaws, as amended to date.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Is proposed Federal charter to cover same field of membership? Yes  No  If  
answer is "No," explain fully: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Standard financial and statistical reports as of \_\_\_\_\_ or comparable forms of  
reports, certified correct by the treasurer and verified by the affidavit of the  
president or vice-president, are attached.

4. A schedule of delinquent loans classified 2 to 6 months, 6 to 12 months, and 12  
months and over delinquent is attached.

5. The following policies on loans to members are currently in effect in this credit  
union:

a. Interest rates on loans: \_\_\_\_\_

b. Charges incident to making loans which are passed on to borrowers: \_\_\_\_\_

c. Maturity limits: \_\_\_\_\_

d. Unsecured loan limit: \_\_\_\_\_

e. Secured loan limit: \_\_\_\_\_

f. Types of security accepted: \_\_\_\_\_

g. Requirements of amortization (Repayment requirements): \_\_\_\_\_

6. Attached is a list of unsecured loans in excess of the amounts stipulated in the  
Act. (For each loan show account number, original amount, terms, and unpaid  
balance.)

7. Attached is a list of loans with maturities in excess of periods stipulated in the Act and the NCUA Rules and Regulations. (For each loan show account number, original amount, terms, unpaid balance, and security.)
8. Types of accounts which members are required or are permitted to maintain:  
Share  Deposit  Other  (describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Describe any real estate owned by credit union, including a list of its current market value: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Describe and list any investments which are outside of the investment powers of Federal credit unions (Refer to Section 107(7), Federal Credit Union Act): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. Names and locations of any depository institutions in which the credit union deposits its funds but which are beyond the purview of deposit powers authorized by Section 107(8) of the Federal Credit Union Act: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Describe any services rendered to or on behalf of members or of the public, other than accepting and maintaining accounts of members and making loans to members: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. Describe what you propose to do about any policies, procedures, assets or liabilities which do not comply with the Federal Credit Union Act: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Give specific reasons as to why you desire to convert to a Federal credit union: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We hereby authorize the National Credit Union Administration to examine our books and our records.

We, the undersigned \_\_\_\_\_ Chief Executive Officer and  
 \_\_\_\_\_ Chief Financial Officer of the  
 \_\_\_\_\_ Credit Union of  
 \_\_\_\_\_ State of

\_\_\_\_\_ certify: That we are the duly elected  
 Chairperson and the Chief Financial Officer, respectfully, of said credit union; that the  
 statements made in this Application to Convert from a State to a Federal Credit Union  
 and the schedules attached hereto are true, complete, and correct to the best of our  
 knowledge and belief and are made in good faith.

\_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 (CHAIRPERSON)

\_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 (CHIEF FINANCIAL OFFICER)



**AFFIDAVIT  
PROOF OF RESULTS OF MEMBERSHIP VOTE - PROPOSED CONVERSION FROM  
FEDERAL CREDIT UNION TO STATE CREDIT UNION**

We, the undersigned \_\_\_\_\_ chairperson and  
\_\_\_\_\_ secretary of the \_\_\_\_\_  
Federal Credit Union, hereby swear or affirm as follows:

1. That the conversion proposal as set forth in the attached Notice of Meeting of the Members was fully explained to the members present at said meeting of members.
  
2. That on the date of the said meeting of members there were \_\_\_\_\_ members of this credit union qualified to vote; \_\_\_\_\_ members were present at said meeting; of those members present, \_\_\_\_\_ members voted in favor of the conversion and \_\_\_\_\_ members voted against the conversion; of those members not present at the meeting but who filed ballots, \_\_\_\_\_ members voted in favor of the conversion and \_\_\_\_\_ members voted against the conversion; and that, without duplication of the votes of any member, a total of \_\_\_\_\_ members voted in favor of the conversion and \_\_\_\_\_ members voted against the conversion.

3. That the action of the members of this credit union at said meeting is fully and completely recorded in the minutes of said meeting and all ballots cast by the members on the question of conversion, either at the meeting or by delivery to the credit union, are on file with the secretary of this credit union.

\_\_\_\_\_  
TITLE: \_\_\_\_\_  
(CHAIRPERSON)

\_\_\_\_\_  
TITLE: \_\_\_\_\_  
(BOARD SECRETARY)

\_\_\_\_\_  
FEDERAL CREDIT UNION

Subscribed before me, an officer competent to administer oaths, at \_\_\_\_\_  
\_\_\_\_\_, this \_\_\_\_\_  
(day) (month) (year)

Signed \_\_\_\_\_

(SEAL)

Title \_\_\_\_\_  
(Notary Public or other  
competent officer)

My Commission Expires \_\_\_\_\_,  
(year)

**FEDERAL TO STATE CONVERSION  
BALLOT FOR CONVERSION PROPOSAL**

I have read the notice concerning the meeting of the members of the \_\_\_\_\_ Federal Credit Union called for \_\_\_\_\_ to consider and to vote upon the following proposition:

"RESOLVED, That the \_\_\_\_\_ Federal Credit Union be converted to a credit union chartered under the laws of the State of \_\_\_\_\_ and operation under Federal Charter Number \_\_\_\_\_ be discontinued.

RESOLVED FURTHER, That the board of directors and the officers of this credit union are hereby authorized and directed to do all things necessary to effect and to complete the conversion of this credit union from a Federal to State-chartered credit union."

I hereby cast my vote on the proposition: (Place an X in the square opposite the appropriate statement.)

I vote for the conversion

I vote against the conversion

\_\_\_\_\_  
(Account Number)

\_\_\_\_\_  
(Signature of Member)

Date: \_\_\_\_\_

## APPLICATION AND AGREEMENTS FOR INSURANCE OF ACCOUNTS

Date: \_\_\_\_\_

TO: The National Credit Union Administration Board (Board)

The proposed \_\_\_\_\_ Federal Credit Union

\_\_\_\_\_  
(Street Address)\_\_\_\_\_  
(City)\_\_\_\_\_  
(State)\_\_\_\_\_  
(Zip Code)

applies for insurance of its accounts as provided in Title II of the Federal Credit Union Act, and in consideration of the granting of insurance, hereby agrees:

1. To pay the reasonable cost of such examinations as the Board may deem necessary in connection with determining the eligibility of the application for insurance.
2. To permit and pay the reasonable cost of such examinations as in the judgment of the Board may from time to time be necessary for the protection of the fund and other insured credit unions.
3. To permit the Board to have access to any information or report with respect to any examination made by or for any public regulatory authority and furnish such additional information with respect thereto as the Board may require.
4. To provide protection and indemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates.
5. To maintain such special reserves as the Board, by regulation or in special cases, may require for protecting the interest of members.
6. Not to issue or have outstanding any account or security the form of which, by regulation or in special cases, has not been approved by the Board.
7. To pay and maintain the capitalization deposit required by Title II of the Federal Credit Union Act.
8. To pay the premium charges for insurance imposed by Title II of the Federal Credit Union Act.

9. To comply with the requirements of Title II of the Federal Credit Union Act and of regulations prescribed by the Board pursuant thereto.
10. To permit the Board to have access to all records and information concerning the affairs of the credit union and to furnish such information pertinent thereto that the Board may require.
11. To comply with Title 18 of the United States Code and other pertinent Federal statutes as they may exist or may be hereafter promulgated or amended.

**We, the undersigned, certify to the correctness of the information submitted. We, the undersigned, further certify that to the best of our knowledge and belief no proposed officer, committee member, or employee of this credit union has been convicted of any criminal offense involving dishonesty or a breach of trust, except as noted in attachments to this application. We further agree to notify the Board if any proposed or future officer commits a criminal offense.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Chief Financial Officer

**Note: A willfully false certification is a criminal offense. U.S. Code, Title 18, Sec. 1001.**

**CERTIFICATION OF RESOLUTIONS**

\_\_\_\_\_ **FEDERAL CREDIT UNION (PROPOSED)**

**We certify that we are the duly elected and qualified chief executive officer and recording officer of the above-named proposed Federal credit union and that at the charter-organization meeting, the board of directors passed the following resolution and recorded it in its minutes:**

**"Be it resolved that this credit union apply to the National Credit Union Administration Board for insurance of its accounts as provided in Title II of the Federal Credit Union Act.**

**Be it further resolved that the president and treasurer be authorized and directed to execute the Application and Agreements for Insurance of Accounts as prescribed by the Board and any other papers and documents required in connection therewith; to pay all expenses and do all other things necessary or proper to secure and continue in force such insurance."**

\_\_\_\_\_  
**Chief Executive Officer**

\_\_\_\_\_  
**Recording Officer, Board of Directors**

**INFORMATION TO BE PROVIDED IN SUPPORT OF THE APPLICATION OF A  
STATE CHARTERED CREDIT UNION FOR INSURANCE OF ACCOUNTS**

*Existing credit unions must complete the entire application. All other applicants do not have to complete questions 8, 11, 12, 13, 15, and 16.*

\_\_\_\_\_ Credit Union

1. Show below the location of the credit union's books and records.

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City) (State) (Zip) (Telephone)

2. Show the date (month, day, year) in which the credit union was chartered.  
\_\_\_\_\_
3. Attach a copy of the credit union's field of membership as shown in the charter, articles of incorporation and/or bylaws, as amended to date. Please identify it as the first schedule in the consecutive number sequence as discussed in the instructions. Schedule No. \_\_\_\_\_
4. Potential membership (total number of persons who could be served including present members). \_\_\_\_\_
5. Identify charter type (e.g., single common bond, multiple common bond, community). \_\_\_\_\_
6. Does the credit union operate under standard bylaws provided by the state supervisory authority? Yes  No  (Complete a.)
- a. Attach a copy of the current official bylaws under which the credit union operated. Schedule No. \_\_\_\_\_
7. Is the credit union under any administrative restraints by the State Supervisory Authority? Yes  No  (Complete a.)
- a. Explain fully on an attached schedule. Schedule No. \_\_\_\_\_

- 8. **Attach a copy of the latest State supervisory authority examination. Copies of any correspondence from the accountant's report if made in lieu of a State supervisory authority examination. Copies of any correspondence from the State supervisory authority which accompanied the examination report should also be included.**
- 9. **Attach copies of the Balance Sheet and Statement of Income and Expense (or Financial and Statistical Report) for the month preceding the date of this application and for the same month of the preceding year.**  
Schedule Nos. \_\_\_\_\_

**10. Reserves**

Show below the requirements of the State law and/or your bylaws for transfer of earnings to reserves (either monthly or at the end of each accounting period).

---

**11. Delinquent Loans and Charged-off Loans**

a. **Attach a copy of the delinquent loan list as of the month-end preceding the date of this application. See instructions pertaining to Item No. 11a.**  
Schedule No. \_\_\_\_\_

b. **List below the requested information on delinquent loans for the latest four calendar quarters preceding the date of the application (March 31, June 30, September 30 and December 31). Also show total share and loan balances for all members for the same period.**

(a) *Other Delinquent Categories	(b) Delinquent Categories	Date	Date	Date	Date
	2 to less than 6 mos.	\$	\$	\$	\$
	6 to less than 12 mos.	\$	\$	\$	\$
	12 mos. and over	\$	\$	\$	\$
	Totals	\$	\$	\$	\$
	Share Balances	\$	\$	\$	\$
	Loan Balances	\$	\$	\$	\$

\*See instructions pertaining to Item No. 11 b.



c. List below the requested information on loans charged off during the last three years and the current year. List total of all reserves both revocable and irrevocable for the same period as (balance at year-end and or current period).

	Year	Year	Year	Current Yr. To Date	*Totals Since Organization
Total Charged Off					
Total Recovered					
Net Charged Off					

\*If this information is available.

12. Does the credit union have any unrecorded or contingent liabilities, (including pending law suits or civil actions)? Yes  No  Complete a.

a. List on an attached schedule the complete description of such liabilities, including amounts, status of the items, and a description of the circumstances creating the liabilities or contingent liabilities. Schedule No. \_\_\_\_\_

13. Do any asset accounts other than loans to members, investments, and real estate have actual values less than the book values shown on the Balance Sheet?

List on a separate schedule a description of such assets, showing at least the following information; account number, description of item, book value and actual value. Schedule No. \_\_\_\_\_

14. List below or on an attached schedule, any investments or real estate as discussed in the instructions pertaining to Item No. 14. Schedule No. \_\_\_\_\_. Attach a copy of the credit union's current investment policies. Investments/Loans to Credit Union Service Organization (CUSO) should be listed separately.

<u>Description of Item</u>	<u>Current Market Value</u>	<u>Current Book Value</u>
	\$	\$
	\$	\$
	\$	\$

**15. Individual Share and Loan Ledgers:**

a. Were the totals of the trial balance of the individual share and loan ledgers in agreement with the balances of the respective general ledger control accounts as of the month-end preceding the date of this application? \_\_\_\_\_

b. What are the differences as of the month and preceding the date of this application?

	<u>Shares</u>	<u>Loans</u>
Balances in General Ledger	\$	\$
Totals of the trial balance of the individual ledgers	\$	\$
Differences	\$	\$

**16. Supervisory Committee:**

a. What is the effective date of the last complete comprehensive annual audit performed by the supervisory committee?

Effective Date \_\_\_\_\_

(1) If the effective date of the annual audit is not within the last 18 months what is the supervisory committee's target date for completion of a comprehensive audit? Date \_\_\_\_\_

b. Show the effective date of the supervisory committee's last controlled verification of all members' accounts:

Effective Date \_\_\_\_\_

(1) If all members' accounts have not been verified under controlled conditions during the last two years, what is the supervisory committee's target date for completion of the verification program?

Date \_\_\_\_\_

c. If it is necessary to complete either 16a(1) or 16 b(1); please describe the directors' plans for seeing that the target dates are met. (Discuss below or on an attached schedule.) Schedule No. \_\_\_\_\_

17. List below the credit union's surety bond coverage.
- a. Name of carrier \_\_\_\_\_
  - b. Standard form number of the bond (i.e., 23, 576, 577, 578, 581, 562 CU-1, other) \_\_\_\_\_
  - c. Basic amount of coverage \$ \_\_\_\_\_
  - d. Bond premium paid to (date) \_\_\_\_\_
  - e. What is the amount of coverage required by State law or your bylaws?  
\_\_\_\_\_
  - f. Riders to the bond (list below) (i.e., faithful performance, forgery, misplacement, etc.)  
\_\_\_\_\_  
\_\_\_\_\_
18. Does the credit union render any services to or perform any functions on behalf of the members, non-members, organizations, or the public other than the usual savings and loan services for members? \_\_\_\_\_
- Attach a schedule describing each activity in full. Schedule No. \_\_\_\_\_
19. Does the board of directors or management know of any adverse economic condition that is affecting or will affect the credit union's present or future operation or that of the sponsor organization?  
\_\_\_\_\_
- Attach a schedule describing the condition and its possible effect on the credit union's future. Schedule No. \_\_\_\_\_
20. To the best of the credit union's knowledge and belief, has any director, officer, committee member, or employee been convicted of any criminal offense involving dishonesty or breach of trust? \_\_\_\_\_
- a. Attach a statement describing the circumstances. Schedule No.  
\_\_\_\_\_
21. Lending policies and practices:
- a. Complete the following schedule showing the present policies and practices on loans to members.
  - b. Complete the following schedule of largest loans with the attached instructions pertaining to Item No. 21.

**LENDING POLICIES AND PRACTICES**

	<b>Maximum Loan Amount</b>	<b>Maximum Period of Repayment</b>	<b>Required Amount of Down Payment (Equity)</b>
<b>1. Credit Union Policies and Practices</b>			
<b>a. Unsecured Loan Limits</b>			
<b>b. Secured Loan Limits</b>			
<b>(1) New Auto Collateral</b>			
<b>(2) Used Auto Collateral</b>			
<b>(3) Real Estate</b>			
<b>(a) First Mortgage</b>			
<b>(b) Second Mortgage</b>			
<b>(4) Comakers</b>			
<b>(5) Others (describe)</b>			
<b>c. Loans to Organizations</b>			
<b>d. Loans to Directors, Officers, or Committee Members</b>			
<b>2. State Credit Union Law; Bylaws</b>			
<b>a. Unsecured Loan Limits</b>			
<b>b. Secured Loan Limits</b>			
<b>c. Loans to Directors, Officers, or Committee Members</b>			



CREDIT UNION SERVICE ORGANIZATION (CUSO)

1. Name of CUSO \_\_\_\_\_

2. Date of CUSO'S Organization \_\_\_\_\_ (Date of obtaining charter from State)

3. Type of organization (check one):

a. General Partnership  c. Joint Ownership

b. Limited Partnership  d. Corporation

4. Owners of CUSO (list name, charter number if FCU, and percentage of ownership, if possible).

a. \_\_\_\_\_ Charter Number (If FCU) %

b. \_\_\_\_\_ Charter Number (If FCU) %

(Continue on reverse side if additional space is required)

5. Capitalization (list investors and amount of investment in CUSO).

a. \_\_\_\_\_ Charter Number (If FCU) Amount

b. \_\_\_\_\_ Charter Number (If FCU) Amount

(Continue on reverse side if additional space is required)

6. List all known services which are being offered by CUSO (be as specific as possible). \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**7. Comments (include all other pertinent information, if applicable, not previously discussed).** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**8. Attach the latest Financial and Statistical Report of CUSO, if available.**

## FORM 9600 INSTRUCTIONS

APPLICATION OF A STATE CHARTERED CREDIT UNION  
FOR INSURANCE OF ACCOUNTS

The application and all supporting documents should be prepared, photocopied, and submitted in accordance with these instructions. Additional schedules may be included if deemed appropriate.

Existing credit unions must complete the entire application. All other applicants do not have to complete questions 8, 11, 12, 13, 15, and 16.

Existing credit unions must submit current policies and financial statements as noted in the application. All other applicants must submit proposed policies and pro forma financial statements for the first and second year of operation.

When an item specifies that a schedule should be prepared and attached, please assign a schedule number in consecutive order, starting with number one. Please show the schedule number at the top right-hand corner of the schedule.

Some of the items are self-explanatory and require no special instructions. Other items, however, need special explanations, definitions, and instructions for completion. These are listed below, identified by the same item numbers as appear in Exhibit A.

**Item No. 10: Reserves:** The term "reserves" means that account, or accounts, which represents segregated portions of earnings as provided by the law, bylaws, and/or the credit union's management for the

absorption of losses relating to loans to members.

**Item No. 11a:** The delinquent loan list requested should include, for each delinquent loan, the account number of the borrower, date of loan, original amount of loan, unpaid balance, date of last payment of principle, excluding transfers from pledged shares, collateral, and comments regarding the collectibility of each loan in the categories 6 months to less than 12 months and 12 months and over. Payments of interest only should be so identified.

**Item No. 11b:** The schedule provided for the delinquent loan information is set up in delinquency categories of 2 months to less than 6 months, 6 to less than 12 months, and 12 months and over. Credit unions that compute delinquency using categories other than shown in column (b) may use these other categories and show them in column (a). Credit unions using column (a) need not show the delinquencies in the column (b) categories. It is not necessary to report on loans which are delinquent less than 2 months.

**Adverse Trends:** If items 8, 9, or 11 indicate adverse trends such as significant decreases in shares, loans or reserves, increases in loan delinquency or loan charge-offs, or unresolved serious exceptions shown in the State examination report, the credit union may attach an explanation and identify it as "Explanation of Adverse Trends or Unresolved



**Examination Exceptions" and assign it a schedule number.**

**below has been shown. The number of such loans to be listed will be determined as follows:**

**Item No. 14: This item need be completed only if the credit union owns any of the following:**

**A. Investments in U.S. Government securities guaranteed as to principle and interest or Federal Agency securities, the market value of which is now less than the book value.**

<b>If your credit union has the following no. of outstanding loans</b>	<b>You should list the following no. of the largest unpaid balances</b>
Under 100	5
100 to 199	10
200 to 299	15
300 to 399	20
400 or more	25

**B. Real estate other than that used entirely for the credit union's own office(s).**

**C. Other investments of any type except:**

- 1. Loans to other credit unions.**
- 2. Certificates of, or accounts in, federally insured financial institutions.**
- 3. Deposits or accounts in corporate credit unions.**

**If any of the above loans are delinquent, please show the number of months delinquent in the appropriate "Status of Re-payment" column.**

**Complete the Credit Union Service Organization (CUSO) schedule for each investment/loan to a CUSO.**

**If corporate bonds are listed, please show maturity date, rate of interest on bonds and current yield rate.**

**TERMINATION OF INSURANCE**

**If stocks are listed, please show number of shares and bid price.**

**Should the credit union, after obtaining insurance of member accounts, desire to terminate its insured status, this could be accomplished by complying with the provisions of Section 206(a), (c) and (d) of Title II of the Federal Credit Union Act. This action would require approval by a vote of the majority of the members, and ninety days written notice of the proposed termination date to NCUA. Member accounts would continue to be insured for one year following termination of insurance and the insurance premium**

**Please identify the source of the market valuation information and the date of such information.**

**Item No. 21b: In selecting the largest loans for this Exhibit, list the largest outstanding unpaid loan balance and proceed in descending order by dollar amount until the number specified**

would be paid during that period. After termination of insurance, the credit union shall give prompt and reasonable notice to all members whose accounts are insured that it has ceased to be an insured credit union.

Sections 206(a)(2) and 206(d)(2) and (3) of the Act provide that an insured credit union may also terminate its insurance by converting from its status as an insured credit union under the

Act to insurance from a corporation authorized and duly licensed to insure member accounts. In this event, approval is required by a majority of all the directors and by affirmative vote of a majority of the members voting, provided that at least 20 percent of the members have voted on the proposition. Under this provision for termination, insurance of member accounts would cease as of the date of termination.

**APPLICATION AND AGREEMENTS FOR INSURANCE OF ACCOUNTS  
STATE CHARTERED CREDIT UNION**

TO: The National Credit Union Administration Board    Date \_\_\_\_\_

The \_\_\_\_\_ Credit Union,

Insurance Certificate Number \_\_\_\_\_ (if applicable)

---

(mailing address)                                  (city)                                  (state)                                  (zip code)

**applies for insurance of its accounts as provided in Title II of the Federal Credit Union Act, and in consideration of the granting of insurance, hereby agrees:**

- |   |   |
|---|---|
| <p>1. To permit and pay the cost of such examinations as the NCUA Board deems necessary for the protection of the interests of the National Credit Union Share Insurance Fund.</p> <p>2. To permit the Board to have access to all records and information concerning the affairs of the credit union, including any information or report related to an examination made by or for any other regulating authority, and to furnish such records, information, and reports upon request of the NCUA Board.</p> <p>3. To possess such fidelity coverage and such coverage against burglary, robbery, and other losses as is required by Parts 713 and 741 of NCUA's regulations.</p> <p>4. To meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed</p> | <p>on Federal Credit Unions by Part 702 of NCUA's regulations, and to maintain such special reserves as the NCUA Board may be regulation or on a case-by-case basis determine are necessary to protect the interests of members. Any waivers of the statutory reserve or full and fair disclosure requirements or any direct charges to the statutory reserve other than loss loans must have the prior written approval of the NCUA Board. In addition, corporate credit unions shall be subject to the reserve requirements specified in Part 704 of NCUA's regulations.</p> <p>5. Not to issue or have outstanding any account or security the form of which has not been approved by the NCUA Board, except accounts authorized by state law for state credit unions.</p> |
|---|---|

6. To maintain the deposit and pay the insurance premium charges imposed as a condition of insurance pursuant to Title II (Share Insurance) of the Federal Credit Union Act.
7. To comply with the requirement of Title II (Share Insurance) of the Federal Credit Union Act and of regulations prescribed by the NCUA Board pursuant thereto.
8. For any investments other than loans to members and obligations or securities expressly authorized in Title I of the Federal Credit Union Act, as amended to establish now and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When, as of the end of any dividend period, the amount in the Investment Valuation Reserve exceeds the difference between book value and market value, the board of directors may authorize the transfer of the excess to Undivided Earnings.
9. When a state-chartered credit union is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units, such nonmember accounts shall be identified as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union will advise any present nonmember share and deposit holders by letter that their accounts are not insured by the National Credit Union Share Insurance Fund. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.
10. In the event a state-chartered credit union chooses to terminate its status as a federally-insured credit union, then it shall meet the requirements imposed by Sections 206(a)(1) and 206(c) of the Federal Credit Union Act and Part 741.208 of NCUA's regulations.
11. In the event a state-chartered credit union chooses to convert from federal insurance to some other insurance from a corporation authorized and duly licensed to insure member accounts, then it shall meet the requirements imposed by Sections 206(a)(2), 206(c), 206(d)(2), and 206(d)(3) of the Federal Credit Union Act and any other applicable federal law.

In support of this application we submit the following schedules:

Schedule No.	Title
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---

**CERTIFICATIONS AND RESOLUTIONS**

**We, the undersigned, certify that we are the duly elected and qualified presiding officer and recording officer of the credit union and that at a properly called and regular or special meeting of its board of directors, at which a quorum was present, the following resolutions were passed and recorded in its minutes:**

**We, the undersigned, certify to the correctness of the information submitted.**

**Be it resolved that this credit union apply to the National Credit Union Administration Board for insurance of its accounts as provided in Title II of the Federal Credit Union Act.**

**Be it resolved that the presiding officer and recording officer be authorized and directed to execute the Application and Agreement for Insurance of Accounts as prescribed by the NCUA Board and any other papers and documents required in connection therewith and to pay all expenses and do all such other things necessary or proper to secure and continue in force such insurance.**

**We further certify that to the best of our knowledge and belief no existing or proposed officer, committee member, or employee of this credit union has been convicted of any criminal offense involving dishonesty or breach of trust, except as noted in attachments to this application. We further agree to notify the Board if any existing, proposed or future officer, committee member or employee is indicted for such an offense.**

\_\_\_\_\_  
**(Signature) Chairperson, Board of Directors**

\_\_\_\_\_  
**(Print or type Chairperson's Name)**

\_\_\_\_\_  
**(Signature) Secretary, Board of Directors**

\_\_\_\_\_  
**(Print or type Secretary's Name)**

**APPENDIX 5****TRADE ASSOCIATIONS****Credit Union National Association  
(CUNA)**

[www.cuna.org](http://www.cuna.org)

P.O. Box 431  
Madison, WI 53701  
800-356-9655

**National Association of Federal  
Credit Unions (NAFCU)**

[www.nafcu.org](http://www.nafcu.org)

3138 N. 10th Street, Suite 300  
Arlington, VA 22201-2149  
800-336-4644

**National Association of State Credit Union  
Supervisors (NASCUS)**

[www.nascus.org](http://www.nascus.org)

1655 North Fort Myer Drive  
Suite 650  
Arlington, VA 22209  
703-528-8351

**National Federation of Community  
Development Credit Unions  
(NFCDCU)**

[www.cdcdcu.coop](http://www.cdcdcu.coop)

39 Broadway, Suite 2140  
New York, NY 10006-3063  
212-809-1850

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# Reader Aids

## Federal Register

Vol. 80, No. 237

Thursday, December 10, 2015

### CUSTOMER SERVICE AND INFORMATION

<b>Federal Register/Code of Federal Regulations</b>	
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<b>Laws</b>	<b>741-6000</b>
<b>Presidential Documents</b>	
Executive orders and proclamations	<b>741-6000</b>
<b>The United States Government Manual</b>	<b>741-6000</b>
<b>Other Services</b>	
Electronic and on-line services (voice)	<b>741-6020</b>
Privacy Act Compilation	<b>741-6064</b>
Public Laws Update Service (numbers, dates, etc.)	<b>741-6043</b>

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