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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 35

[Docket No. RM14–11–000]

#### Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to the final regulations that became effective June 30, 2015, as published in the 2015 edition of the Code of Federal Regulations.

**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Brian R. Gish (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: 202–502–8998, Email: [brian.gish@ferc.gov](mailto:brian.gish@ferc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission amended 18 CFR 35.28(d), addressing waivers of the Open Access Transmission Tariff requirements for public utilities that own, operate, or control Interconnection Customer's Interconnection Facilities.

As published in the 2015 edition of the Code of Federal Regulations, the final regulations effective June 30, 2015, contained an error; they incorrectly removed certain language from 18 CFR 35.28(d) that should have been retained. The Commission did not intend to remove this language. This correcting amendment reinserts the incorrectly-removed language.

#### List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

Accordingly, 18 CFR part 35 is corrected by making the following correcting amendment:

#### PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 35.28 is corrected by revising paragraph (d) to read as follows:

#### § 35.28 Non-discriminatory open access transmission tariff.

\* \* \* \* \*

(d) *Waivers.* (1) A public utility subject to the requirements of this section and 18 CFR parts 37 (Open Access Same-Time Information System) and 358 (Standards of Conduct for Transmission Providers) may file a request for waiver of all or part of such requirements for good cause shown. Except as provided in paragraph (f) of this section, an application for waiver must be filed no later than 60 days prior to the time the public utility would have to comply with the requirement.

(2) The requirements of this section, 18 CFR parts 37 (Open Access Same-Time Information System) and 358 (Standards of Conduct for Transmission Providers) are waived for any public utility that is or becomes subject to such requirements solely because it owns, controls, or operates Interconnection Customer's Interconnection Facilities, in whole or in part, as that term is defined in the standard generator interconnection procedures and agreements referenced in paragraph (f) of this section, or comparable jurisdictional interconnection facilities that are the subject of interconnection agreements other than the standard generator interconnection procedures and agreements referenced in paragraph (f) of this section, if the entity that owns, operates, or controls such facilities either sells electric energy, or files a statement with the Commission that it commits to comply with and be bound by the obligations and procedures applicable to electric utilities under section 210 of the Federal Power Act.

(i) The waivers referenced in this paragraph (d)(2) shall be deemed to be revoked as of the date the public utility ceases to satisfy the qualifications of this paragraph (d)(2), and may be revoked by the Commission if the Commission determines that it is in the public interest to do so. After revocation of its waivers, the public utility must comply with the requirements that had been waived within 60 days of revocation.

(ii) Any eligible entity that seeks interconnection or transmission services with respect to the interconnection facilities for which a waiver is in effect pursuant to this paragraph (d)(2) may follow the procedures in sections 210, 211, and 212 of the Federal Power Act, 18 CFR 2.20, and 18 CFR part 36. In any proceeding pursuant to this paragraph (d)(2)(ii):

(A) The Commission will consider it to be in the public interest to grant priority rights to the owner and/or operator of interconnection facilities specified in this paragraph (d)(2) to use capacity thereon when such owner and/or operator can demonstrate that it has specific plans with milestones to use such capacity to interconnect its or its affiliate's future generation projects.

(B) For the first five years after the commercial operation date of the interconnection facilities specified in this paragraph (d)(2), the Commission will apply the rebuttable presumption that the owner and/or operator of such facilities has definitive plans to use the capacity thereon, and it is thus in the public interest to grant priority rights to the owner and/or operator of such facilities to use capacity thereon.

\* \* \* \* \*

Dated: December 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31216 Filed 12–10–15; 8:45 am]

**BILLING CODE 6717–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### 18 CFR Part 806

#### Review and Approval of Projects

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Final rule.



**SUMMARY:** This document contains final rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) to simplify and clarify the process for transferring approvals and to add sections dealing with general permits and modifications to approvals. These amendments are to be made effective upon publication of this rulemaking.

**DATES:** Effective December 11, 2015.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, Esq., General Counsel, telephone: 717-238-0423, ext. 1312; fax: 717-238-2436; email: [joyler@srbc.net](mailto:joyler@srbc.net). Also, for further information on the final rulemaking, visit the Commission's Web site at [www.srbc.net](http://www.srbc.net).

**SUPPLEMENTARY INFORMATION:** Notice of proposed rulemaking was published in the **Federal Register** on September 21, 2015 (80 FR 56936); the *New York Register* on October 7, 2015; the *Maryland Register* on October 16, 2015; and the *Pennsylvania Bulletin* on October 17, 2015. The Commission convened a public hearing on October 29, 2015, in Grantville, Pennsylvania and a written comment period was held open through November 9, 2015.

### General Comments

*Comment:* The rule will simplify the approval process for certain modifications and will be less burdensome on permittees and the Commission while still protecting the Susquehanna River Basin resources.

*Comment:* The proposed rule will assist in streamlining the administrative and permitting process and are positive changes.

*Comment:* The proposed rule should serve to provide great potential improvements for both the Commission and the regulated community.

*Response:* The Commission appreciates the comments.

### Comments by Section, Part 806

#### *Section 806.6—Transfer of approvals.*

*Comment:* We appreciate § 806.6(b) addressing previously unpermitted withdrawals and uses of water, which should address actions that affect local water resources.

*Response:* The Commission appreciates the comment. This section is largely unchanged from the prior regulatory text.

*Comment:* The Commission should require approvals being transferred that are greater than 10 years old to perform a new or updated aquatic resource survey (ARS).

*Response:* The Commission disagrees with the comment. The transfer rule does not allow new project sponsors to increase the withdrawal or consumptive use of the project above what was previously approved. The Commission will be able to require an ARS, if appropriate and necessary, when these approvals expire and need to be renewed pursuant to 18 CFR 806.14.

*Comment:* The proposed rule will allow approvals where there is a change in ownership but no change in the project or the use of water to occur without the submittal of an entirely new application, and the Commission is to be commended for proposing this change.

*Response:* The Commission appreciates the comment.

#### *Section 806.14—Contents of Application.*

*Comment:* The Commission proposed to add § 806.14(d) to set forth the application requirements for minor modifications. Section 806.14(a) should be correspondingly revised to include an exception for applications for minor modifications.

*Response:* The Commission agrees and will add the phrase “applications for minor modifications” in the first sentence of § 806.14(a) to clarify that the requirements of that paragraph do not apply to applications for minor modifications.

#### *Section 806.15—Notice of application.*

*Comment:* The next to last sentence of § 806.15(a) appears to contain grammatically incorrect language (which appears in the existing regulatory text). This should be corrected.

*Response:* The Commission agrees with the comment. The next to last sentence will be corrected to delete the word “for” and place two commas to make the sentence grammatically correct.

*Comment:* The intent of proposed rulemaking is that new paragraph (i) is meant to be the exclusive source of notice requirements for minor modification; however, no changes were proposed to paragraph (a) that make it clear that paragraph (a) does not apply to minor modifications. Paragraph (a) should be clarified.

*Response:* The Commission agrees with the comment and also finds it applicable to new paragraph (h). In the final rule, paragraph (a) will now begin with “Except with respect to paragraphs (h) and (i), . . .”.

*Comment:* The extension of time allotted for notices to be published from 10 to 20 days allows ample time for all

interested parties and the public to comment.

*Response:* The Commission appreciates with the comment.

#### *806.17—General permits.*

*Comment:* Section 806.17(d)(3) provides that a Notice of Intent (NOI) must be denied if the project does not meet the requirements of § 806.21(a) or (b). However, § 806.21(b) does not provide any requirements, but rather gives the Commission discretion to modify or deny a project if the Commission determines that the project is not in the best interest of the conversation, development, management or control of the basin's water resources or is in conflict with the Comprehensive Plan. The reference to § 806.21(b) should be removed or the standard placed verbatim into § 806.17(d)(3).

*Response:* The Commission does not agree with the proposed revisions of the commenter. However, the Commission agrees that the paragraph could be clarified in light of the comment. As a part of the final rule, the Commission will revise paragraph (d)(3) to read as set out in the regulatory text at the end of this document.

*Comment:* The Commission does not define “minimal adverse impacts” in § 806.17(a)(4).

*Comment:* The Commission should tier a determination of minimal adverse impacts, looking at the existing standards in 18 CFR 806.23 or adopting a “significance” inquiry as provided in the National Environmental Policy Act (NEPA).

*Comment:* The Commission should add a paragraph that provides that it shall not issue a general permit that creates or incites significant direct, indirect or cumulative impacts to water resources.

*Response:* The Commission agrees that § 806.17(a)(4) would be strengthened by a reference to the Commission's existing regulatory review standards. These standards are known and defined with respect to Commission reviews of consumptive uses, withdrawals and diversions. Conversely, the Commission does not agree that the inquiries under NEPA would provide clarity in a substantive review in establishing a general permit. In addition, adopting a new set of standards for general permits would add complexity and confusion to the process that is avoided by referencing the Commission's existing review standards. The Commission will revise the final rule so that § 806.17(a)(4) reads as set out in the regulatory text at the end of this document.

*Comment:* The proposed regulations seem to presume NOI issuance.

*Response:* The Commission disagrees with the comment. Part of the proposed rule includes § 806.17(d) entitled, "Denial of Coverage."

*Comment:* Public notice under the general permit procedure is inadequate. Specifically, the public is not afforded notice via the **Federal Register** of receipt of an NOI.

*Response:* The Commission agrees that the procedures do not set forth any requirement that the Commission publish receipt of NOIs. Accordingly, the Commission will amend the final rule to include a new paragraph (c)(9) to read as set out in the regulatory text at the end of this document.

*Comment:* Section 806.17(b)(3) should be revised to require the Commission to take into account the level of public interest and likelihood for controversy for any proposed general permit in determining whether to hold a public hearing.

*Response:* The Commission agrees with the comment. The Commission will amend § 806.17(b)(3) to read as set out in the regulatory text at the end of this document.

*Comment:* Section 806.17(c)(4) should be amended to provide for full Commission review and approval of general permits.

*Response:* No such revision is necessary. Section 806.17(b)(4) currently provides that the Commission will adopt and issue general permits. Paragraph (c)(4) provides that the approval of coverage under a general permit, shall be determined by the Executive Director unless the Commission establishes a different mechanism for approval when issuing the general permit. This process is similar to the existing process for approving projects under the Commission's Approvals By Rule in 18 CFR 806.22(e)(7) and (f)(10), where the Executive Director issues the approvals to project sponsors.

*Comment:* Section 806.17(c)(8) should be amended to require the project to conduct an aquatic resource survey (ARS) before any General Permit is renewed or amended.

*Response:* The Commission disagrees with the comment. The Commission currently requires projects to conduct an ARS on a case-by-case basis for individual applications for surface water withdrawals. The Commission does not believe that it would be appropriate to require ARSs to be conducted as a rule for every general permit NOI holder for renewal or amendment. The general permit procedures as proposed, however, are

sufficiently broad to allow the Commission, as a part of the scope or application of a general permit developed by the Commission, to require an ARS from NOI applicants, if the Commission finds it appropriate for the type of activity being permitted.

*Comment:* The Commission is urged to specifically mandate adequate fees for general permit applications.

*Response:* The Commission appreciates the comment. The proposed rule provides that the Commission may set a fee for NOIs to any general permit. This allows the Commission to set a specific fee for NOIs under each particular general permit and tailor the fees to what is required of the NOI applicants and the Commission for each activity permitted.

#### 806.18—Approval modifications.

*Comment:* Section 806.18(c)(8) should be revised to be grammatically consistent with paragraphs (c)(1) through (7).

*Response:* The Commission agrees with the comment. Paragraph (c)(8) is revised to read as set out in the regulatory text at the end of this document.

*Comment:* The word "flows" in § 806.18(d)(4) should be revised to "flow."

*Response:* The Commission agrees with the comment and has made this revision to the final rule.

*Comment:* Aside from the correction of typographical errors, every suggested minor modification category includes changes in permit terms that can result in significant adverse impacts to local water resources and should not be allowed as minor modifications.

*Response:* The Commission disagrees with the comment. In developing the list of minor modifications, the Commission examined the range of modification requests that it receives and carefully vetted those categories and developed them specifically because they do not pose significant adverse impacts to local water resources. Review of these types of modifications is largely administrative in nature and poses little to no risk to human health, safety or the environment.

#### Transition Issues

As a part of the Resolution adopting this final rule, the Commission also has set a reduced fee for applications for minor modifications at \$750. Future adjustments may be made to this application fee during the regular annual adjustments to the Commission fee schedule.

#### List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

#### PART 806—REVIEW AND APPROVAL OF PROJECTS

■ 1. The authority citation for part 806 continues to read as follows:

**Authority:** Secs. 3.4, 3.5(5), 3.8, 3.10, and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

#### Subpart A—General Provisions

■ 2. Amend § 806.4 by adding paragraph (a)(9) and revising paragraph (c) to read as follows:

#### § 806.4 Projects requiring review and approval.

(a) \* \* \*

(9) Any project subject to coverage under a general permit issued under § 806.17.

\* \* \* \* \*

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v), or (a)(3)(iv) of this section, pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action on a transfer application under § 806.6.

■ 3. Revise § 806.6 to read as follows:

#### § 806.6 Transfer of approvals.

(a) An existing Commission approval may be transferred to a new project sponsor by the Executive Director provided:

(1) The application for transfer is submitted within 90 days of a transfer or change in ownership of a project.

(2) The new project sponsor operates the project subject to the same terms and conditions of the existing approval pending approval of the transfer application.

(3) Any noncompliance by the existing project sponsor associated with the project or by the new project sponsor associated with other projects is resolved to the Commission's satisfaction.

(4) If the existing approval is greater than 10 years old, the transfer shall be conditioned to require the submission of an updated metering and monitoring plan consistent with the requirements of § 806.30.

(5) If the existing project has an unapproved withdrawal, consumptive use and/or diversion listed in paragraph

(b) of this section, the transfer shall be conditioned to require the submission of a new application for review and approval of the unapproved withdrawal, consumptive use and/or diversion consistent with §§ 806.4 and 806.14.

(6) Any modifications proposed by the new project sponsor shall be subject to a separate application and review process under §§ 806.14 and 806.18.

(b) Previously unapproved activities associated with a project subject to transfer under paragraph (a) of this section include:

(1) The project has an associated pre-compact consumptive water use that has not been subject to approval or had mitigation approved by the Commission.

(2) The project has an associated diversion that was initiated prior to January 23, 1971.

(3) The project has an associated groundwater withdrawal that was initiated prior to July 13, 1978, and that has not been approved by the Commission.

(4) The project has an associated surface water withdrawal that was initiated prior to November 11, 1995, and that has not been approved by the Commission.

(5) The project has a consumptive water use approval and has an associated withdrawal that has not been approved by the Commission.

(c) Upon undergoing a change of name that does not affect ownership or control of the project, the project sponsor must request a reissuance of the project's approval by the Executive Director within 90 days from the date of the change.

#### Subpart B—Application Procedure

■ 4. Amend § 806.14 by revising paragraph (a) introductory text and adding paragraph (d) to read as follows:

##### § 806.14 Contents of applications.

(a) Except with respect to applications to renew an existing Commission approval, applications for minor modifications, and Notices of Intent for approvals by rule and general permits, applications shall include, but not be limited to, the following information and, where applicable, shall be submitted on forms and in the manner prescribed by the Commission. Renewal applications shall include such information that the Commission determines to be necessary for the review of same, shall be subject to the standards set forth in subpart C of this part, and shall likewise be submitted on

forms and in the manner prescribed by the Commission.

\* \* \* \* \*

(d) Applications for minor modifications must be complete and will be on a form and in a manner prescribed by the Commission.

Applications for minor modifications must contain the following:

- (1) Description of the project;
- (2) Description of all sources, consumptive uses and diversions related to the project;
- (3) Description of the requested modification;
- (4) Statement of the need for the requested modification;
- (5) Demonstration that the anticipated impact of the requested modification will not adversely impact the water resources of the basin; and
- (6) Any other information that the Commission or Executive Director deems necessary.

■ 5. Amend § 806.15 by revising paragraph (a) and adding paragraphs (h) and (i) to read as follows:

##### § 806.15 Notice of application.

(a) Except with respect to paragraphs (h) and (i) of this section, any project sponsor submitting an application to the Commission shall provide notice thereof to the appropriate agency of the member State, each municipality in which the project is located, and the county planning agency of each county in which the project is located. The project sponsor shall also publish notice of submission of the application at least once in a newspaper of general circulation serving the area in which the project is located. The project sponsor shall also meet any of the notice requirements set forth in paragraphs (b) through (f) of this section, if applicable. All notices required under this section shall be provided or published no later than 20 days after submission of the application to the Commission and shall contain a description of the project, its purpose, the requested quantity of water to be withdrawn, obtained from sources other than withdrawals, or consumptively used, and the address, electronic mail address, and phone number of the project sponsor and the Commission. All such notices shall be in a form and manner as prescribed by the Commission.

\* \* \* \* \*

(h) For Notices of Intent (NOI) seeking coverage under a general permit, the project sponsor shall provide the NOI to the appropriate agency of the member State and each municipality and county planning agency in which the project is located and any additional notice identified in the general permit.

(i) For applications for minor modifications, the project sponsor shall provide notice of the application to the appropriate agency of the member State and each municipality and county planning agency in which the project is located.

■ 6. Add § 806.17 to read as follows:

##### § 806.17 General permits.

(a) *Coverage and purpose.* The Commission may issue a general permit, in lieu of issuing individual approvals, for a specifically described category of diversions, water withdrawals and consumptive uses that:

- (1) Involve the same or substantially similar types of operations or activities;
- (2) Require the same limitations or operating conditions, or both;
- (3) Require the same or similar monitoring and reporting; and
- (4) Will result in minimal adverse impacts consistent with §§ 806.21 through 806.24.

(b) *Procedure for issuance.* (1) At least 30 days prior to the issuance of a general permit, the Commission shall publish notice in the **Federal Register** and the member jurisdiction administrative bulletins of the intent to issue a general permit.

(2) At least 30 days shall be provided for interested members of the public and Federal, State and local agencies to provide written comments on a proposed general permit.

(3) The Commission or Executive Director may, in its discretion, hold a public hearing on a proposed general permit, taking into account the level of public interest and likelihood of controversy.

(4) The issuance of a general permit adopted by the Commission will be published in the **Federal Register** and the member jurisdiction administrative bulletins. This notice shall set forth the effective date of the general permit.

(c) *Administration of general permits.* General permits may be issued, amended, suspended, revoked, reissued or terminated under this section.

(1) Any general permit issued under this section shall set forth the applicability of the permit and the conditions that apply to any diversion, withdrawal or consumptive use authorized by such general permit.

(2) The Commission may fix a term to any general permit issued.

(3) A project sponsor shall obtain permission to divert, withdraw or consumptively use water in accordance with a general permit by filing a Notice of Intent (NOI) with the Commission, in a form and manner determined by the Commission.

(4) Approval of coverage under a general permit shall be determined by the Executive Director or by any other manner that the Commission shall establish for any general permit.

(5) The Commission may set a fee for NOIs to any general permit.

(6) A project sponsor shall provide notice for NOIs in accordance with § 806.15(h) and any additional notice requirements that the Commission may adopt for any general permit.

(7) The requirements of § 806.16 apply to the review of NOIs to any general permit.

(8) Upon reissuance or amendment of a general permit, all project sponsors permitted to divert, withdraw or consumptively use water in accordance with the previous general permit shall be permitted to continue to operate with the renewed or modified general permit unless otherwise notified by the Commission.

(9) Notice of receipt of NOIs shall be published on the Commission's Web site and in any other manner that the Commission shall establish for any general permit.

(d) *Denial of coverage.* The Executive Director will deny or revoke coverage under a general permit when one or more of the following conditions exist:

(1) The project or project sponsor does not or can no longer meet the criteria for coverage under a general permit.

(2) The diversion, withdrawal or consumptive use, individually or in combination with other similar Commission regulated activities, is causing or has the potential to cause adverse impacts to water resources or competing water users.

(3) The project does not comport with § 806.21(a) or (b).

(4) The project includes other diversions, withdrawals or consumptive uses that require an individual approval and the issuance of both an individual approval and a general permit for the project would constitute an undue administrative burden on the Commission.

(5) The Executive Director determines that a project cannot be effectively regulated under a general permit and is more effectively regulated under an individual approval.

(e) *Requiring an individual approval.* If coverage is denied or revoked under paragraph (d) of this section, the project sponsor shall be notified in writing. The notice will include a brief statement for the reasons for the decision. If coverage under a general permit was previously granted, the notice will also include a deadline for submission of an application for an individual approval. Timely submission of a complete

application will result in continuation of coverage of the applicable withdrawal, consumptive use or diversion under the general permit, until the Commission takes final action on the pending individual approval application.

(f) *Action of the Commission.* Action by the Executive Director denying or revoking coverage under a general permit under paragraph (d) of this section, or requiring an individual approval under paragraph (e) of this section, is not a final action of the Commission until the project sponsor submits and the Commission takes final action on an individual approval application.

■ 7. Add § 806.18 to read as follows:

**§ 806.18 Approval modifications.**

(a) *General.* A project sponsor shall submit an application for modification of a current approval prior to making a change in the design, operational plans, or use as presented in the application upon which the approval was originally issued, and that will affect the terms and conditions of the current approval.

(b) *Applications for modification.* A project sponsor may apply for a modification of a current approval by submitting an application for modification to the Commission.

(c) *Minor modifications.* The following are minor modifications:

(1) Correction of typographical errors;

(2) Changes to monitoring or metering conditions;

(3) Addition of sources of water for consumptive use;

(4) Changes to the authorized water uses;

(5) Changes to conditions setting a schedule for developing, implementing, and/or reporting on monitoring, data collection and analyses;

(6) Changes to the design of intakes;

(7) Increases to total system limits that were established based on the projected demand of the project; and

(8) Modifications of extraction well network used for groundwater remediation systems.

(d) *Major modifications.* Major modifications are changes not considered to be minor modifications. Major modifications may include, but are not limited to:

(1) Increases in the quantity of water withdrawals, consumptive uses or diversions;

(2) Increases to peak day consumptive water use;

(3) Increases to the instantaneous withdrawal rate or changes from a single withdrawal rate to a varied withdrawal rate;

(4) Changes affecting passby flow requirements; and

(5) Changes that have the potential for adverse impacts to water resources or competing water users.

(e) *Notice and approval.* (1) Applications for modifications are subject to the notice requirements of § 806.15.

(2) The Commission or Executive Director may approve, approve with conditions or deny an application for minor modification, or direct that an application for major modification be made.

(3) The Commission may approve, approve with conditions or deny an application for major modification.

Dated: December 7, 2015.

**Stephanie L. Richardson,**

*Secretary to the Commission.*

[FR Doc. 2015-31174 Filed 12-10-15; 8:45 am]

**BILLING CODE 7040-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 73**

[Docket No. FDA-2015-C-1154]

**Listing of Color Additives Exempt From Certification; Mica-Based Pearlescent Pigments; Confirmation of Effective Date**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA or we) is confirming the effective date of November 2, 2015, for the final rule that appeared in the **Federal Register** of September 30, 2015, and that amended the color additive regulations to provide for the safe use of mica-based pearlescent pigments prepared from titanium dioxide and mica as a color additive in certain distilled spirits.

**DATES:** Effective date of final rule published in the **Federal Register** of September 30, 2015 (80 FR 58600), confirmed: November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Salome Bhagan, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 240-402-3041.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 30, 2015 (80 FR 58600), we amended the color additive regulations in § 73.350 Mica-based pearlescent pigments (21 CFR

73.350) to increase the maximum permitted alcohol content of distilled spirits to which mica-based pearlescent pigments may be added from 23 percent to 25 percent alcohol by volume, and to remove the current limitation for distilled spirits mixtures containing more than 5 percent wine on a proof gallon basis.

We gave interested persons until October 30, 2015, to file objections or requests for a hearing. We received no objections or requests for a hearing on the final rule. Therefore, we find that the effective date of the final rule that published in the **Federal Register** of September 30, 2015, should be confirmed.

#### List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, we are giving notice that no objections or requests for a hearing were filed in response to the September 30, 2015, final rule. Accordingly, the amendments issued thereby became effective November 2, 2015.

Dated: December 4, 2015.

**Susan Bernard,**

*Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.*

[FR Doc. 2015-31232 Filed 12-10-15; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2015-1016]

#### Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the San Diego Parade of Lights special local regulations on Sunday, December 13, 2015 and Sunday, December 20, 2015. This event occurs in north San Diego Bay in San Diego, CA. These special local regulations are necessary to

provide for the safety of the participants, crew, spectators, sponsor safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

**DATES:** The regulations for the marine event listed in 33 CFR 100.1101, Table 1, Item 5, will be enforced from 5:30 p.m. to 8:30 p.m. on Sunday, December 13, 2015 and Sunday, December 20, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email Petty Officer Randolph Pahilanga, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7656, email [D11MarineEventsSD@uscg.mil](mailto:D11MarineEventsSD@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 in support of the San Diego Parade of Lights (Item 5 on Table 1 of 33 CFR 100.1101). The Coast Guard will enforce the special local regulations in the San Diego Bay in San Diego, CA from 5:30 p.m. to 8:30 p.m. on Sunday, December 13, 2015 and Sunday, December 20, 2015.

Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in patrol and notification of this regulation.

This document is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1101. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: November 24, 2015.

**J.S. Spaner,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2015-31267 Filed 12-10-15; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2015-0974]

#### Drawbridge Operation Regulation; Des Allemands Bayou, Des Allemands, LA

**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 Northern Santa Fe Railroad swing span drawbridge across Des Allemands Bayou, mile 14.0, at Des Allemands, St. Charles and Lafourche Parishes, Louisiana. This deviation is necessary to perform two extensive rest pier rehabilitations to the bridge. This deviation allows the bridge to remain in its closed-to-navigation position for three eight-hour periods during three consecutive days on two separate occasions.

**DATES:** This deviation is effective from 7 a.m. on January 13, 2016 through 3 p.m. on January 22, 2016.

**ADDRESSES:** The docket for this deviation, [USCG-2015-0974] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Donna Gagliano, Bridge Specialist, Coast Guard; telephone 504-671-2128, email [Donna.Gagliano@uscg.mil](mailto:Donna.Gagliano@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Burlington Northern Santa Fe Railroad swing span drawbridge across Des Allemands Bayou, mile 14.0, at Des Allemands, St. Charles and Lafourche Parishes, Louisiana, has a vertical clearance of three feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position.

The draw currently operates under 33 CFR 117.440(b). For purposes of this deviation, the bridge will not be required to open from 7 a.m. to 3 p.m.

daily for two three-day periods, occurring January 13 through 15, and daily January 20 through 22, 2016. At all other times, the bridge will operate in accordance with 33 CFR 117.440(b).

The Burlington Northern Santa Fe Railroad requested a temporary deviation for the operation of the drawbridge to accommodate rehabilitation work involving rest pivot piers and swing span change out, an extensive but necessary maintenance operation. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational crafts.

The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units and determined that this closure will not have a significant effect on vessel traffic.

During this deviation for bridge rehabilitation, vessels will not be allowed to pass through the bridge during the eight-hour closures each day as stated above. Many of the vessels that currently require an opening of the draw will be able to pass using the opposite channel from 3 p.m. to 7 a.m. when the deviations are not in effect. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways 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 7, 2015.

**David M. Frank,**

*Bridge Administrator, Eighth Coast Guard District.*

[FR Doc. 2015-31297 Filed 12-10-15; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2015-0530; FRL-9939-99-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Maryland's Negative Declaration for the Automobile and Light-Duty Truck Assembly Coatings Control Techniques Guidelines

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to a negative declaration for the Automobile and Light-Duty Truck Assembly Coatings Control Techniques Guidelines (CTG). EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

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

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2015-0530. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, 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 through [www.regulations.gov](http://www.regulations.gov) or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by email at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT), for

sources of emissions. Section 182(b)(2)(A) provides that for certain ozone nonattainment areas, states must revise their SIP to include RACT for sources of volatile organic compound (VOC) emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. EPA defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." 44 FR 53761 (September 17, 1979).

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOCs from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOCs, which contribute to ozone levels, in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances.

In 1977, EPA published a CTG for automobile and light-duty truck assembly coatings. After reviewing the 1977 CTG for this industry, conducting a review of currently existing state and local VOC emission reduction approaches for this industry, and taking into account any information that has become available since then, EPA developed a new CTG entitled *Control Techniques Guidelines for Automobile and Light-duty Assembly Coatings* (Publication No. EPA 453/R-08-006; September 2008).

States can follow the CTG and adopt state regulations to implement the recommendations contained therein. Alternatively, states can adopt a negative declaration documenting that there are no sources or emitting facilities within the state to which the CTG is applicable. The negative declaration must go through the same public review process as any other SIP submittal.

##### II. Summary of SIP Revision

On July 15, 2015, EPA received from the Maryland Department of the Environment (MDE) a SIP revision (#15-03), dated June 25, 2015, concerning a negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG. MDE stated that the state previously had one source to which this CTG was applicable;

however, the source had permanently shut down and dismantled all their equipment as of September 2005. EPA reviewed an inspection report provided by MDE indicating that the sole source to which this CTG would have been applicable did indeed permanently shut down in 2005. Additionally, EPA conducted an internet search of key terms relevant to the Automobile and Light-Duty Truck Assembly Coatings CTG and confirmed that there are no sources or emitting facilities in the State of Maryland to which this CTG is applicable. On October 6, 2015 (80 FR 60318), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland proposing approval of the negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG. No public comments were received on the NPR.

### III. Final Action

EPA is approving the Maryland SIP revision concerning the negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG, which was submitted on June 25, 2015, as a revision to the Maryland SIP in accordance with sections 172 (c), 182 (b), and 183 (e) of the CAA.

### IV. Statutory and Executive Order Reviews

#### A. General Requirements

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action concerning Maryland's negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: November 25, 2015.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart V—Maryland

In § 52.1070, the table in paragraph (e) is amended by adding the entry, "Negative Declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG," at the end of the table to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*  
(e)\* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA Approval date	Additional explanation
Negative Declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG.	Statewide .....	6/25/15	12/11/15 [ <i>Insert Federal Register citation</i> ].	

[FR Doc. 2015-31203 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2015-0563; FRL-9939-80-Region 5]

#### Air Plan Approval; Minnesota; Transportation Conformity Procedures

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision for carbon monoxide (CO), submitted by the State of Minnesota on July 16, 2015. The purpose of this revision is to establish transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

**DATES:** This direct final rule will be effective February 9, 2016, unless EPA receives adverse comments by January 11, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0563, by one of the following methods:

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

2. *Email*: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

3. *Fax*: (312) 692-2450.

4. *Mail*: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR 18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR 18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago,

Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2015-0563. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the 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 Michael Leslie, Environmental Engineer, at (312) 353-6680 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR 18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, [leslie.michael@epa.gov](mailto:leslie.michael@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 for this action?
- II. What is EPA's analysis of Minnesota's SIP revision?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

#### I. What is the background for this action?

Transportation conformity is required under section 176(c) of the Clean Air Act (Act) to ensure that transportation planning activities are consistent with ("conform to") air quality planning goals in nonattainment/maintenance areas. The transportation conformity regulation is found in 40 CFR 93 and provisions related to transportation conformity SIPs are found in 40 CFR 51.390. Transportation conformity applies to areas that are designated nonattainment or maintenance for the following transportation related criteria pollutants: Ozone, particulate matter, CO, and nitrogen dioxide. The Minneapolis-St. Paul area is currently maintenance for CO.



EPA originally promulgated the Federal transportation conformity criteria and procedures (“Transportation Conformity Rule”) on November 24, 1993 (58 FR 62188). On August 10, 2005, the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA–LU) was signed into law. SAFETEA–LU revised section 176(c) of the Act transportation conformity provisions. SAFETEA–LU streamlined the requirements for conformity SIPs. Under SAFETEA–LU, States are required to address and tailor only three sections of the rules in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and, 40 CFR 93.125(c). 40 CFR 93.105 addresses consultation procedures for conformity. 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), addresses written commitments from project implementers of transportation control measures. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule.

## II. What is EPA’s analysis of Minnesota’s SIP revision?

A conformity SIP can be adopted as a state rule, as a memorandum of understanding, or a memorandum of agreement (MOA). The appropriate form of the state conformity procedures depends upon the requirements of local or State law, as long as the selected form complies with all requirements used by the ACT for adoption, submission to EPA, and implementation of SIPs. EPA will accept state conformity SIPs in any form provided the state can demonstrate to EPA’s satisfaction that, as a matter of state law, the state has adequate authority to compel compliance with the requirements of the conformity SIP.

Minnesota concluded that this SIP revision in the form of a MOA will be enforceable through a number of Minnesota statutes. These statutes authorize state agencies to enter into legally binding cooperative contracts for the receipt or furnishing of services. In this case, these services relate to the transportation/air quality planning process in Minnesota. Minnesota collaborated with the Minnesota Department of Transportation (MNDOT), the EPA, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Metropolitan Council, and the Metropolitan Interstate Council, to develop the Transportation Conformity MOA. This MOA was agreed upon and signed by all of the above consultation parties.

EPA has evaluated this SIP submission and finds that the state has addressed the requirements of the

Federal transportation conformity rule as described in 40 CFR 51.390 and 40 CFR part 93, subpart A. The transportation conformity rule requires the states to develop their own processes and procedures for interagency consultation and resolution of conflicts meeting the criteria in 40 CFR 93.105. The SIP revision includes processes and procedures to be followed by the Metropolitan Planning Organizations (MPOs), the Minnesota Department of Transportation (MNDOT), the FHWA and the FTA, in consultation with the state and local air quality agencies and EPA before making transportation conformity determinations. Minnesota’s transportation conformity SIP also included processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with the MPOs, the state Department of Transportation (DOT), and the U.S. DOT, and requires written commitments to control measures and mitigation measures (40 CFR 93.122(a)(4)(ii) and 93.125(c)).

EPA’s review of the Minnesota SIP revision indicates that it is consistent with the Act as amended by SAFETEA–LU and EPA regulations (40 CFR part 93 subpart A and 40 CFR 51.390) governing state procedures for transportation conformity and interagency consultation and therefore EPA has concluded that the submittal is approvable.

## III. What action is EPA taking?

EPA is approving a SIP revision submitted by the State of Minnesota, for the purpose of establishing transportation conformity criteria and procedures related to interagency consultation, and enforceable commitments to implement transportation related control and mitigation measures.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective February 9, 2016 without further notice unless we receive relevant adverse written comments by January 11, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will

not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective February 9, 2016.

## IV. Statutory and Executive Order Reviews

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

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

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

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 52.1237 is amended by adding paragraph (f) to read as follows:

#### § 52.1237 Control strategy: Carbon monoxide.

\* \* \* \* \*

(f) Approval—On July 16, 2015, the State of Minnesota submitted a revision to their Particulate Matter State Implementation Plan. The submittal establishes transportation conformity criteria and procedures related to interagency consultation, and the enforceability of certain transportation related control and mitigation measures.

[FR Doc. 2015–31075 Filed 12–10–15; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA–R04–OAR–2015–0298; FRL–9939–66–Region 4]

#### Air Plan Approval and Air Quality Designation; SC; Redesignation of the Charlotte-Rock Hill, 2008 8-Hour Ozone Nonattainment Area to Attainment

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking three separate final actions related to a state implementation plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on April 17, 2015. These final actions are for the York County, South Carolina portion of the bi-state Charlotte-Rock Hill, North Carolina-South Carolina 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (the entire area is hereinafter referred to as the "bi-State Charlotte Area" or "Area" and the South Carolina portion is hereinafter referred to as the "York County Area"). In these three final actions, EPA determines that the bi-state Charlotte

Area is continuing to attain the 2008 8-hour ozone NAAQS; approves and incorporates South Carolina's plan for maintaining attainment of the 2008 8-hour ozone standard in the York County Area, including the 2014 and 2026 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for the York County Area, into the SIP; and redesignates the York County Area to attainment for the 2008 8-hour ozone NAAQS. Additionally, EPA finds the 2014 and 2026 MVEBs for the York County Area adequate for the purposes of transportation conformity.

**DATES:** This rule will be effective January 11, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0298. 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 may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute.

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

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mrs. Sheckler may be reached by phone at (404) 562–9992 or via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background for Final Actions

On May 21, 2012 (77 FR 30088), EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS that was promulgated on March 27, 2008 (73 FR

16436). The bi-state Charlotte Area was designated as nonattainment for the 2008 8-hour ozone NAAQS and classified as a marginal nonattainment area. The bi-state Charlotte Area consists of York County, South Carolina, within the Rock Hill Fort Hill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO); Mecklenburg County, North Carolina; and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties in North Carolina. EPA previously addressed North Carolina's request to redesignate the North Carolina portion of the Area and its maintenance plan for the 2008 8-hour ozone NAAQS in a separate rulemaking. See 80 FR 44873 (July 28, 2015).

On April 17, 2015, SC DHEC requested that EPA redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS and submitted a SIP revision containing the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area,

including the 2014 and 2026 MVEBs for NO<sub>x</sub> and VOC for the York County Area. In a notice of proposed rulemaking (NPR) published on October 14, 2015, EPA proposed to determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; to approve and incorporate into the South Carolina SIP the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the 2014 and 2026 MVEBs for NO<sub>x</sub> and VOC for the South Carolina portion of the bi-state Charlotte Area; and to redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. See 80 FR 61775. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO<sub>x</sub> and VOC MVEBs for the South Carolina portion of the bi-state Charlotte Area. No comments were received. The details of South Carolina's submittal and the rationale for EPA's actions are further explained in the NPR. See 80 FR 61775 (October 14, 2015).

**II. What are the effects of these actions?**

Approval of South Carolina's redesignation request changes the legal designation of York County in the South Carolina portion of the bi-state Charlotte Area, found at 40 CFR 81.341, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of South Carolina's associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 8-hour ozone NAAQS in the York County Area through 2026. The maintenance plan establishes NO<sub>x</sub> and VOC MVEBs for 2014 and 2026 for the York County Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The MVEBs, in kilograms per day (kg/day) for the South Carolina portion of the bi-state Charlotte Area along with the allocations from the safety margin, are provided in the table below.<sup>1</sup>

**YORK COUNTY AREA MVEBS**  
[kg/day]

	2014		2026	
	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC
Base Emissions .....	9,112	3,566	3,076	1,576
Safety Margin Allocated to MVEB .....			6,922	1,379
Conformity MVEB .....	9,112	3,566	9,998	2,955

**III. Final Actions**

EPA is taking three separate final actions regarding the York County Area's redesignation to attainment and maintenance of the 2008 8-hour ozone NAAQS. First, EPA is determining that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS.

Second, EPA is approving and incorporating the maintenance plan for the York County Area, including the NO<sub>x</sub> and VOC MVEBs for 2014 and 2026, into the South Carolina SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5).

Third, EPA is determining that South Carolina has met the criteria under CAA section 107(d)(3)(E) for the York County Area for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is approving South

Carolina's redesignation request for the 2008 8-hour ozone NAAQS for the York County Area. As mentioned above, approval of the redesignation request changes the official designation of York County in the South Carolina portion of the bi-state Charlotte Area for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that EPA finds the newly-established NO<sub>x</sub> and VOC MVEBs for the York County Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners will need to demonstrate conformity to the new NO<sub>x</sub> and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA or Act), redesignation of an area to attainment and the accompanying

approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state or Federal law. For these reasons, these actions:

<sup>1</sup> South Carolina has chosen to allocate a portion of the available safety margin to the NO<sub>x</sub> and VOC

MVEBs for 2026. SC DEHC has allocated 7.63 tons

per day (tpd) (6,922 kg/day) to the 2026 NO<sub>x</sub> MVEB and 1.52 tpd (1,379 kg/day) to the 2026 VOC MVEB.

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

In addition, this action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the

Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, because no tribal lands are located within the South Carolina portion of the Area, this action is not approving any specific state requirement into the SIP that would apply to Tribal lands. Therefore, EPA has determined that this rule does not have substantial direct effects on an Indian Tribe. EPA notes today’s action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects**

*40 CFR Part 52*

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

*40 CFR Part 81*

Environmental protection, Air pollution control.

Dated: November 25, 2015.

**Heather McTeer Toney**,  
Regional Administrator, Region 4.

40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart PP—South Carolina**

■ 2. Section 52.2120(e) is amended by adding a new entry for “2008 8-hour ozone Maintenance Plan for the York County, South Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

**§ 52.2120 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA Approval date	Explanation
* * * * *			
2008 8-hour ozone Maintenance Plan for the York County, South Carolina portion of the bi-state Charlotte Area.	4/17/2015	12/11/2015 [Insert citation of publication]	* * * * *

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.341, the table entitled “South Carolina-2008 8-Hour Ozone NAAQS (Primary and secondary)” is amended by revising the entries for

“Charlotte-Rock Hill, NC-SC”, “York County (part)” and “Portion along MPO lines” to read as follows:

**§ 81.341 South Carolina.**  
\* \* \* \* \*

SOUTH CAROLINA—2008 8-HOUR OZONE NAAQS  
[Primary and secondary]

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Charlotte-Rock Hill, NC—SC: <sup>2</sup> York County (part) Portion along MPO lines.	This action is effective 12/11/2015.	Attainment.		
*	*	*	*	*

<sup>1</sup> This date is July 20, 2012, unless otherwise noted.

<sup>2</sup> Excludes Indian country located in each area, unless otherwise noted.

<sup>3</sup> Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

<sup>4</sup> Includes any Indian country in each county or area, unless otherwise specified.

\* \* \* \* \*

[FR Doc. 2015-30920 Filed 12-10-15; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the Secretary**

**45 CFR Part 170**

RIN 0991-AB93

**2015 Edition Health Information Technology (Health IT) Certification Criteria, 2015 Edition Base Electronic Health Record (EHR) Definition, and ONC Health IT Certification Program Modifications; Corrections and Clarifications**

**AGENCY:** Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services (HHS).

**ACTION:** Final rule; corrections and clarifications.

**SUMMARY:** This document corrects errors and clarifies provisions of the final rule entitled “2015 Edition Health Information Technology (Health IT) Certification Criteria, 2015 Edition Base Electronic Health Record (EHR) Definition, and ONC Health IT Certification Program Modifications.”

**DATES:** This correction is effective January 14, 2016. The final rule appeared in the **Federal Register** on October 16, 2015 (80 FR 62602), and is effective on January 14, 2016, except for § 170.523(m) and (n), which are effective on April 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Michael Lipinski, Office of Policy, National Coordinator for Health Information Technology, 202-690-7151.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Following the publication of **Federal Register** document 2015-25597 of October 16, 2015 (80 FR 62602), final rule entitled “2015 Edition Health Information Technology (Health IT) Certification Criteria, 2015 Edition Base Electronic Health Record (EHR) Definition, and ONC Health IT Certification Program Modifications” (hereinafter referred to as the 2015 Edition final rule), we identified a number of errors in the final rule. We summarize and correct these errors in the “Summary of Errors” and “Corrections of Errors” sections below.

We also clarify requirements of the Common Clinical Data Set (CCDS), the privacy and security certification framework, and the mandatory disclosures for health IT developers in the “Clarifications” section below.

**II. Summary of Errors**

*A. Preamble Errors*

1. “Audit Report(s)” Certification Criterion

We incorrectly identified the adopted 2015 Edition “audit report(s)” certification criterion throughout the preamble as “unchanged” and eligible for gap certification. More specifically, we identified it incorrectly:

a. On page 62609, under Table 2 (“2015 Edition Health IT Certification Criteria”), as an unchanged criterion compared to the 2014 Edition and gap certification eligible.

b. On page 62656, second column, in the “Response” under “Audit Report(s),” as adopted as proposed (*i.e.*, “unchanged”).

c. On page 62681, under Table 6 (“Gap Certification Eligibility for 2015 Edition Health IT Certification Criteria”), as eligible for gap certification.

We adopted the standard at § 170.210(e) as revised to include the auditing of changes to user privileges in paragraph (e)(1)(i). The adopted 2015 Edition “audit report(s)” certification criterion references this standard. Therefore, it is a “revised” certification criterion as compared to the 2014 Edition “audit report(s)” certification criterion and ineligible for gap certification.

2. “Integrity” Certification Criterion

On page 62657, third column, third paragraph, the last sentence incorrectly references SHA-1. The commenters’ statements were specific to SHA-2.

3. “Accounting of Disclosures” Certification Criterion

On page 62658, first column, mid-page, within the 2015 Edition “accounting of disclosures” certification criterion table, we inadvertently referenced the criterion as codified in 45 CFR 170.315(d)(10), when in fact it was codified in 45 CFR 170.315(d)(11). We note that the 2015 Edition “auditing actions on health information” certification criterion was codified in 45 CFR 170.315(d)(10).

4. “Transmission to Public Health Agencies—Antimicrobial Use and Resistance Reporting” Certification Criterion

On page 62668, third column, lines 2 and 3, there was a parenthetical error stating that we adopted the “transmission to public health agencies—antimicrobial use and resistance reporting” certification criterion as proposed (with both Volumes 1 and 2 of the HAI IG). The parenthetical is corrected to not reference volumes of the HL 7 Implementation Guide for CDA® Release 2—Level 3: Healthcare Associated Infection Reports, Release 1

(U.S. Realm), August 9, 2013 (HAI IG). This adopted version of the HAI IG does not contain multiple volumes. Further, the adopted version of the implementation guide was incorporated by reference in § 170.299(f)(26).

#### 5. Common Clinical Data Set—Assessment and Plan of Treatment, Goals, and Health Concerns

On page 62696, second column, lines 8–14, we did not clearly indicate that only the narrative parts of the “Goals Section” and “Health Concerns Section” needed to be met in order to meet the CCDS definition. We refer readers to section III.A (“*Common Clinical Data Set*”) below for further clarification of these CCDS requirements.

#### B. Regulation Text Errors

##### 1. 2015 Edition Base EHR Definition

On page 62742, first column, line 16 (§ 170.102), we inadvertently made an error in the 2015 Edition Base EHR definition by citing to § 170.315(a)(15) instead of § 170.315(a)(14). As discussed on pages 62625, 62630, 62691 and identified on page 62692 (Table 7), we included the “implantable device list” certification criterion (§ 170.315(a)(14)) in the 2015 Edition Base EHR definition as we proposed (80 FR 16806, 16825, 16870–16871). We did not propose to include nor intend to include the “social, psychological, and behavioral data” certification criterion (§ 170.315(a)(15)) in the 2015 Edition Base EHR definition.

##### 2. Sexual Orientation Code

On page 62744, third column, line 24 (§ 170.207(o)(1)(ii)), the code (20730005) attributed to “straight or heterosexual” was inaccurate. The correct code is 20430005 (emphasis added).

##### 3. “Implantable Device List” Certification Criterion

On page 62748, third column, line 1 (§ 170.315(a)(14)), we inadvertently omitted the word “and” at the end of the line. On the same page and column, line 42, we inadvertently added the word “and” when the “and” should have been at the end of line 47. On the same page and column, line 59, we inadvertently omitted the word “and” at the end of the line.

##### 4. “Data Export” Certification Criterion

On page 62750, third column, line 63, we inaccurately cross-referenced paragraphs (ii) through (v) of the “data export” certification criterion (§ 170.315(b)(6)), when the cross-reference should have only been to paragraphs (iii) and (iv). Paragraph (v)

should not have been referenced because there are only four paragraphs, ending with paragraph (iv). Paragraph (ii) should not have been cross-referenced because paragraph (ii) no longer includes a configuration capability that could be enabled. The configuration capability included in paragraph (ii) was intended to support user selection among the multiple document templates we proposed for inclusion in paragraph (ii) of this certification criterion. In the final rule, however, we only included the Continuity of Care Document (CCD) document template in paragraph (ii). Therefore, a configuration capability for selecting among document templates is no longer applicable and both the cross-reference to paragraph (ii) and the inclusion of configuration language in paragraph (ii) on page 62751, first column, lines 10–11, are incorrect. In terms of the configuration language in paragraph (ii), more specifically the inclusion of “configuration” in the paragraph title is an error as is the inclusion of the capability to “configure the technology” in the first sentence.

##### 5. “Clinical Quality Measures—Filter” Certification Criterion

###### a. Patient Insurance Standard

On page 62751, third column, line 22, we inadvertently included “at a minimum” language for the required patient insurance standard. The standard (Source of Payment Typology Code Set Version 5.0 (October 2011)) was adopted at § 170.207(s)(1), but we did not adopt this standard as a “minimum standards” code set (see 80 FR 62612).

###### b. Patient Sex Standard

On page 62751, third column, lines 25–26, we inadvertently included “at a minimum” language for the required patient sex standard. The standard for representing sex is the use of specific HL7 Version 3 codes and was adopted at § 170.207(m)(1). We did not adopt this standard as a “minimum standards” code set (see 80 FR 62612).

##### 6. “View, Download, and Transmit to 3rd Party” (VDT) Certification Criterion

On page 62753, first column, lines 37 and 55 (§ 170.315(e)(1)(ii)), we inadvertently omitted references for a patient’s authorized representative to have access to the specified capabilities related to the activity history log under the VDT certification criterion. As discussed on page 62658 and consistent with references throughout the VDT criterion, a patient’s authorized representative access to these

capabilities is the same as the patient for the purposes of testing and certification.

##### 7. “Consolidated CDA Creation Performance” Certification Criterion

On page 62754, second column, lines 42–46 (§ 170.315(g)(6)(ii)), we inadvertently included a sentence stating that the scope of this certification criterion will not exceed the evaluation of the CCD, Referral Note, and Discharge Summary document templates. This statement is inconsistent with the preamble guidance of the final rule on page 62674, which states that we have required that Consolidated CDA (C–CDA) creation performance be demonstrated for the C–CDA Release 2.1 document templates required by the 2015 Edition certification criteria presented for certification. Certification to some criteria (e.g., the “transitions of care” criterion) requires three C–CDA document templates whereas other criteria (e.g., the “care plan” criterion) only requires one C–CDA document template. To further illustrate, if a Health IT Module only included the “view, download, and transmit to 3rd party” certification criterion (§ 170.315(e)(1)) within its certificate’s scope, then only the Continuity of Care Document (CCD) document template would be applicable within the “C–CDA creation performance” criterion. Conversely, if a Health IT Module designed for the inpatient setting included the “transitions of care” certification criterion (§ 170.315(b)(1)) within its certificate’s scope, then all three document templates referenced by that criterion (CCD, Referral Note, and Discharge Summary) would need to be evaluated as part of the “C–CDA creation performance” criterion, with the Discharge Summary only applicable to the inpatient setting.

##### 8. “Direct Project” Certification Criterion

On page 62755, first column, lines 53 through 55 (§ 170.315(h)(1)(ii)), we inadvertently referenced the “Applicability Statement for Secure Health Transport” in the title for paragraph (ii) when it should have only been “Delivery Notification in Direct.”

##### 9. “Direct Project, Edge Protocol, and XDR/XDM” Certification Criterion

On page 62755, second column, lines 4 through 6 (§ 170.315(h)(2)(ii)), we again inadvertently referenced the “Applicability Statement for Secure Health Transport” in the title for paragraph (ii) when it should have only been “Delivery Notification in Direct.”

## 10. Principles of Proper Conduct for ONC-ACBs—Certified Health IT Mandatory Disclosures

### a. 2015 Edition Certified Health IT

On page 62756, third column, lines 35–36 (§ 170.523(k)(1)(ii)(A)), we inadvertently cross-referenced the wrong data from § 170.523(f)(1). We did not intend to cross-reference § 170.523(f)(1)(xvii) (certification to standards used to meet a certification criterion). The required data elements for disclosure were intended to be consistent across the editions. This data is not a required data element for the mandatory disclosures for health IT certified to the 2014 Edition. We did, however, intend to require the disclosure of § 170.523(f)(1)(xv) (certification to clinical quality measures), which was inadvertently omitted but consistent with the new and previous 2014 Edition disclosure requirements. We also refer readers to section III.C (“Mandatory Disclosures for 2015 Edition Certified Health IT”) below for a clarification related to the disclosure on information specified in § 170.523(f)(1)(viii).

### b. 2014 Edition Certified Health IT

On page 62756, third column, lines 42–43 (§ 170.523(k)(1)(ii)(B)), we inadvertently omitted cross-references to paragraphs (f)(2)(iii) (product version) and (vi) (any additional relied upon software used to demonstrate compliance with a certification criterion or criteria) of § 170.523. The parallel requirements were included in the required disclosures for health IT certified to the 2015 Edition and were previously required to be disclosed as part of certification to the 2014 Edition.

## 10. In-the-Field Surveillance and Maintenance of Certification for Health IT

### a. Exclusion and Exhaustion

On page 62758, third column, lines 4 and 10 (§ 170.556(c)(5)), we twice inadvertently cross-referenced paragraph (c)(3) of § 170.556 instead of paragraph (c)(4) of § 170.556. Paragraph (c)(4) includes the requirements for locations as they would apply to the “exclusion and exhaustion” requirements of paragraph (c)(5).

### b. Termination

On page 62759, second column, lines 23–24 (§ 170.556(d)(6)), we inadvertently included language suggesting that termination was limited to suspensions in the context of randomized surveillance. Consistent with the preamble discussion on pages 62716–62718, termination can follow

any suspension if the health IT developer has not completed the actions necessary to reinstate the suspended certification.

## III. Clarifications

### A. Common Clinical Data Set

In the final rule (§ 170.102), we define the CCDS to mean data *expressed*, where indicated, according to specified standards. For four data specified in the CCDS (Unique Device Identifier(s) for a Patient’s Implantable Device(s); Assessment and Plan of Treatment; Goals; and Health Concerns), we reference specific Consolidated Clinical Document Architecture (C-CDA) sections. Based on subsequent examination of this regulatory text and early interactions with stakeholders, we have determined that additional explanation of these references is necessary in order to ensure health IT developers accurately and consistently interpret and implement health IT functionality to our expressed regulatory requirements. In this regard, we seek to clarify two points.

First, we clarify that the references to these four specific C-CDA section templates is *not* meant to be strictly interpreted to mean that a health IT developer must use the C-CDA’s syntax for each referenced section. Such a strict interpretation would directly contradict the flexibility we have intentionally offered to health IT developers who seek to certify to the “application access—data category request” certification criterion adopted at 45 CFR 170.315(g)(8), which references the CCDS but does not bind health IT presented for certification to solely use the C-CDA to meet the criterion. To avoid stakeholders inadvertently following this overly strict interpretation, we clarify that the references to these C-CDA section templates was meant (like all of the other data listed in the CCDS) to emphasize that these data need to be consistently and independently represented as discrete data that are clearly distinguishable.

Second, we clarify for the Assessment and Plan of Treatment, Goals, and Health Concerns data that only the narrative part of the referenced C-CDA section templates is necessary and required in order to satisfy the CCDS. Further and in support of this clarification, testing and certification will focus on the presence of data represented consistent with just the narrative part of the referenced section templates. Similar to our points above, given that these section templates in the C-CDA have two parts (a narrative part

and coded requirements part for C-CDA), we believe that it is necessary to make this interpretation explicit so as to prevent health IT developers from over-interpreting this definition’s data requirements to include more data than we had intended.

### B. Privacy and Security Certification Framework—Approach 2

Under § 170.550(h)(4)(ii), a Health IT Module can meet applicable 2015 Edition privacy and security certification criterion by demonstrating, through system documentation that is sufficiently detailed to enable integration, that the Health IT Module has implemented service interfaces for each applicable privacy and security certification criterion that enable the Health IT Module to *access external services* necessary to meet the privacy and security certification criterion (also known as “Approach 2”). We clarify three points about Approach 2. First, we clarify that the term “access” includes, as applicable, bi-directional interfaces with external services. For example, system documentation could detail how integration establishes a bi-directional interface that meets the requirements of the 2015 Edition “audit report(s)” certification criterion. Second, external services simply mean services outside the scope of the Health IT Module being presented for certification. External services could be, but are not limited to, those provided by another certified Health IT Module, another software program such as Microsoft Active Directory, or a hospital enterprise-wide infrastructure. Third, a Health IT Module is *not required* to be paired with the other services for the purposes of certification (e.g., certified with another certified Health IT Module that performs the privacy and security capability or specifying the external services as “relied upon software”).

### C. Mandatory Disclosures for 2015 Edition Certified Health IT

We clarify that for compliance with § 170.523(k)(1)(ii)(A), the only information that must be disclosed to meet the data requirement specified in § 170.523(f)(1)(viii) is the certification criterion or criteria to which the Health IT Module has been certified. This is consistent with the disclosure requirements for certification to the 2014 Edition.

## IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section

553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

In our view, this correcting and clarifying document does not constitute a rulemaking that would be subject to the APA notice and comment requirements. This document corrects errors and clarifies provisions of the 2015 Edition final rule published on October 16, 2015. It does not make substantive changes to the policies that were adopted. As a result, this correcting document is intended to ensure that the final rule accurately reflects the policies adopted in that final rule.

In addition, even if this were a rulemaking to which the notice and comment requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment requirements.

## V. Corrections of Errors

### A. Preamble Corrections

1. On page 62609, correct Table 2 as follows:

a. Remove “Audit Report(s)” from the “Unchanged Criteria as Compared to the 2014 Edition (Gap Certification Eligible)” category and insert it with an asterisk (*i.e.*, Audit Report(s)\*) in the “Revised Criteria as Compared to the 2014 Edition” category after “Auditable Events and Tamper-Resistance.”

b. Revise the “Unchanged Criteria as Compared to the 2014 Edition (Gap Certification Eligible) (16)” title to “Unchanged Criteria as Compared to the 2014 Edition (Gap Certification Eligible) (15)”.

c. Revise the “Revised Criteria as Compared to the 2014 Edition (25)” title to “Revised Criteria as Compared to the 2014 Edition (26)”.

2. On page 62656, second column, in the “Response” under “Audit Report(s),” correct the first sentence to read “We have adopted this certification criterion as revised to support the audit

reporting of changes in user privileges consistent with the adopted 2015 Edition “auditable events and tamper resistance” certification criterion.”

3. On page 62657, third column, third paragraph, correct the last sentence to read “A few commenters requested that we wait until 2017 or 2018 to increase the standard to SHA-2.”

4. On page 62658, first column, mid-page, within the 2015 Edition “accounting of disclosures” certification criterion table, the citation is corrected to read “45 CFR 170.315(d)(11).”

5. On page 62668, third column, lines 2 and 3, correct the parenthetical to read “(with the HAI IG).”

6. On page 62681, Table 6, remove “(d)(3) Audit report(s)” from the “2015 Edition” column and “(d)(3) Audit report(s)” from the “2014 Edition” column.

7. On page 62696, second column, lines 8–14, correct the sentence to read “Thus, other C–CDA document templates such as CCD, Referral Note, and Discharge Summary would need to be able to exchange the narrative information from the “Goals Section” and “Health Concerns Section” in order to meet the Common Clinical Data Set definition.”

### B. Regulation Text Corrections

■ 1. On page 62742, first column, in § 170.102, in the definition of “2015 Edition Base EHR”, paragraph (3) is corrected to read as follows:

#### § 170.102 Definitions.

\* \* \* \* \*

2015 Edition Base EHR \* \* \*  
(3) Has been certified to the certification criteria adopted by the Secretary in § 170.315(a)(1), (2), or (3); (a)(5) through (9); (a)(11); (a)(14); (b)(1) and (6); (c)(1); (g)(7) through (9); and (h)(1) or (2);

\* \* \* \* \*

■ 2. On page 62744, third column, in § 170.207, paragraph (o)(1)(ii) is corrected to read as follows:

#### § 170.207 Vocabulary standards for representing electronic health information.

\* \* \* \* \*

(o) \* \* \*  
(1) \* \* \*  
(ii) *Straight or heterosexual.*  
20430005.

\* \* \* \* \*

■ 3. On pages 62748 through 62755, in § 170.315, paragraphs (a)(14)(ii)(A), (a)(14)(iv)(A) and (B), (a)(14)(v)(C), (b)(6)(i)(A), (b)(6)(ii) introductory text, (c)(4)(iii)(E) and (G), (e)(1)(ii)(A) introductory text, (e)(1)(ii)(B), (g)(6)(ii), (h)(1)(ii), and (h)(2)(ii) are corrected to read as follows:

#### § 170.315 2015 Edition health IT certification criteria.

\* \* \* \* \*

(a) \* \* \*  
(14) \* \* \*  
(ii) \* \* \*  
(A) Device Identifier; and

\* \* \* \* \*

(iv) \* \* \*  
(A) The active Unique Device Identifiers recorded for the patient;  
(B) For each active Unique Device Identifier recorded for a patient, the description of the implantable device specified by paragraph (a)(14)(iii)(A) of this section; and

\* \* \* \* \*

(v) \* \* \*  
(C) The identifiers associated with the Unique Device Identifier, as specified by paragraph (a)(14)(ii) of this section; and

\* \* \* \* \*

(b) \* \* \*  
(6) \* \* \*  
(i) \* \* \*

(A) Enable a user to set the configuration options specified in paragraphs (b)(6)(iii) and (iv) of this section when creating an export summary as well as a set of export summaries for patients whose information is stored in the technology. A user must be able to execute these capabilities at any time the user chooses and without subsequent developer assistance to operate.

\* \* \* \* \*

(ii) *Creation.* Enable a user to create export summaries formatted in accordance with the standard specified in § 170.205(a)(4) using the Continuity of Care Document document template that includes, at a minimum:

\* \* \* \* \*

(c) \* \* \*  
(4) \* \* \*  
(iii) \* \* \*

(E) Patient insurance in accordance with the standard specified in § 170.207(s)(1).

\* \* \* \* \*

(G) Patient sex in accordance with the version of the standard specified in § 170.207(n)(1).

\* \* \* \* \*

(e) \* \* \*  
(1) \* \* \*  
(ii) \* \* \*

(A) When any of the capabilities included in paragraphs (e)(1)(i)(A) through (C) of this section are used, the following information must be recorded and made accessible to the patient (or his/her authorized representative):

\* \* \* \* \*

(B) Technology presented for certification may demonstrate



compliance with paragraph (e)(1)(ii)(A) of this section if it is also certified to the certification criterion specified in § 170.315(d)(2) and the information required to be recorded in paragraph (e)(1)(ii)(A) of this section is accessible by the patient (or his/her authorized representative).

\* \* \* \* \*

(g) \* \* \*

(6) \* \* \*

(ii) *Document-template conformance.* Create a data file formatted in accordance with the standard adopted in § 170.205(a)(4) that demonstrates a valid implementation of each document template applicable to the certification criterion or criteria within the scope of the certificate sought.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(ii) *Delivery Notification in Direct.* Able to send and receive health information in accordance with the standard specified in § 170.202(e)(1).

\* \* \* \* \*

(2) \* \* \*

(ii) *Delivery Notification in Direct.* Able to send and receive health information in accordance with the standard specified in § 170.202(e)(1).

**§ 170.523 [Corrected]**

■ 4. In § 170.523—

■ a. On page 62756, third column, lines 35–36, paragraph (k)(1)(ii)(A), the reference “paragraphs (f)(1)(i), (vi), (vii), (viii), (xvi), and (xvii) of this section” is corrected to read “paragraphs (f)(1)(i), (vi), (vii), (viii), (xv), and (xvi) of this section”.

■ b. On page 62756, third column, lines 42–43, paragraph (k)(1)(ii)(B), the reference “paragraphs (f)(2)(i), (ii), (iv)–(v), and (vii) of this section” is corrected to read “paragraphs (f)(2)(i) through (vii) of this section”.

■ 5. In § 170.556—

■ a. On page 62758, third column, lines 4 and 10, paragraph (c)(5), correct the reference “paragraph (c)(3)” each time it appears to read “paragraph (c)(4)”.

■ b. On page 62759, second column, correct paragraph (d)(6) to read as follows:

**§ 170.556 In-the-field surveillance and maintenance of certification for Health IT.**

\* \* \* \* \*

(d) \* \* \*

(6) If a certified Complete EHR or certified Health IT Module’s certification has been suspended, an ONC–ACB is permitted to initiate certification termination procedures for the Complete EHR or Health IT Module (consistent with its accreditation to ISO/IEC 17065 and procedures for terminating a certification) when the developer has not completed the actions necessary to reinstate the suspended certification.

\* \* \* \* \*

Dated: December 7, 2015.

**Madhura Valverde,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2015–31255 Filed 12–10–15; 8:45 am]

**BILLING CODE 4150–45–P**

# Proposed Rules

Federal Register

Vol. 80, No. 238

Friday, December 11, 2015

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1205

[Doc. No. AMS–CN–14–0037]

#### Cotton Board Rules and Regulations: Amending Importer Line-Item De Minimis

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

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) proposes to amend the Cotton Board Rules and Regulations to remove the cotton import *de minimis* provision. The Cotton Research and Promotion (R&P) Program assesses U.S. cotton producers and importers of cotton and cotton-containing products. Importers are exempt from paying the cotton import assessment (known commonly among importers as the “cotton fee”) if a line item on U.S. Customs and Border Protection (CBP) documentation is \$2.00 or less. The exemption was initially established to lessen the administrative burden of collecting an import assessment, which was originally estimated to be \$2.00 per line item, in instances in which the transactions costs of the collection would exceed the actual value of the assessment. However, technological advances in the CBP documentation process significantly reduced the transactions costs associated with collecting import assessments, and CBP has since stopped charging USDA for the processing and collecting of assessments. Given that transactions costs no longer exceed assessment rates of \$2.00 or less, AMS proposes to remove this *de minimis* provision from the regulations. In addition, the definition of cotton with respect to procedures for conducting the sign-up period would also be modified.

**DATES:** Comments must be received on or before January 11, 2016.

**ADDRESSES:** Written comments may be submitted to the addresses specified below. All comments will be made available to the public. Please do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publically disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. Comments may be submitted anonymously.

Comments, identified by AMS–CN–14–0037, may be submitted electronically through the *Federal eRulemaking Portal* at <http://www.regulations.gov>. Please follow the instructions for submitting comments. In addition, comments may be submitted by *mail or hand delivery* to Cotton Research and Promotion Staff, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia, 22406. Written comments should be submitted in triplicate. All comments received will be made available for public inspection at Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia, 22406. A copy of this notice may be found at: [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Shethir M. Riva, Chief, Research and Promotion Staff, Cotton and Tobacco Program, AMS, 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:

##### A. Background

Amendments to the Cotton Research and Promotion Act (7 U.S.C. 2101–2118) (Act) were enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624, 104 stat. 3909, November 28, 1990). These amendments contained two provisions that authorize changes in the funding procedures for the Cotton Research and Promotion Program. These provisions provide for: (1) The assessment of imported cotton and cotton products; and (2) termination of refunds to cotton producers. (Prior to the 1990 amendments to the Act, producers could request assessment refunds.)

As amended, the Cotton Research and Promotion Order (7 CFR part 1205) (Order) was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181 and 57 FR 29431, respectively).

The total value of assessment levied on cotton imports is the sum of two parts. The first part of the assessment is based on the weight of cotton imported—levied at a rate of \$1 per bale of cotton, which is equivalent to 500 pounds, or \$1 per 226.8 kilograms of cotton. The second part of the import assessment (referred to as the supplemental assessment) is based on the value of imported cotton lint or the cotton contained in imported cotton products—levied at a rate of five-tenths of one percent of the value of domestically produced cotton. The current assessment on imported cotton is \$0.012013 per kilogram of imported cotton.

The Cotton Research and Promotion Act provides that “Any *de minimis* figure as established under this paragraph shall be such as to minimize the burden in administering the assessment provision but still provide for the maximum participation of imports of cotton in the assessment provisions of this chapter.” 7 U.S.C. 2116(c)(2). The Import Assessment Table in paragraph (b)(3) of § 1205.510 of the Cotton Research and Promotion Rules and Regulations indicates the total assessment rate (\$ per kilogram) due for each Harmonized Tariff Schedule (HTS) number that is subject to assessment. Subparagraph (i) of this same paragraph provides for an exemption from assessment for any line item entry of cotton appearing on U.S. Customs and Border Protection (CBP) entry documentation whose calculated assessment is two dollars (\$2.00) or less. This *de minimis* exemption was established to minimize the administrative burden of collecting import assessments, which was originally estimated to be \$2.00 per line item, where administrative costs would

exceed the actual value of the assessment.

The *de minimis* figure is an estimate of administrative burden, which is equivalent to the transactions costs of collecting the cotton fee. The *de minimis* provision was necessary to avoid instances where the transactions costs of collecting the cotton fee exceeded the cotton fee being collected.

In January 2014, AMS became aware of CBP's automation processes in connection with documenting and collecting assessments. CBP indicated that the documentation and collection process is automated and costs have been significantly decreased. Taking into account technological advancements in the fee collection process, CBP no longer charges USDA for the collection of assessments on agricultural commodities. This has eliminated the administrative burden associated with the collection of assessments.

AMS proposes to strike subparagraph (i) under paragraph § 1205.510(b)(3) of the Cotton Research and Promotion Rules and Regulations and append to the paragraph section the language currently in subparagraph (ii). This proposed action reflects the technological efficiencies of the CBP import documentation process by eliminating the *de minimis* provisions in the regulations, and, therefore, helps to ensure that the assessments collected on imported cotton and the cotton content of imported products would be the same as those paid on domestically produced cotton. In addition, AMS proposes to modify the definition of cotton in § 1205.12 to include imported cotton that previously was exempted due to the *de minimis* exemption. With this action, importers who previously imported *de minimis* amounts of cotton may now be eligible to participate in the sign-up period for a continuance referendum that would determine whether a continuance referendum is favored.

## B. Regulatory Impact Analysis

### *Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to access all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting

flexibility. This action has been designated as a "non-significant regulatory action" under section 3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

### *Executive Order 12988*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Cotton Research and Promotion Act (7 U.S.C. 2101–2118) (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 12 of the Act, any person subject to an order may file with the Secretary of Agriculture (Secretary) a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

### *Regulatory Flexibility Act and Paperwork Reduction Act*

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (importers) as having receipts of no more than \$7,000,000. In 2013, an estimated 17,000 importers are subject to the rules and regulations issued pursuant to the Cotton Research and Promotion Order. Most are considered small entities as defined by the Small Business Administration.

This rule would only affect importers of cotton and cotton-containing products whose calculated assessment for any line item entry of cotton appearing on a CBP entry document whose calculated assessment is two dollars (\$2.00) or less. While data allowing for estimates of the number of importers that would be impacted does

not exist, it is estimated that a very small portion of the estimated 17,000 importers would be affected by eliminating the *de minimis* exemption. The additional burden placed on those importers would be limited to two dollars (\$2.00) per line item entry that would otherwise have qualified for the exemption. Importers are currently required to self-report on all line items being imported, therefore no additional transactions costs or administrative burden would be borne by these importers. Such importers may now be eligible to participate in a sign-up period to determine whether they and eligible producers favor the conduct of referendum on the continuance of the 1991 amendments to the Order.

There are no Federal rules that duplicate, overlap, or conflict with this proposed rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. chapter 35) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093, National Research, Promotion, and Consumer Information Programs. This proposed rule does not result in a change to the information collection and recordkeeping requirements previously approved.

A 30-day comment period is provided to comment on the changes to the Cotton Board Rules and Regulations proposed herein. This period is deemed appropriate because this rule would help ensure that the assessments collected on imported cotton and the cotton content of imported products would be the same as those paid on domestically produced cotton. Accordingly, the change in this rulemaking, if adopted, should be implemented as soon as possible.

### **List of Subjects in 7 CFR Part 1205**

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR part 1205 as follows:

### **PART 1205—COTTON RESEARCH AND PROMOTION**

■ 1. The authority citation for part 1205 continues to read as follows:

**Authority:** 7 U.S.C. 2101–2118.

■ 2. Revise § 1205.12 to read as follows:

**§ 1205.12 Cotton.**

The term *cotton* means all Upland cotton harvested in the United States and all imports of Upland cotton, including the Upland cotton content of products derived thereof.

■ 3. In § 1205.510, revise paragraph (b)(3) introductory text and remove paragraphs (b)(3)(i) and (ii).

The revision reads as follows:

**§ 1205.510 Levy of assessments.**

\* \* \* \* \*

(b) \* \* \*

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed. In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

\* \* \* \* \*

Dated: December 7, 2015.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2015-31116 Filed 12-10-15; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2015-6547; Directorate Identifier 2014-NM-129-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Airplanes**

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

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

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2014-03-14, for all Airbus Model A330-200 and -300 series airplanes, and Model A340-

200, -300, -500, and -600 series airplanes. AD 2014-03-14 currently requires removing bulb-type maintenance lights; installing a drain mast on certain airplanes; and installing muffs on connecting bleed elements on certain airplanes. Since we issued AD 2014-03-14, we have determined that additional actions are necessary to address the identified unsafe condition for certain airplanes on which muffs are installed. For certain Model A340-200 and -300 series airplanes, this proposed AD would also require replacing certain insulation sleeves with new insulation sleeves. We are proposing this AD to prevent ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by January 25, 2016.

**ADDRESSES:** You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email [airworthiness.A330-A340@airbus.com](mailto:airworthiness.A330-A340@airbus.com); Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-6547; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The

street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2015-6547; Directorate Identifier 2014-NM-129-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

**Discussion**

On January 31, 2014, we issued AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014). AD 2014-03-14 requires actions intended to address an unsafe condition on all Airbus Model A330-200 and -300 series airplanes, and Model A340-200, -300, -500, and -600 series airplanes.

Since we issued AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014-0148, dated June 13, 2014 (referred to after this the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

[Subsequent to accidents involving Fuel Tank Systems in flight and on ground] \* \* \*, the FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.

In response to these regulations, a global design review conducted by Airbus on the A330 and A340 type design Section 19, which is a flammable fluid leakage zone and

a zone adjacent to a fuel tank, highlighted potential deviations. The specific identified cases were that in-flight fuel drainage is insufficient on A340–500/–600 aeroplanes, maintenance lights are not qualified explosion-proof, and hot surfaces may exist on bleed systems during normal/failure operations.

This condition, if not corrected, in combination with a fuel leak generating flammable vapours in the area, could result in a fuel tank explosion and consequent loss of the aeroplane.

To address this unsafe condition, Airbus developed various modifications of the aeroplane, to be embodied in service.

Consequently, EASA issued AD 2013–0033 [[http://ad.easa.europa.eu/blob/easa\\_ad\\_2013\\_0033\\_superseded.pdf/AD\\_2013-0033\\_1](http://ad.easa.europa.eu/blob/easa_ad_2013_0033_superseded.pdf/AD_2013-0033_1)] [which corresponds to FAA AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014)] to require removal of bulb type maintenance lights for all aeroplanes, installation of a drain mast between Frame (FR) 80 and FR83 for A340–500/–600 aeroplanes, and installation of muffins on connecting bleed elements to minimize hot surfaces on A330 and A340–200/–300 aeroplanes.

Since that [EASA] AD was issued, it was reported that, for A340–200/–300 aeroplanes, accomplishment instructions in the applicable Airbus Service Bulletins (SB) for aeroplanes in Configurations 002 and 005 were detailed in Configuration 003 and, conversely, accomplishment instructions for aeroplane[s] in Configuration 003 were detailed in Configurations 002 and 005. This can lead to incorrect installation of some insulation sleeves on the Auxiliary Power Unit (APU) Air Bleed Ducts between Frame 83 and 84 for configurations 002, 003 and 005 as per Airbus SB A340–36–4035 at original issue. Prompted by this finding, Airbus revised the affected SB with additional work required for aeroplanes included in configurations 002, 003 and 005 that were modified using the original issue of the SB.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0033, which is superseded, incorporates reference to the corrected Airbus SB A340–36–4035 Revision 01 and requires the additional work as specified in Airbus SB A340–36–4035 Revision 01 for aeroplanes already modified per the original SB A340–36–4035.

The additional work is replacing the insulation sleeves between frames 83 and 84 with new insulation sleeves. You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2015–6547.

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

Airbus has issued the following service bulletins.

- Airbus Service Bulletin A330–33–3041, Revision 02, dated November 7, 2013, which describes procedures for removing bulb-type maintenance lights.

- Airbus Service Bulletin A330–36–3037, Revision 02, dated April 7, 2014, which describes procedures for bleed leak detection loop modification of the auxiliary power unit (APU).

- Airbus Service Bulletin A340–33–4026, Revision 02, dated November 7, 2013, which describes procedures for removing bulb-type maintenance lights.

- Airbus Service Bulletin A340–36–4033, Revision 02, dated May 19, 2014, which describes procedures for bleed leak detection loop modification of the APU.

- Airbus Service Bulletin A340–36–4035, Revision 01, dated September 24, 2013, which describes procedures for installing muffins on connecting bleed elements on certain airplanes.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section of this NPRM.

#### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Explanation of New Service Information for Optional Actions

In paragraph (i) of AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014), an optional method of compliance is permitted using Airbus Service Bulletin A330–36–3037, Revision 01, dated January 24, 2013; or Airbus Service Bulletin A340–36–4033, Revision 01, dated January 28, 2013; as applicable. In addition, credit is given in paragraph (k)(3) of AD 2014–03–14 for using Airbus Service Bulletin A340–36–4033, dated September 23, 2011.

However, the MCAI only allows the use of Airbus Service Bulletin A330–36–3037, Revision 02, dated April 7, 2014; and Airbus Service Bulletin A340–36–4033, Revision 02, dated May 19, 2014; as applicable. Additional work is necessary for airplanes on which earlier revisions of this service information was done.

Therefore, in paragraph (i) of this proposed AD, we refer to only Airbus Service Bulletin A330–36–3037,

Revision 02, dated April 7, 2014; and Airbus Service Bulletin A340–36–4033, Revision 02, dated May 19, 2014; as applicable.

#### Explanation of “RC” Procedures and Tests in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which procedures and tests in the service information are required for compliance with an AD. Differentiating these procedures and tests from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The procedures and tests identified as RC (required for compliance) in any service information have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As specified in a Note under the Accomplishment Instructions of certain specified service information, procedures and tests that are identified as RC in any service information must be done to comply with the proposed AD. However, procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an alternative method of compliance (AMOC), provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC will require approval of an AMOC.

#### Costs of Compliance

We estimate that this proposed AD affects 43 Model A330 series airplanes of U.S. registry. There are no Model A340 airplanes registered in the U.S.

The actions that are required by AD 2014–03–14, Amendment 39–17752 (79 FR 9382, February 19, 2014), and retained in this proposed AD take about 21 work-hours per product, at an average labor rate of \$85 per work-hour. Required parts cost about \$5,219 per product. Based on these figures, the estimated cost of the actions that are required by AD 2014–03–14 is \$7,004 per product.

We also estimate that it would take about 6 work-hours per product to

comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$279 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be \$33,927, or \$789 per product.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

#### The Proposed Amendment

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

the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), and adding the following new AD:

**Airbus:** Docket No. FAA-2015-6547; Directorate Identifier 2014-NM-129-AD.

#### (a) Comments Due Date

We must receive comments by January 25, 2016.

#### (b) Affected ADs

This AD replaces AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014).

#### (c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, specified in paragraphs (c)(1) and (c)(2) of this AD, all manufacturer serial numbers.

- (1) Airbus Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes.
- (2) Airbus Model A340-211, -212, -213, -311, -312, -313, -541, and -642 airplanes.

#### (d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection; 33, Lights; 36, Pneumatic; 53, Fuselage.

#### (e) Reason

This AD results from fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to prevent ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

#### (f) Compliance

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

#### (g) Retained Maintenance Light Removal, With New Service Information

This paragraph restates the requirements of paragraph (g) of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), with new service information. Except for airplanes on which Airbus Modification 56739 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014-03-14), remove the maintenance lights, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

- (1) Airbus Service Bulletin A330-33-3041, Revision 01, dated July 10, 2012; or Airbus

Service Bulletin A330-33-3041, Revision 02, dated November 7, 2013 (for Model A330 series airplanes). As of the effective date of this AD, use only Airbus Service Bulletin A330-33-3041, Revision 02, dated November 7, 2013, for the actions required by paragraph (g) of this AD (for Model A330 series airplanes).

(2) Airbus Service Bulletin A340-33-4026, Revision 01, dated July 10, 2012; or Airbus Service Bulletin A340-33-4026, Revision 02, dated November 7, 2013 (for Model A340-200 and -300 series airplanes). As of the effective date of this AD, use only Airbus Service Bulletin A340-33-4026, Revision 02, dated November 7, 2013, for the actions required by paragraph (g) of this AD (for Model A340-200 and -300 series airplanes).

(3) Airbus Service Bulletin A340-33-5006, dated January 3, 2012 (for Model A340-500 and -600 series airplanes).

**Note 1 to paragraph (g) of this AD:** For Model A340-500 and -600 series airplanes, Airbus has issued Airbus Service Bulletin A340-33-5007 to introduce halogen-type lights which are qualified as explosion proof and that can be installed (at operators' discretion) after removal of the non-explosion-proof lights required by paragraph (g) of this AD. For Model A330 series airplanes and Model A340-200/-300 series airplanes, Airbus has issued Airbus Service Bulletins A330-33-3042 and A340-33-4027 for the installation of similar lights.

#### (h) Retained Insulation Muff Installation, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), with no changes. For Model A330-200 and -300 series airplanes, and Model A340-200 and -300 series airplanes, except those airplanes on which Airbus Modification 52260 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014-03-14), install insulation muffs on the connecting auxiliary power unit (APU) bleed air duct, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) Airbus Service Bulletin A330-36-3038, dated January 16, 2012, for Model A330 series airplanes on which Airbus Service Bulletin A330-36-3032 has been incorporated.

(2) Airbus Mandatory Service Bulletin A330-36-3040, Revision 01, dated November 26, 2012, for Model A330 series airplanes on which Airbus Service Bulletin A330-36-3032 has not been incorporated.

(3) Airbus Mandatory Service Bulletin A340-36-4035, Revision 01, dated September 24, 2013, for Model A340 series airplanes.

#### (i) Retained Alternative Action to Paragraph (h) of This AD

This paragraph restates the alternative action specified in paragraph (i) of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), with new service information. For Model A330 series airplanes

on which the modification described in Airbus Service Bulletin A330-36-3032 has not been incorporated, and for Model A340 series airplanes: Doing the bleed leak detection loop modification of the APU, in accordance with the Accomplishment Instructions of the applicable Airbus service bulletin specified in paragraphs (i)(1) and (i)(2) of this AD, is an acceptable alternative to the actions required by paragraph (h) of this AD, provided the modification is accomplished within 26 months after March 26, 2014 (the effective date of AD 2014-03-14).

(1) Airbus Service Bulletin A330-36-3037, Revision 02, dated April 7, 2014.

(2) Airbus Service Bulletin A340-36-4033, Revision 02, dated May 19, 2014.

**(j) Retained Drain Mast Installation, With No Changes**

This paragraph restates the requirements of paragraph (j) of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), with no changes. For Model A340-500 and -600 series airplanes, except those on which Airbus Modification 54636 or 54637 has been incorporated in production: Within 26 months after March 26, 2014 (the effective date of AD 2014-03-14), install a drain mast between frame (FR) 80 and FR 83, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A340-53-5031, Revision 02, dated August 3, 2011.

**(k) New Requirement of This AD: Replacement of Certain Insulation Sleeves**

For Model A340 series airplanes in configurations 002, 003, and 005, as described in Airbus Service Bulletin A340-36-4035, dated September 18, 2012, that have been modified before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340-36-4035, dated September 18, 2012: Within 14 months after the effective date of this AD, replace the insulation sleeves between frames 83 and 84 with new insulation sleeves, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340-36-4035, Revision 01, dated September 24, 2013.

**(l) Credit for Previous Actions**

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014)), using Airbus Service Bulletin A330-33-3041, dated January 3, 2012; or Airbus Service Bulletin A340-33-4026, dated January 3, 2012; as applicable; which are not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014)), using Airbus Service Bulletin A330-36-3040, dated September 18, 2012, which is not incorporated by reference in this AD.

(3) For Model A340 series airplanes in configurations 001 and 004, as described in

Airbus Service Bulletin A340-36-4035, dated September 18, 2012: This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A340-36-4035, dated September 18, 2012, which is not incorporated by reference in this AD.

(4) This paragraph provides credit for actions required by paragraph (j) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014)), using Airbus Service Bulletin A340-53-5031, dated July 31, 2006; or Airbus Service Bulletin A340-53-5031, Revision 01, dated January 10, 2008; as applicable; which are not incorporated by reference in this AD.

**(m) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1138; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for paragraphs (g) and (h) of AD 2014-03-14, Amendment 39-17752 (79 FR 9382, February 19, 2014), are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without

obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(n) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014-0148, dated June 13, 2014, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-6547.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email [airworthiness.A330-A340@airbus.com](mailto:airworthiness.A330-A340@airbus.com); Internet <http://www.airbus.com>. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on December 4, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015-31210 Filed 12-10-15; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2015-6548; Directorate Identifier 2015-NM-114-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; The Boeing Company Airplanes**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787-8 and 787-9 airplanes equipped with General Electric engines. This proposed AD was prompted by reports of cracking in barrel nuts on a forward engine mount of Model 747-8 airplanes, which shares a similar design to the forward engine mount of Model 787-8 and 787-9 airplanes. This proposed AD would require, for certain airplanes, replacement of the four barrel nuts of the forward engine mount on each engine. For certain other airplanes, this proposed AD would require an inspection to determine if any forward

engine mount barrel nut having a certain part number is installed, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct cracking of the forward engine mount barrel nuts; such cracking could result in reduced load capacity of the forward engine mount and could result in separation of an engine from the airplane, and consequent loss of control of the airplane.

**DATES:** We must receive comments on this proposed AD by January 25, 2016.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, WA 98124-2207; telephone: 206-544-5000, extension 1; fax: 206-766-5680; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-6548.

#### *Examining the AD Docket*

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-6548; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Allen Rauschendorfer, Aerospace Engineer, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6487; fax: 425-917-6590; email: [allen.rauschendorfer@faa.gov](mailto:allen.rauschendorfer@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2015-6548; Directorate Identifier 2015-NM-114-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

##### **Discussion**

We received a report indicating that during the replacement of the No. 2 engine on a Model 747-8 airplane, an operator conducted a non-destructive test (NDT) inspection of the barrel nuts on the forward engine mount and found cracks on two of the four barrel nuts. The same operator also discovered one cracked barrel nut on the No. 1 engine of the same Model 747-8 airplane. Boeing did an NDT inspection on the barrel nuts of the No. 2 engine of a Model 747-8 flight test airplane and discovered two barrel nuts with cracks. Since these initial findings, two additional barrel nuts were found cracked on two additional Model 747-8 airplanes.

The barrel nuts are located at the forward end of the strut box and are used to fasten the forward engine mount to the strut. A barrel nut with a crack on one side is still able to carry ultimate load. A crack on both sides of a barrel nut will cause complete failure of the barrel nut. Complete failure of two or more barrel nuts on the same forward engine mount reduces the load capacity of the forward engine mount and could result in separation of an engine from the airplane, and consequent loss of control of the airplane.

Model 787-8 and 787-9 airplanes with General Electric engines have a

similar forward engine mount bolt and barrel nut configuration to that on Model 747-8 series airplanes. Therefore, Model 787-8 and 787-9 airplanes are subject to the same unsafe condition revealed on Model 747-8 series airplanes. We issued AD 2013-24-12, Amendment 39-17686 (78 FR 71989, December 2, 2013), to address this unsafe condition on Model 747-8 series airplanes.

##### **Relevant Service Information Under 1 CFR Part 51**

We reviewed Boeing Service Bulletin B787-81205-SB710026-00, Issue 001, dated June 10, 2015. The service information describes procedures for replacing the forward engine mount barrel nuts with new, improved barrel nuts; doing an inspection to determine if barrel nuts having a certain part number are installed on the forward engine mount; and doing related investigative and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

##### **FAA's Determination**

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

##### **Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between this Proposed AD and the Service Information." For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for Docket No. FAA-2015-6548.

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

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



**Differences Between This Proposed AD and the Service Information**

The service specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

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

**Explanation of “RC” Steps in Service Information**

The FAA worked in conjunction with industry, under the Airworthiness

Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner’s/operator’s understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The steps identified as Required for Compliance (RC) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as RC, the following provisions apply: (1) The

steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

**Costs of Compliance**

We estimate that this proposed AD affects 36 airplanes of U.S. registry.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement (2 engines).	29 work-hours × \$85 per hour = \$2,465 for 2 engines.	\$1,988 per engine × 2 engines = \$3,976.	\$6,441	\$64,410 (10 airplanes).
Inspection for part number using maintenance records (2 engines).	1 work-hour × \$85 per hour = \$85 for 2 engines.	\$0 .....	85	\$2,210 (26 airplanes).

We estimate the following costs to do any related investigative actions that

would be required based on the results of the proposed inspection. We have no

way of determining the number of aircraft that might need these actions:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Inspection (2 engines) .....	9 work-hours × \$85 per hour = \$765 for 2 engines .....	\$0	\$765

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

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

## The Proposed Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**No. FAA–2015–6548; Directorate Identifier 2015–NM–114–AD.**

#### (a) Comments Due Date

We must receive comments by January 25, 2016.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to The Boeing Company Model 787–8 and 787–9 airplanes, certificated in any category, equipped with General Electric GENx–1B engines, as identified in Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015.

#### (d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

#### (e) Unsafe Condition

This AD was prompted by reports of cracking in barrel nuts on a forward engine mount of Model 747–8 airplanes, which shares a similar design to the forward engine mount of Model 787–8 and 787–9 airplanes. We are issuing this AD to detect and correct cracking of the forward engine mount barrel nuts; such cracking could result in reduced load capacity of the forward engine mount, and could result in separation of an engine from the airplane, and consequent loss of control of the airplane.

#### (f) Compliance

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

#### (g) Replacement Barrel Nuts

For Group 1 airplanes as identified in Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015: Except as provided by paragraph (i)(1) of this AD, at the time specified in paragraph 5., “Compliance,” of Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015, replace the existing forward engine mount barrel nuts on each engine, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015.

#### (h) Part Number Inspection for Installed Barrel Nuts

For Group 2 airplanes as identified in Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015: Except as provided by paragraph (i)(1) of this AD, at the time specified in paragraph 5. “Compliance,” of Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015, review the aircraft maintenance records to determine if the airplane engine has been removed, installed, or replaced, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015. If the maintenance records indicate that a barrel nut having part number SL4081C14SP1 is installed, or if the part number of an installed barrel nut cannot be determined, before further flight, do the related investigative and applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015.

#### (i) Exception to Service information

(1) Where Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015, specifies a compliance time “after the Issue 001 date on this service bulletin,” this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Service Bulletin B787–81205–SB710026–00, Issue 001, dated June 10, 2015, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

#### (j) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) Except as required by paragraph (i)(2) of this AD: For service information that

contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

#### (k) Related Information

(1) For more information about this AD, contact Allen Rauschendorfer, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6487; fax: 425–917–6590; email: allen.rauschendorfer@faa.gov.

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

Issued in Renton, Washington, on December 4, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015–31218 Filed 12–10–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 75

**RIN 0790–A182**

**[Docket ID: DOD–2011–OS–0127]**

#### Exceptional Family Member Program (EFMP)

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes the Exceptional Family Member Program (EFMP) and provides guidance, assigns responsibilities, and prescribes procedures for identifying a family member with special needs, and coordinating travel at government expense for family members of active duty Service members who meet the

Department of Defense (DoD) criteria for identifying a family member with special needs. This proposed rule also prescribes procedures for processing DoD civilian employees who have family members with special needs for an overseas assignment and providing family support services.

**DATES:** Comments must be received by February 9, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301-9010.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Lombardi, 571-372-0862.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

This proposed rule would implement 10 U.S.C. 1781c, which established the Office of Community Support for Military Families with Special Needs (OSN). Under this proposed rule, the OSN would be housed within the Office of the Under Secretary of Defense for Personnel and Readiness. The purpose of the Office is to enhance and improve Department of Defense support around the world for military families with special needs (whether medical or educational needs) through the development of appropriate policies, enhancement and dissemination of appropriate information throughout the Department of Defense, support for such families in obtaining referrals for services and in obtaining services and oversight of the activities of the military departments in support of families. The OSN would be responsible for developing an EFMP policy that addresses the development and implementation of a community support program across the Services, and expand coordination of assignments for

military families with special needs within and outside the United States.

The rule would provide guidance for identifying family members with special needs and requires the Military Services to establish a system to identify, document and consider a military family member's special medical and educational needs when approving travel at government expense. It would also provide guidance for the processing of overseas assignments for DoD civilian employees who have family members with special needs. The rule also would establish a system of monitoring and assigning oversight responsibilities for the EFMP as well as authorizing the development of implementing guidance and forms necessary for the operation of the EFMP.

*III. Costs and Benefits*

The Department of Defense and the Military Departments, which are responsible for providing services to Military families with special needs, receive their funding from the Operations and Maintenance (O&M) defense-wide budget. The approximate cost for the Exceptional Family Member Program for FY2011 was \$30,509,878.93.

**Retrospective Review**

This proposed rule is part of DoD's retrospective plan, completed in August 2011, under Executive Order 13563, "Improving Regulation and Regulatory Review." DoD's full plan and updates can be accessed at: <http://www.regulations.gov/#!docketDetail; dct=FR+PR+N+O+SR; rpp=10; po=0; 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 proposed 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, Pub. L. 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 proposed 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 proposed 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)**

It has been certified that 32 CFR part 75 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These reporting requirements have been approved by the Office of Management and Budget and assigned OMB Control Number 0704-0411, titled Exceptional Family Member Program.

**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 proposed rule will not have a substantial effect on State and local governments.

**System of Record Notices (SORN) and Privacy Impact Assessments (PIA)**

The applicable SORN for the Exceptional Family Member program is: DHA 16 DoD. The system name is the Special Needs Program Management Information System (SNPMIS) Records (available at <http://dpcl.dod.mil/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/570679/edha-16-dod.aspx>).

The Privacy Impact Assessment (PIA) for this program is available at <http://health.mil/Reference-Center/Forms/2014/07/29/PIA-Summary-Special->

### *Needs-Program-Management-Information-System-SNPMIS.*

The Special Needs Program Management Information System (SNPMIS) provides access to a comprehensive program of therapy, medical support, and social services for young Department of Defense (DoD) Military Health System (MHS) beneficiaries with special needs. SNPMIS is the Military Health System (MHS) automated information system designed to ensure the DoD meets the unique information requirements associated with implementation of the Individuals with Disabilities Education Act (IDEA). SNPMIS captures records referral, evaluation, eligibility, and service plan data for children with special needs who are eligible for MHS services under IDEA. This system is a distributed data collection application with database servers distributed at various Medical Treatment Facilities (MTFs) located within the Continental United States (CONUS) and Outside the Continental United States (OCONUS). SNPMIS is currently used in 45 EDIS clinics at Army, Navy, and Air Force installations worldwide.

#### **List of Subjects in 32 CFR Part 75**

Children, Family health, Special needs.

Accordingly 32 CFR part 75 is proposed to be added to read as follows:

### **PART 75—EXCEPTIONAL FAMILY MEMBER PROGRAM (EFMP)**

#### **Subpart A—General**

Sec.

- 75.1 Purpose.
- 75.2 Applicability.
- 75.3 Definitions.

#### **Subpart B—Policy**

- 75.4 Policy.
- 75.5 Responsibilities.

#### **Subpart C—Procedures**

- 75.6 DoD criteria for identifying family members with special needs.
- 75.7 Coordinating assignments of active duty Service members who have a family member with special needs.
- 75.8 Civilian employees on overseas assignment.
- 75.9 Provision of family support services.
- 75.10 Office of Community Support for Military Families with Special Needs (OSN).

**Authority:** 10 U.S.C. 1781c

#### **Subpart A—General**

##### **§ 75.1 Purpose.**

This part:

(a) Establishes the EFMP and establishes policy, provides guidance,

assigns responsibilities and prescribes procedures for:

(1) Identifying a family member with special needs who is eligible for services as defined in this part.

(2) Coordinating travel at government expense for family members of active duty Service members who meet the DoD criteria for special medical or educational needs.

(3) Processing DoD civilian employees who have family members with special needs for an overseas assignment.

(4) Providing family support services to military families with special needs.

(b) Establishes a system of monitoring and assigns oversight responsibilities for the EFMP.

(c) Authorizes the development of implementing guidance and forms necessary for the operation of the EFMP in accordance with this part.

(d) Does not create any rights or remedies in addition to those already otherwise existing in law or regulation, and may not be relied upon by any person, organization, or other entity to allege a denial of such rights or remedies.

#### **§ 75.2 Applicability.**

This part applies to:

(a) The 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 within the DoD (referred to collectively in this part as the “DoD Components”).

(b) Service members who have family members with special needs as described in this part.

(c) All DoD civilian employees in overseas locations and selectees for overseas positions who have family members with special needs as described in this part.

#### **§ 75.3 Definitions.**

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

*Assistive technology device.* Any item, piece of equipment, or product system, whether acquired commercially or off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. This term does not include a medical device that is surgically implanted or the replacement of that device.

*Assistive technology service.* Any service that directly assists an individual with a disability in the

selection, acquisition, or use of an assistive technology device.

*CONUS.* The 48 contiguous states of the United States, excluding Alaska, Hawaii, and U.S. territories.

*Early Intervention Services (EIS).* Developmental services for infants and toddlers with disabilities that are provided under the supervision of a Military Department, including evaluation, IFSP development and revision, and service coordination provided at no cost to the child’s parents.

*Evaluations.* Medical, psychological, and educational assessments required to define a medical or educational condition suspected after a screening procedure.

*Family member.* A dependent (a spouse and certain children, in accordance with 5 U.S.C. 8901(5) of a Service member) who is eligible to receive a DoD identification card, medical care in a DoD medical treatment facility, and command sponsorship or DoD-sponsored travel. To the extent authorized by law and in accordance with Service implementing guidance, the term may also include other nondependent family members of a Service member.

For the purposes of § 75.8 of this part only, this definition also includes civilian employees on an overseas assignment, or being considered for an overseas assignment, and their dependents who are, or will be, eligible to receive a DoD identification card during that overseas assignment. To the extent authorized by law and in accordance with Service implementing guidance, the term may also include other nondependent family members of a civilian employee on an overseas assignment.

*Family member travel.* Refers exclusively to permanent change of station actions. Same as a “dependent” as defined by 37 U.S.C. 401.

*Family support services.* Encompasses the non-clinical case management delivery of information and referral for families with special needs, including the development and maintenance of an individualized SP.

*Individualized Education Program (IEP).* A written document identifying the special education and related services for a child with a disability.

*Individualized Family Service Plan (IFSP).* A written document identifying the specially designed services for an infant or toddler with a disability and the family of such infant or toddler.

*Medical case management.* A collaborative process of assessment, planning, facilitation, and advocacy for options and services to meet an

individual's health needs through communication and available resources to promote quality cost-effective outcomes. See Department of Defense TRICARE Medical Management Guide, 2009, Version 3 (available at [http://www.tricare.mil/tma/ocmo/download/MMG\\_v3\\_2009.pdf](http://www.tricare.mil/tma/ocmo/download/MMG_v3_2009.pdf)).

*Non-clinical case management.* The provision of information and referral to families and individuals that assist them in making informed decisions and navigating resources to improve their quality of life such as medical, educational, social, community, housing, legal, and financial services. This does not involve coordination and follow-up of medical treatments.

*Overseas.* Defined in 20 U.S.C. 932(3) and (4).

*Pinpoint location.* A specific geographic location recommended for an active duty Service member's assignment because it has:

(1) A valid requirement for the active duty Service member's grade and military occupational specialty.

(2) Availability of required medical services.

(3) Availability of required educational staff necessary to provide EIS and special education to the active duty Service member's child with special educational needs.

*Related services.* Transportation and such developmental, corrective, and other supportive services, as required, to assist a child, age 3 through 21 years, inclusive, with a disability to benefit from special education under the child's IEP. The term includes speech-language pathology and audiology, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in children, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluative purposes. That term also includes school health services, social work services in schools, and parent counseling and training. The sources for those services are school, community, and medical treatment facilities.

*Related services assigned to the military medical departments overseas.* Services provided by Educational and Developmental Intervention Services to Department of Defense Dependent School students, under the development or implementation of an IEP, necessary for the student to benefit from special education. Those services may include medical services for diagnostic or evaluative purpose, social work, community health nursing, dietary,

occupational therapy, physical therapy, audiology, ophthalmology, and psychological testing and therapy.

*Respite Care Services.* The provision of temporary relief to military family members who are responsible for the regular care of dependent family members with special needs.

*Responsible military department.* The Military Department responsible for providing EIS or related services in the geographic areas assigned under 32 CFR part 57.

*Services plan (SP).* An individualized plan written in collaboration with the family or the family member with special needs that documents current needs and steps to achieve their desired outcome.

*Special education.* Specially designed instruction, including physical education, which is provided at no cost to the parent or guardians to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings.

*Special needs.* Includes special medical and educational needs of family members who meet the DoD criteria as found in § 75.6 of this part.

*Specialty care.* Specialized health care provided by a physician whose training focused primarily in a specific field, such as neurology, cardiology, rheumatology, dermatology, oncology, orthopedics, or ophthalmology and is required for health maintenance.

## Subpart B—Policy

### § 75.4 Policy.

It is DoD policy that:

(a) The EFMP identifies family members with special needs, enrolls sponsors in the program, and participates in the coordination of assignments for active duty Service members in order for the special needs of family members to be considered during the assignment process.

(b) Active duty Service members whose families include a member with special needs must enroll in the EFMP to ensure their family members' special needs are considered during the assignment coordination.

(c) The EFMP provides family support services, including non-clinical case management, to military families with special needs regardless of the sponsor's Service affiliation or enrollment status in the EFMP, as described in § 75.9 of this part. Family support service to the Reserve Component is dependent upon each Service's eligibility requirements.

(d) Active duty Service members whose families include a member with

special needs may be stabilized in Alaska, Hawaii, or a continental United States (CONUS) assignment location for a minimum of 4 years when:

(1) The arrangement is initiated by the Service member.

(2) The family member has a documented need for stabilization, as determined by Service-specific guidance.

(3) Stabilization does not have an adverse effect on the mission requirements of the Military Department.

(4) The career development of the Service member has been considered and is not affected adversely.

(e) The special needs of a civilian family member will not be considered in the selection of a civilian for an overseas position.

### § 75.5 Responsibilities.

(a) The Under Secretary of Defense for Personnel and Readiness (USD (P&R)):

(1) Provides for an OSN, pursuant to 10 U.S.C. 1781c.

(2) Submits an annual report to Congress pursuant to 10 U.S.C. 1781c on the activities of the OSN, including identification of gaps in services for military families with special needs and actions being taken or planned to address such gaps.

(b) Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)):

(1) Consults with the Secretaries of the Military Departments, as appropriate, to ensure the development, implementation, and monitoring of an effective EFMP across DoD, in accordance with this part.

(2) Resolves disputes among the DoD Components regarding the implementation of procedures in § 75.6 through § 75.10 of this part.

(3) Requires the Military Services and DoD Education Activity (DoDEA) to notify OSN of additions, deletions, or substitutions to the locations of EIS and special education in overseas military communities.

(4) Convenes a meeting at least once a year to review the implementation of this part. Representatives from the ASD(M&RA); the Assistant Secretary of Defense for Health Affairs (ASD(HA)); the General Counsel of the Department of Defense; the Secretaries of the Military Departments; must attend. A representative of the Commandant of the Coast Guard shall be invited to attend. Participants will:

(i) Represent functional areas including: military medical; military and civilian personnel; housing; dependents' education; legal; child and

youth services; morale, welfare, and recreation; and community support activities.

(ii) Review Service and DoDEA reports on family support services, assignment coordination, the pinpoint locations of EIS and special education overseas, and data requirements of this part.

(c) Under the authority, direction, and control of the USD(P&R), the ASD(HA):

(1) Advises the USD(P&R) regarding the availability of specialized medical services to family members with special needs.

(2) Collaborates with the OSN on medical issues related to this part.

(3) Participates in the development and deployment of a data management system, including appropriate interfaces that support the EFMP mission.

(4) Ensures that policies and procedures are in place within the Military Health System (MHS) to safeguard personally identifiable information (PII) and protected health information (PHI) gathered during the medical processes required by this part in accordance with 32 CFR part 310, DoD Instruction 6025.18, "Privacy of Individually Identifiable Health Information in DoD Health Care Programs" (available at <http://www.dtic.mil/whs/directives/corres/pdf/602518p.pdf>) and DoD 8580.02-R, "DoD Health Information Security Regulation" (available at <http://www.dtic.mil/whs/directives/corres/pdf/858002rp.pdf>).

(5) Ensures procedures are established to make purchased care providers aware of the mandatory enrollment requirements when a family member of an active duty Service member is identified within the purchased care system with a medical condition that meets the criteria in § 75.6.

(6) Ensures that there is a medical case management program to support military families with special medical needs following Defense Health Program eligibility guidelines. The case managers will collaborate with the EFMP non-clinical family support services personnel in assisting the eligible population consistent with 32 CFR part 310, DoD Instruction 6025.18, and DoD 8580.02-R.

(d) Under the authority, direction, and control of the ASD(M&RA), the Director, DoDEA:

(1) Designates and updates as necessary a point of contact in each DoDEA overseas area to review the DD Form 2792-1 (available at <http://www.dtic.mil/whs/directives/infomgt/forms/forminfo/forminfo2581.html>), "Special Education/Early Intervention

Summary," for all school-aged children (ages 3-21) with disabilities.

(2) Makes recommendations to the Military Services and Defense Agencies on the availability of special education services.

(3) Ensures that policies and procedures are in place to inform families of the requirement to enroll in the EFMP when their child is enrolled in a DoDEA school and is covered by an IEP.

(4) Requests reimbursement from the sending Military Department when there is a failure to coordinate an overseas assignment with DoDEA that results in the assignment of the Service member to an overseas location when one or more of the following conditions are met:

(i) DoDEA personnel are not available to provide special education pursuant to the child's IEP.

(ii) There is no DoD school, but DoDEA has the responsibility to provide special education pursuant to the child's IEP.

(iii) The DoDEA incurs expenses (*e.g.*, hiring additional staff) beyond normal operations to provide special education pursuant to the child's IEP.

(5) Submit an annual memorandum to the ASD(M&RA), reflecting the prior school year's data (*e.g.*, August of one calendar year through June of the following calendar year) not later than October 15, including the number of:

(i) Assignments coordinated by the DoDEA to include locations, travel recommendations and the associated military department.

(ii) Problematic assignments, including the reasons (*e.g.*, the assignment was not coordinated with DoDEA or the information that was supplied was incorrect or incomplete by Military Department or Defense Agencies and location) and the estimated cost to provide the required special services.

(iii) Problematic assignments for which reimbursement was considered.

(e) The Secretaries of the Military Departments:

(1) Establish guidance consistent with this part and ensure leadership oversight at all levels of military command for implementation, monitoring, and evaluation of this part.

(2) Program, budget, and allocate sufficient funds and other resources, including staffing, to meet the policy objectives of this part.

(3) Establish an EFMP within their Department that includes identification and enrollment, assignment coordination, and family support services components; and promote

collaboration between the three components.

(4) Ensure that when a family member of an active duty Service member is identified within a military treatment facility with a medical condition that meets the criteria in § 75.6, that the Service member is referred to the Service-specific EFMP point of contact. Confirm that the EFMP point of contact will enroll the Service member and follow-up to complete the DD Form 2792, "Family Member Medical Summary."

(5) Require military treatment facility personnel to be trained on the policies and procedures in this part.

(6) Participate in the development and deployment of a data management system, including appropriate interfaces that support the EFMP mission.

(7) Publish the guidelines that define the EFMP on the appropriate Headquarters Service Web site and ensure that all installation Web sites link to this official information.

(8) Ensure the establishment of generic email addresses for installation EFMP family support services personnel as well as the medical offices supporting the EFMP so that Service members and their family members have easy access to support capabilities.

(9) Establish policies and procedures to safeguard PII and PHI.

(10) Ensure the establishment of screening and evaluation procedures for the purpose of identifying family members of active duty Service members with special needs. The guidelines should be commensurate with established TRICARE access to care standards, and include those family members whose primary provider is in the TRICARE network.

(11) Ensure annual education and training to key personnel is conducted on the policies and procedures in this part and on topics appropriate to providing family support services. These topics may include EIS, special education, Medicaid, supplemental security income, and TRICARE benefits, including the extended health care option and any other programs that benefit military families with special needs.

(12) Require that information on this part be provided to all active duty Service members and their families, regardless of location, and to civilian employees or selectees who have applied for government employment in overseas locations.

(13) Ensure military personnel activities coordinate all assignments with the responsible Military Department or other DoD Component when the sponsor requests accompanied

family member travel overseas. Refer to the Joint Travel Regulations “Uniformed Service Members and Civilian Employees” (available at <https://www.defensetravel.dod.mil/Docs/perdiem/JTR.pdf>) for PCS travel and transportation allowances for eligible Service members and family members.

(14) Ensure military personnel activities coordinate all CONUS assignments of Service members enrolled in the EFMP with the responsible Military Department or other DoD Component. Refer to the Joint Travel Regulations for PCS travel and transportation allowances for eligible Service members and family members.

(15) Establish procedures to reimburse DoDEA when there is a failure to coordinate such assignments that result in the conditions described in paragraph (d)(3) of this section.

(16) Require the military personnel activities to coordinate with the appropriate Military Department when considering Service member assignment(s) to an overseas area where the provision of EIS and related services is the responsibility of another Military Department, in accordance with § 75.8 of this part.

(17) Require human resources representatives to advise civilian employees or selectees for an overseas position of the availability of services to meet the family member’s special needs in the specific assignment location.

(18) Submit an annual report (not later than January 15) to the ASD(M&RA) identifying:

(i) EFMP enrollment and assignment function:

(A) Total number of Service members enrolled in the EFMP.

(B) Total number of family members enrolled in EFMP.

(C) Total number of assignments of Service members enrolled in the EFMP that were coordinated in the last year.

(D) Assignment problems, including early return of family members or reassignment of the Service member resulting from failure to enroll in the EFMP or inaccuracies in the enrollment information.

(E) Total number of requested stabilizations, those approved and the location.

(ii) EFMP family support services program, by installation:

(A) Type and number of EFMP family support services personnel.

(B) Number of families supported through the EFMP, including number of individualized SPs.

(C) Identified obstacles to the effective delivery of EFMP family support services, including military and non-military service providers.

## Subpart C—Procedures

### § 75.6 DoD criteria for identifying family members with special needs.

(a) *Special Medical Needs.*

Individuals who meet one or more of the criteria in this section will be identified as a family member with special medical needs:

(1) Potentially life-threatening conditions or chronic (duration of 6 months or longer) medical or physical conditions requiring follow-up care from a primary care manager (to include pediatricians) more than once a year or specialty care.

(2) Current and chronic (duration of 6 months or longer) mental health condition (such as bi-polar, conduct, major affective, or thought or personality disorders); inpatient or intensive (greater than one visit monthly for more than 6 months) outpatient mental health service within the last 5 years; or intensive mental health services required at the present time. This includes medical care from any provider, including a primary care manager.

(3) A diagnosis of asthma or other respiratory-related diagnosis with chronic recurring symptoms that involves one or more of the following:

(i) Scheduled use of inhaled or oral anti-inflammatory agents or bronchodilators.

(ii) History of emergency room use or clinic visits for acute asthma exacerbations or other respiratory-related diagnosis within the last year.

(iii) History of one or more hospitalizations for asthma, or other respiratory-related diagnosis within the past 5 years.

(4) A diagnosis of attention deficit disorder or attention deficit hyperactivity disorder that involves one or more of the following:

(i) Includes a co-morbid psychological diagnosis.

(ii) Requires multiple medications, psycho-pharmaceuticals (other than stimulants) or does not respond to normal doses of medication.

(iii) Requires management and treatment by mental health provider (e.g., psychiatrist, psychologist, or social worker).

(iv) Requires the involvement of a specialty consultant, other than a primary care manager, more than twice a year on a chronic basis.

(v) Requires modifications of the educational curriculum or the use of behavioral management staff.

(5) A chronic condition that requires:

(i) Adaptive equipment (such as an apnea home monitor, home nebulizer, wheelchair, custom-fit splints/braces/

orthotics (not over-the-counter), hearing aids, home oxygen therapy, home ventilator, etc.).

(ii) Assistive technology devices (such as communication devices) or services.

(iii) Environmental or architectural considerations (such as medically required limited numbers of steps, wheelchair accessibility, or housing modifications and air conditioning).

(b) *Special Educational Needs.* Family members of active duty Service members (regardless of location) and civilian employees appointed to an overseas location eligible for enrollment in a DoDEA school on a space-required basis will be identified as having special educational needs if they have or are found eligible for, either an IFSP or an IEP under 32 CFR part 57.

### § 75.7 Coordinating assignments of active duty Service members who have a family member with special needs

(a) Standards for authorizing overseas travel for family members with special needs of active duty Service members.

(1) Family member travel at government expense overseas may be denied when an active duty Service member has a family member with special medical needs and the services to meet those needs are unavailable in a duty location, as determined by the MHS based on acceptable U.S. healthcare standards. The Military Department will follow the procedures in this part regardless of the sponsor’s location when processing a Service member with a family member with special needs.

(2) Active duty Service members may not be denied consideration for an essential (as defined by the military personnel assignment system) duty assignment overseas solely because they have children who are or may be eligible for EIS or special education services in accordance with 32 CFR part 57. They will receive the same consideration for travel at government expense to any duty location as families without such members.

(3) The failure to assign an active duty Service member to a pinpoint location overseas, as defined in § 75.3, is never a basis to deny EIS or special education to the active duty Service member’s eligible infant, toddler, or child pursuant to 32 CFR part 57.

(4) The responsible Military Department may request reimbursement from the sending Military Department if failure to coordinate an assignment with the responsible Military Department results in one of the following situations:

(i) The assignment of the Service member to an overseas location where

responsible Military Department personnel are not available to provide EIS pursuant to the child's IFSP or related services pursuant to the child's IEP.

(ii) The assignment causing the responsible Military Department to incur extraordinary expenses (*e.g.*, hiring additional staffing) to provide EIS pursuant to the child's IFSP or related services pursuant to the IEP.

(5) The receiving Military Department may also require the sending Military Department to provide those services that are pursuant to the child's IFSP or IEP when there is failure to coordinate an assignment.

(b) *Military Service Procedures.* Each Military Service will establish procedures to:

(1) Identify active duty Service members who have family members with special medical needs through completion of DD Form 2792, and with educational needs through DD Form 2792-1. The procedures require use of the information when considering family member travel.

(2) Update the status of family member(s) with special needs when conditions occur, change, or no longer exist, and when Service-specific policy requires.

(3) Coordinate the availability of medical and educational services.

(4) Maintain records on the effectiveness of the assignment process involving sponsors who have family members with special needs and on-assignment problems resulting from the inadequacy of the Military Services' procedures or failure to follow their procedures.

(c) *Military Personnel Activities.* Military personnel activities will coordinate with appropriate sources to verify that required special medical and educational services are available.

(1) *Assignments Overseas.*

(i) Coordinate with medical activities to verify that required medical services are available, if the member has a dependent eligible for such services, before authorizing family member travel at government expense.

(ii) Coordinate with DoDEA and the medical activity responsible for supporting DoDEA to ensure that assignments are made to locations where EIS or special education services are available. DoDEA will determine whether the needs can be met in any location or whether an established pinpoint location is required.

(iii) Remove active duty Service members who have family members with special medical and educational needs from overseas orders if no suitable overseas assignment location

can be found and there is no adverse impact on the military mission or on the active duty Service member's career.

(2) *Assignments within the United States and its Territories.*

(i) Coordinate and verify the availability of medical services essential to meet the needs of family members with special medical needs.

(ii) Coordinate with the MHS, school districts or EIS providers, EFMP family support services personnel, the school liaison officer and others, as appropriate, to determine the availability of EIS and special education services essential to meet the family member's special education needs.

(d) *Military Medical Activities.*

Military medical activities will respond to requests from personnel activities to determine the availability of required medical services. Medical treatment facilities will identify or confirm family members who meet the criteria for special needs, as specified in § 75.6 of this part, following Service-specific guidance.

(e) *Active Duty Service Members.*

(1) When the active duty Service member becomes aware that a family member may meet the criteria for special needs, as specified in § 75.6 of this part, the active duty Service member must:

(i) Notify the cognizant military medical authority using Service-specific guidance.

(ii) Have the DD Form 2792 completed by the appropriate medical provider.

(iii) Have the DD Form 2792-1 completed by the current EIS provider or current school providing special education to determine whether the family member (birth through 21 years of age, inclusive) is eligible for, or receiving, EIS or special education and related services.

(2) The active duty Service member must provide the cognizant military authority the completed DD Form 2792 and DD Form 2792-1, when appropriate.

(3) The active duty Service member must provide the information required to complete the DD Form 2792 and, when appropriate, the DD Form 2792-1. An active duty Service member who fails or refuses to provide the required information for a family member for whom the Service member is a personal representative for health information in accordance with Public Law 104-191, "Health Insurance Portability and Accountability Act of 1996 (HIPPA)", or who knowingly provides false information about any dependent, may be subject to disciplinary actions for such offense.

(i) Such disciplinary actions would be in accordance with Article 92 (failure to obey a lawful order or regulation or dereliction of duty) or Article 107 (false official statement), in violation of 10 U.S.C. chapter 47 (also known and referred to in this part as "The Uniform Code of Military Justice (UCMJ)").

(ii) In addition to UCMJ disciplinary action, the active duty Service member may also be subject to administrative sanctions, including denial of command sponsorship.

#### § 75.8 Civilian employees on overseas assignment.

(a) *Vocabulary.* Section 75.3 provides definitions of "family member" that apply only to this section.

(b) *Employee rights.* (1) The DoD Components must select civilian employees for specific positions based on job requirement and merit factors in accordance with 5 U.S.C. 2302, and 29 U.S.C. 791 through 794d. The selection for an overseas position must not be influenced by the special needs of a civilian employee's family member(s), or any other prohibited factor.

(2) The civilian employee or selectee will be given comprehensive medical, dental, and educational information about the overseas community where the position is located to help the employee make an informed choice about accepting the position.

(3) Refer to the Joint Travel Regulations (available at <https://www.defensetravel.dod.mil/Docs/perdiem/JTR.pdf>) for PCS travel and transportation allowances for eligible civilian employees and their family members.

(4) Civilian employees or selectees assigned to positions overseas are generally responsible for obtaining medical and dental services and paying for such services, except services provided pursuant to 32 CFR part 57. Their family members may have access to the MHS on a space-available, reimbursable basis only, except for services pursuant to 32 CFR part 57.

(i) The DoDEA and the Military Medical Department responsible for the provision of related services to support DoDEA at the duty station are required to evaluate school-aged children (ages 3 through 21 years, inclusive) eligible for enrollment in a DoDEA school on a space required basis and provide them with the special education and related services stipulated in their IEPs expeditiously and regardless of cost.

(ii) The Military Departments are required to provide infants and toddlers (from birth up to 3 years of age, inclusive) eligible for enrollment in a DoDEA school on a space required basis



with the EIS stipulated in the IFSPs expeditiously and regardless of cost.

(c) *Processing a Civilian Employee for an Overseas Position.* (1) When recruiting for an overseas position, DoD human resources representatives will:

(i) Provide information on the requirements of this part related to civilian employees or applicants for employment, including employee rights provided in § 75.8(a) of this part.

(ii) Provide information on the availability of medical and educational services, including a point of contact for the applicant to ask about specific special needs. This information must be contained in any document used for recruitment for overseas positions.

(iii) Include the following statements in recruitment information:

(A) If an employee brings a child to an overseas location and that child is entitled to attend a DoD school on a space-required basis in accordance with DoDEA Regulation 1342.13 (available at [http://www.dodea.edu/aboutDoDEA/upload/1342\\_13.pdf](http://www.dodea.edu/aboutDoDEA/upload/1342_13.pdf)), the DoDEA and the Military Department responsible for providing related services will ensure that the child, if eligible for special education, receives a free appropriate public education, including related services pursuant to 32 CFR part 57.

(B) If an employee brings an infant or toddler (up to 3 years of age) to an overseas location, and that infant or toddler, but for the child's age, is entitled to attend the DoDEA on a space-required basis in accordance with DoDEA Regulation 1342.13, then the Military Department responsible for EIS will provide the infant or toddler with the required EIS in accordance with the eligibility criteria consistent with 32 CFR part 57.

(C) If an employee brings a family member to an overseas location who requires medical or dental care, then the employee will be responsible for obtaining and paying for such care. Access for civilian employees and their families to military medical and dental treatment facilities is on a space-available and reimbursable basis only.

(2) When the gaining human resources representatives process a civilian for an overseas position where family member travel is authorized at government expense, then they must ask the selectee to determine whether a family member has special needs, using the criteria provided in § 75.6 of this part. All selectees must be asked only after they have been notified of their selection in accordance with 29 U.S.C. 791 through 794d, and 29 CFR 1630.14. If the selectee indicates that a family member has special needs:

(i) The DoD civilian human resources representatives may not coerce or pressure the selectee to decline the job offer in light of that information.

(ii) The selectee may voluntarily forward to the civilian human resources representative completed DD Forms 2792 or 2792-1 for each family member with special needs to provide information on the availability of medical and educational services. DD Form 2792-1 must be submitted if the selectee intends to enroll his or her child in a school funded by the DoD or a school in which DoD is responsible for paying the tuition for a space-required family member.

(3) The gaining human resources activity will coordinate with the appropriate military medical and educational personnel on availability of services and inform the selectee in writing of the availability of medical, educational, and early intervention resources and services to allow the civilian employee to make an informed choice whether to accept the position. The notice will include:

(i) Comprehensive medical, dental, and educational information on the overseas community where the position is located.

(ii) A description of the local DoDEA facility and programs, specifying the programs for children with special education needs.

(iii) A description of the local EIS available for infants and toddlers with disabilities.

(iv) A statement indicating that the lack of EIS or special education resources (including related services assigned to the military medical departments) cannot serve as a basis for the denial of family travel at government expense and required services will be provided even if a local program is not currently established in accordance with 32 CFR part 57.

(d) Use of EFMP Family Support Services.

(1) Civilian employees may utilize EFMP family support services on a space available basis.

#### **§ 75.9 Provision of family support services.**

(a) EFMP Family Support. EFMP family support services and their personnel:

(1) Provide information and referral to military families with special needs.

(2) Provide assistance, including non-clinical case management to families of active duty Service members (such as the development and maintenance of an individualized SP). The SP will include:

(i) Identification of the family's current needs, the services they receive, and the support they require.

(ii) Documentation of the support provided to the family and follow-on contacts, including case notes.

(3) Refer families who have serious or complicated medical issues to the MHS to request medical case management.

(4) Conduct ongoing outreach with military units, individuals and their families, other service providers, and military and community organizations to promote an understanding of the EFMP and to encourage families with special needs to seek support services when needed.

(5) Serve as the point of contact with leadership in identifying and addressing the community support requirements of military families with special needs.

(6) Collaborate with military, federal, State, and local agencies to share and exchange information in developing a comprehensive program.

(7) Provide assistance before, during and after relocation, including coordination of services with the gaining installation's EFMP family support services program.

(8) Educate and provide assistance to Service members and their families about EFMP family support services, the enrollment and assignment coordination process, resources, and other topics as appropriate.

(b) *Respite care.* Family support services may include respite care services for family members regardless of the age of the family member

#### **§ 75.10 Office of Community Support for Military Families with Special Needs (OSN).**

The OSN:

(a) Develops and implements policies on the:

(1) Provision of support for military families with special needs.

(2) Identification and documentation of family members' special medical or educational needs.

(3) Coordination of military assignments when the Service member has a family member with special needs.

(4) Provision of EIS and special education services to eligible DoD family members in accordance with 32 CFR part 57.

(b) Develops implementing guidance and forms necessary for the operation of the EFMP in accordance with this part.

(c) Provides oversight for the:

(1) Implementation of this part.

(2) Availability and accessibility of programs provided by the Military Services and federal, State and local non-governmental agencies and identifies any gaps in DoD services available to military family members with special needs.

(3) Provision of EIS and special education services to eligible DoD

family members in accordance with 32 CFR part 57.

(d) Collaborates with the Office of the ASD(HA) on medical services regarding family members with special medical needs.

(e) Develops and implements a Web-based data management system to support the EFMP with the Military Departments.

Dated: December 7, 2015.

**Aaron Siegel,**

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

[FR Doc. 2015-31227 Filed 12-10-15; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 632

[Docket No. USA-2015-0013]

RIN 0702-AA68

#### Carrying of Firearms and Use of Force for Law Enforcement, Security, Counterintelligence, and Protective Services

**AGENCY:** Department of the Army (DA), Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** The DA proposes to revise its regulation concerning the carrying of firearms and use of force for law enforcement, security, counterintelligence, and protective services on DoD installations worldwide. It establishes uniform policy for the use of force by law enforcement and security personnel.

**DATES:** Consideration will be given to all comments received by: February 9, 2016.

**ADDRESSES:** You may submit comments, identified by 32 CFR part 632, Docket No. USA-2015-0013 and or RIN 0702-AA68, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301-9010.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public

is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Hargitt, (703) 424-3309.

**SUPPLEMENTARY INFORMATION:** This rulemaking proposes to revise a current Army regulation which was published in the **Federal Register** on April 21, 1983 (48 FR 17074). The proposed revisions cover carrying firearms and the use of force by DoD personnel law enforcement, security (DoD and contractor), counterintelligence, and protective services. This proposed rule also fully implements applicable portions of Department of Defense Directive (DoDD) 5210.56, <http://www.dtic.mil/whs/directives/corres/pdf/521056p.pdf>, which authorizes civilian officers and employees of the Department of Defense to carry firearms or other appropriate weapons while assigned investigative duties or such other duties as the Secretary of Defense may prescribe, under regulations to be prescribed by the Secretary.

#### I. Legal Authorities Discussed in the Rule

The proposed revisions add to the CFR the following authorities.

10 U.S.C. 807—Article 7, Apprehension. This article specifically covers the authority for apprehension or taking of a person into custody.

50 U.S.C. Section 797, Penalty for violation of security regulations and orders. This section covers fines and penalties that a person is subject to if they willfully violate a defense property security regulation that has been promulgated or approved by the Secretary of Defense or by a military commander designated by the Secretary of Defense or by a military officer, or a civilian officer or employee of the Department of Defense, holding a senior Department of Defense director position designated by the Secretary of Defense for the protection or security of Department of Defense property.

18 U.S.C. Section 3261, Criminal offenses committed by certain members of the Armed Forces and by persons employed by or accompanying the Armed Forces outside the United States. Whoever engages in conduct outside the United States that would constitute an offense punishable by imprisonment if the conduct had been engaged in within the territorial jurisdiction of the United States while employed by or accompanying the Armed Forces outside the United States; or while a

member of the Armed Forces subject to the Uniform Code of Military Justice.

#### II. Summary of Changes Since the Last Revisions to This Rule

These revisions do not propose significant changes to the policy and applicability sections of the current rule. The use of force section has been updated to ensure that the level of force is reasonable in intensity, duration and magnitude and, based upon the level of effort required to counter a threat. There is no requirement to delay force or sequentially increase the level of force to resolve a situation or threat. DoD personnel will warn persons and give the opportunity to withdraw or cease threatening actions when the situation or circumstances permit. Additionally, this proposed rule updates the levels of force to include less-lethal force and presentation of deadly force.

The revisions to the deadly force section state that personnel will not be permitted to perform law enforcement or security duties requiring the use of weapons until they have received instruction on applicable regulations for the use of deadly force. Additionally, it requires personnel receive annual refresher training to maintain familiarity with restrictions on the use of deadly force. Deadly force is justified only under conditions of extreme necessity and as a last resort when all lesser means have failed or cannot reasonably be employed.

The revisions also propose a new less-lethal force section and updates additional options available to law enforcement and correctional or security guards. The current rule only defines the chemical aerosol irritant projectors and MP clubs. The updated section includes the launched electrode stun device (LESD), oleoresin capsicum spray (M39 Individual Riot Control Agent Dispenser (IRCAD)) and the expandable or straight baton. Department of the Army personnel may employ less-lethal force with the reasonable amount of force necessary to detain or effect a lawful arrest or apprehension of a resisting subject, or to otherwise accomplish the lawful performance of assigned duties. This section also discusses required training and performance measures to subdue a subject.

#### III. Cost and Benefits

This proposed rule will not have a monetary effect upon the public since it only facilitates information sharing between authorized law enforcement agencies to enhance protection of personnel and resources critical to DoD mission assurance. These efforts allow

the efficient deployment of police and security forces proactively to deter, prevent and mitigate losses due to criminal behaviors.

#### B. Retrospective Review

This proposed rule is part of DoD's retrospective plan, completed in August 2011, under Executive Order 13563, "Improving Regulation and Regulatory Review," DoD's full plan and updates can be accessed at: <http://www.regulations.gov/#!docketDetail; dct=FR+PR+N+O+SR; rpp=10;po=0;D=DOD-2011-OS-0036>.

#### C. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

#### D. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of \$100 million or more.

#### E. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the proposed rule does not have an adverse impact on the environment.

#### F. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act doesn't apply. There is no additional burden for collection of information from the public or the addition of additional government forms associated with this rulemaking. Information collected to support this proposed rule is that information normally collected in the performance of law and order across the United States. Procedures and business processes outlined in this rule provide uniform policy concerning firearms, procedures for use of force, deadly force and less-lethal force, reporting efforts including the reduction of information collection burdens on the public and the improvement of law enforcement service delivery while maintaining privacy, confidentiality and information systems protections.

#### G. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the proposed rule does not impair private property rights.

#### H. 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 proposed rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the proposed rule has been reviewed by the Office of Management and Budget (OMB).

#### I. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045. This proposed rule does not apply since it does not implement or require actions impacting environmental health or safety risks to children.

#### J. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this proposed rule does not apply because it will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.

**Thomas S. Blair,**

Chief, Law Enforcement Policy Branch, Office of the Provost Marshal General.

#### List of Subjects in 32 CFR Part 632

Deadly force, Expandable or straight baton, Firearms policy, Jurisdiction and authority, Launched electrode stun device, Less-lethal force, Oleoresin

capsicum (OC) spray, Procedures for use of force.

For reasons stated in the preamble the Department of the Army proposes to revise 32 CFR part 632 to read as follows:

### PART 632—CARRYING OF FIREARMS AND USE OF FORCE FOR LAW ENFORCEMENT, SECURITY, COUNTERINTELLIGENCE, AND PROTECTIVE SERVICES

#### Subpart A—Introduction

Sec.

- 632.1 Purpose.
- 632.2 Applicability.
- 632.3 Firearms policy.

#### Subpart B—Use of Force

- 632.4 Procedures for use of force.
- 632.5 Deadly force.

#### Subpart C—Less-Lethal Force

- 632.6 Less-lethal force.
- 632.7 Launched electrode stun device.
- 632.8 Oleoresin capsicum (OC) spray.
- 632.9 Expandable or straight baton.
- 632.10 Jurisdiction and authority.

**Authority:** 10 U.S.C. 807; 50 U.S.C. 797; 18 U.S.C. 3261.

#### Subpart A—Introduction

##### § 632.1 Purpose.

This part prescribes policies and procedures for authorizing, carrying, and using firearms in connection with law enforcement, security, counterintelligence, and protective service duties. It establishes uniform policy for the use of force by law enforcement and security personnel.

##### § 632.2 Applicability.

This part applies to the active Army, the U.S. Army Reserve, the Department of the Army civilian police and security guard activities, contracted or contractor security force operations and activities, and the Army National Guard only when called or ordered to active duty in a Federal status under the provisions of the title 10, United States Code. It applies to contracted or contractor security force operations and activities when those forces operate under Federal jurisdiction and are not subject to State or host nation law. The provisions of this part do not apply to military personnel engaged in military operations subject to rules of engagement or to Department of Defense personnel in an overseas location not under the authority of, or subject to, the control of a U.S. military commander. Portions of this regulation that proscribe specific conduct are punitive, and violations of these provisions may subject offenders to nonjudicial or

judicial action under the Uniform Code of Military Justice.

### § 632.3 Firearms policy.

(a) DA personnel engaged in law enforcement, law and order, security, or counterintelligence investigations, including Army civilian police and security guards, both DA employee and contractor, who are authorized to be armed under this part will be appropriately armed and have the inherent right to self-defense.

(b) Authorization to carry a firearm includes the authority for the firearm to be loaded with ammunition. A firearm will be considered loaded when a magazine containing ammunition is placed in the firearm and a round of ammunition is placed in the chamber of the firearm.

(c) Arming of DA personnel will be limited and controlled. Qualified personnel engaged in the activities described in § 632.3(a) will be armed when required for assigned duties and there is a reasonable expectation that installations, property, or lives will be jeopardized if those personnel are not armed. The decision to arm DA personnel will be made after considering the possible consequences of accidental or indiscriminate use of the arms. The overriding factors to be considered in determining whether to arm DA personnel are the mission and threat. Arming those not regularly engaged in or directly supervising security or law enforcement activities will be limited to missions or threats and the immediate need to protect lives and DA assets.

(d) Screening pursuant to the Gun Control Act, to include the Lautenberg Amendment, will be accomplished without fail prior to authorizing any person to carry a firearm.

(e) DA personnel will only use the amount of force, including less-lethal force and deadly force, reasonably necessary to carry out their duties.

### Subpart B—Use of Force

#### § 632.4 Procedures for use of force.

(a) DA military and civilian personnel engaged in law enforcement or security duties will be highly trained and proficient in both the understanding and the application of the use of force. In such cases where the use of force is warranted, DA personnel will use the necessary and reasonable amount of force needed to reach their objective. Only as a last resort will deadly force be used and only as described in this part.

(b) When the use of force is required, less-lethal force may be used to control a situation, provide defense of DoD

forces, provide defense of non-DoD persons in the vicinity if directly related to the assigned mission, or in defense of the protected property, when doing so is reasonable under the circumstances. The use of force must be reasonable in intensity, duration, and magnitude, based upon the totality of the circumstances to counter a threat. There is no requirement to delay force or sequentially increase force to resolve a situation or threat. DoD personnel will warn persons and give the opportunity to withdraw or cease threatening actions when the situation or circumstances permit. After consultation with the servicing judge advocate or legal advisor, conduct the appropriate level of inquiry in accordance with AR 15–6 for all incidents involving law enforcement personnel's application of physical force in the line of duty. The completed inquiry will be filed as an enclosure within the Law Enforcement Report (LER).

(c) Commanders are mandated to augment firearms with DoD- or DA-approved nonlethal weapons and devices for performing law enforcement and security duties. For the purpose of this part (in accordance with DoDD 5210.56), and in the context of use of force, the term less-lethal force is used as there is no guarantee that non-lethal weapons (NLWs) will not cause severe injury or death. Less-lethal force can cause severe injury or death. DA personnel using NLW, as well as the party against which the tactic is used, will receive appropriate medical care if injured as a result of the use of less-lethal force.

(d) In evaluating the degree of force required for a specific situation, the following options will be considered. There is no need to proceed sequentially to increase force to resolve a situation or threat. Suggested methods of de-escalation of force to try should the circumstances permit (subject to host nation or local restrictions) are:

- (1) Verbal persuasion.
- (2) Unarmed defense techniques.
- (3) Less-lethal weapons and/or devices (for example, oleoresin capicum spray, launched electrode stun device, and baton).
- (4) Military working dog (if available).
- (5) Presentation of deadly force capability.
- (6) Deadly force.

#### § 632.5 Deadly force.

(a) Principles defined in this part on the use of deadly force with firearms will be applied equally to personnel using a weapon or equipment which, when properly employed in their

intended use, would produce deadly force.

(b) The Secretary of the Army, Army commanders, or their designees may impose further restrictions on the use of deadly force if deemed necessary in their judgment and if such restrictions would not unduly compromise the national security interests of the United States.

(c) Personnel will not be permitted to perform law enforcement or security duties requiring the use of weapons until they have received instruction on applicable regulations for the use of deadly force in the performance of such duties. Additionally, annual refresher training will be given to all personnel assigned to those duties to ensure that they continue to be thoroughly familiar with all restrictions on the use of deadly force.

(d) Personnel carrying weapons for personal protection will have the necessary training on deadly force commensurate with that prescribed by this part.

(e) For contract security forces, the applicable contract will specify that the use of deadly force criteria will be established consistent with this part and local law.

(f) Deadly force is justified only under conditions of extreme necessity and as a last resort when all lesser means have failed or cannot reasonably be employed. Deadly force is justified under one or more of the following circumstances:

(1) *Self-defense and defense of others.* When deadly force reasonably appears to be necessary to protect any person who is reasonably believed to be in imminent danger of death or serious bodily harm.

(2) *Assets involving national security.* When deadly force reasonably appears necessary to prevent the actual theft or sabotage of assets vital to national security. DoD assets will be specifically designated as “vital to national security” only when their loss, damage, or compromise would seriously jeopardize the fulfillment of a national defense mission. Examples include nuclear weapons; nuclear command, control, and communications facilities; and designated restricted areas containing strategic operational assets, sensitive codes, or special access programs.

(3) *Assets not involving national security but inherently dangerous to others.* When deadly force reasonably appears to be necessary to prevent the actual theft or sabotage of resources, such as operable weapons or ammunition, that are inherently dangerous to others; such as assets that,

in the hands of an unauthorized individual, present a substantial potential danger of death or serious bodily harm to others. Examples include high risk portable and lethal missiles, rockets, arms, ammunition, explosives, chemical agents, and special nuclear material.

(4) *Serious offenses against persons.* When deadly force reasonably appears necessary to prevent the commission of kidnapping, sexual assault, or any offense involving or threatening death or serious bodily harm.

(5) *Arrest or apprehension.* When deadly force reasonably appears to be necessary to arrest, apprehend, or prevent the escape of a person who, there is probable cause to believe, has committed an offense of the nature specified in paragraphs § 632.5(f)(2) through (4).

(6) *Escapes.* When deadly force has been specifically authorized by the Secretary of the Army and reasonably appears to be necessary to prevent the escape of a prisoner, provided law enforcement or security personnel have probable cause to believe that the escaping prisoner poses a threat of serious bodily harm either to security personnel or others.

(g) Additional requirements for the use of firearms.

(1) When the situation permits, an order of “halt” will be given.

(2) Warning shots are prohibited.

(3) When a firearm is discharged, it will be fired with the intent of rendering the person(s) at whom it is discharged incapable of continuing the activity or course of behavior prompting the individual to shoot.

(4) Shots will be fired only with due regard for the safety of innocent bystanders.

(5) In case of holstered weapons, a weapon should only be removed from the holster when a potential need to use deadly force is reasonably anticipated or display of the weapon may avoid the need to use deadly force.

(h) Commanders of ACOMs, ASCCs, and DRUs may establish additional considerations in implementing procedures over the use of firearms.

### Subpart C—Less-Lethal Force

#### § 632.6 Less-lethal force.

(a) DoDD 3000.03E establishes DoD policy for the development and employment of NLWs. DA personnel (Army Law Enforcement Officer (ALEO), correctional or security guards) may employ less-lethal force with the reasonable amount of force necessary under the circumstances to detain or effect a lawful arrest or apprehension of

a resisting subject, or to otherwise accomplish the lawful performance of assigned duties as described in § 632.6(c)(1) through (9). In the context of use of force, this part uses the term “less-lethal” force in lieu of “nonlethal” because there is no guarantee that properly employed “less-lethal” force will not inadvertently cause severe injury or death. Employment of less-lethal force may include the use of NLW.

(b) DA personnel using NLW during the employment of less-lethal force, as well as the party against which the tactic is used, will receive appropriate medical care if injured as a result of the NLW.

(c) Less-lethal force may be used under the following circumstances:

(1) Against persons assaulting other persons or themselves in order to prevent injury and/or continuation of the assault when lesser means of force have failed or are not considered a viable option by the ALEO.

(2) Against persons offering physical resistance to lawful arrest or apprehension when alternatives to the use of force have failed or are not considered a viable option by the ALEO.

(3) Against persons passively resisting a lawful, full-custody arrest or apprehension when alternatives to the use of force have failed or are not considered a viable option by the ALEO.

(4) To prevent the escape of a prisoner.

(5) To prevent the destruction of DoD property.

(6) Against animals menacing or attacking a person or themselves.

(7) To quell a major or minor disturbance within a correctional facility.

(8) To quell a riot or civil disobedience.

(9) To move or incapacitate an unruly prisoner.

#### § 632.7 Launched electrode stun device.

(a) A launched electrode stun device (LESD) is an Electronic Control Device (ECD) that is used to temporarily incapacitate a non-compliant subject with an electrical stimulus delivered by direct contact or propelled probes. This electrical stimulus affects the sensory and motor functions of the central nervous system interrupting voluntary control of skeletal muscles and causing immediate, involuntary muscle contractions. The intended effect is neuromuscular incapacitation to ensure compliance by the non-compliant subject. An LESD is intended to minimize injury to law enforcement or security personnel, non-compliant subjects, and innocent bystanders. The

timely and appropriate use of an LESD can de-escalate situations quickly and before conditions lead to increased escalation of force. Special Text (ST) 19–LESM, task 191–389–0057, outlines performance measures to subdue a subject using an LESD.

(b) An LESD is employed as a NLW capability and is not intended to replace firearms or lesser means of force. An LESD may be used when all of the following conditions are met:

(1) When one of the circumstances in § 632.6(c)(1) through (9) is present; and

(2) When lesser means of force options have been, or likely will be, ineffective; and

(3) When there is a reasonable expectation that it will be unsafe for law enforcement personnel to approach within physical contact range of the subject; and

(4) When law enforcement or security personnel determine that deadly force is not justified or not necessary.

(c) Before employing an LESD, law enforcement or security personnel must assess how effective it will be in their given situation. The decision to use an LESD will depend upon the totality of the circumstances, including but not limited to the level of resistance of the subject, the nature of the threat to the officer or others, the severity of the subject’s suspected crime, and the overall hostility of the situation. After employing an LESD, law enforcement or security personnel must determine whether further employment is warranted based on the continuing presence of the conditions in paragraph § 632.7(b) and based on the totality of the circumstances described in this paragraph.

(d) An LESD is not a substitute for deadly force and should not be used in situations where deadly force is necessary.

(e) Prior to employing an LESD, law enforcement, correctional or security personnel will give a verbal warning and verbal commands to a resisting subject, when and if the situation permits. Verbal warnings and commands are not necessary if the threat to law enforcement personnel or to the safety of others dictates immediate action.

(f) The use of an LESD may eliminate the need for hands-on active countermeasures. Law enforcement, correctional or security personnel may utilize empty hand tactics prior to employing an LESD as the situation dictates. However, law enforcement, correctional, or security personnel are not required to attempt empty hand control tactics if they believe those

tactics would be dangerous or ineffective.

(g) Notwithstanding § 632.7(b), an LESD will not be used:

(1) When it is known that the subject has come into contact with flammable liquids or is in a flammable environment; or

(2) When the subject is in a position where falling may cause significant injury or death; or

(3) As a punitive measure to coerce an uncooperative subject; or

(4) To awaken an unconscious subject (e.g., due to intoxication).

(h) Notwithstanding § 632.7(b), an LESD should not be used in the following circumstances unless absolutely necessary:

(1) On a subject operating a motor vehicle; or

(2) On a subject gripping a firearm; or

(3) On women known or suspected to be pregnant; or

(4) On persons perceived to be 60 years of age or older, or disabled; or

(5) On persons perceived to be children 14 years of age or younger.

(i) *Post-employment responsibilities.*

(1) Law enforcement, correctional or security personnel must seek medical treatment or clearance from medical personnel prior to further law enforcement processing after employing an LESD on a non-compliant subject.

(2) If requested by the subject, law enforcement, correctional or security personnel must ensure that medical treatment is provided after an LESD has been employed, regardless of the subject's apparent medical condition.

(3) If an LESD probes are lodged in the soft tissue areas near the eye, throat, ear, groin, or genitals, law enforcement, correctional or security personnel will summon medical personnel to the scene, or will transport the subject to the nearest medical facility to have the probes removed by medical personnel.

(4) During processing, the apprehending law enforcement personnel will inform the detention personnel that they employed an LESD against the subject. Law enforcement personnel will not transfer a subject to a detention center after employment of an LESD if the probes have not been removed, or if the subject has not received, requested or required medical care.

#### § 632.8 Oleoresin capsicum (OC) spray.

(a) The Army M39 Individual Riot Control Agent Dispenser (IRCAD) contains OC and is intended for law enforcement use in self-defense and for controlling rioters, prisoners, and/or non-compliant subjects. It is designed to provide a safe and effective way to

subdue a subject without causing permanent injury. The M39 IRCAD contains enough OC or "pepper spray" for 15 one-second bursts. It has an operational range of 10 to 30 feet. ST 19-LESM, task 191-376-5108 and task 191-389-0037, outlines performance measures to subdue a subject with OC spray while in performance of law enforcement duties. Soldier Training Publication (STP) 19-31E1-SM, task 191-31E-0042 and 191-31E-1369, outline performance measures for use of OC spray while in a correctional facility.

(b) *Medical considerations.* (1) Once the subject has been taken into custody, begin the decontamination process.

(2) During transport, reassure the subject and monitor them for medical distress, coherence, and respiration.

(3) Seek immediate medical assistance upon any sign of medical distress.

(4) Seek medical assistance if the direct effects of the OC spray does not dissipate within an hour.

#### § 632.9 Expandable or straight baton.

(a) The baton is used for law enforcement self-defense and for keeping rioters and/or non-compliant subjects out of arms reach. The baton may be employed in situations where the use of a firearm is not authorized or necessary, and when law enforcement, correctional or security personnel reasonably believe that a lower level of force will be ineffective or jeopardize the safety of the law enforcement personnel.

(b) *Authorized use.* The baton may be used as a defensive impact instrument to block or strike an assailant. The subjects' actions and levels of resistance will determine how the baton is employed. STP 19-LESM, task 191-376-5210, outlines performance measures (e.g. appropriate and inappropriate strike areas) to subdue a subject with a straight baton while in performance of law enforcement duties. STP 19-31E-SM, task 191-376-4140, outlines performance measures when using a riot baton as a member of a riot control formation.

(c) *Location of use.* Consideration must be used when employing the baton on vital areas of the body such as the head, neck or spine. Baton blows to the head can cripple or kill. Batons will not be used to apply pressure to the head, neck or throat.

#### § 632.10 Jurisdiction and authority.

(a) The DES, Correctional Facility Commander or PM for each installation, in coordination with the senior/garrison commander and the staff judge advocate (SJA), may place further limitations on the use of an LESD, OC, and/or baton

beyond what is provided in this part. The servicing SJA is critical in analyzing the particular installation's jurisdictional arrangement, and determining whether state law (for U.S. installations) or host nation law (for non-U.S. installations) impacts the use of LESD, OC and/or baton on the installation.

(b) After consultation with the servicing judge advocate or legal advisor, conduct the appropriate level of inquiry in accordance with AR 15-6 for all incidents involving law enforcement personnel's application of physical force in the line of duty. The completed inquiry will be filed as an enclosure within the Law Enforcement Report.

[FR Doc. 2015-31194 Filed 12-10-15; 8:45 am]

BILLING CODE 3710-08-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2015-0563; FRL-9939-79-Region 5]

### Air Plan Approval; Minnesota; Transportation Conformity Procedures

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision submitted by the State of Minnesota on July 16, 2015. The purpose of this revision is to establish transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

**DATES:** Comments must be received on or before January 11, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0563, by one of the following methods:

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

2. *Email:* [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

3. Fax: (312) 692-2450.

4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only

accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:**

Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, [leslie.michael@epa.gov](mailto:leslie.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Rules section of this **Federal Register**, EPA is approving Minnesota's state implementation plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: November 23, 2015.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2015-31063 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[EPA-R02-OAR-2015-0755, FRL-9940-00-Region 2]

**Approval and Promulgation of State Plans for Designated Facilities; Commonwealth of Puerto Rico**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the State plan submitted by the Commonwealth of Puerto Rico to implement and enforce the Emission Guidelines (EG) for existing sewage sludge incineration (SSI) units. Puerto Rico's plan is consistent with the EG promulgated by the EPA on March 21, 2011. Puerto Rico's plan establishes emission limits and other requirements for the purpose of reducing toxic air emissions and other air pollutants from existing SSI units throughout the Commonwealth. At the request of Puerto Rico, the EPA is proposing not to take action on a provision of its SSI plan allowing for affirmative defenses of Clean Air Act violations in the case of malfunctions. Puerto Rico submitted its plan to fulfill the requirements of sections 111(d) and 129 of the Clean Air Act.

**DATES:** Written comments must be received on or before January 11, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R02-OAR-2015-0755 by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- Email: [Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov).
- Mail: EPA-R02-OAR-2015-0755, Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- *Hand Delivery:* Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:00 p.m. excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2015-0755. The EPA's policy is that all comments received will be included in

the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available at [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. The EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Anthony (Ted) Gardella  
([Gardella.anthony@epa.gov](mailto:Gardella.anthony@epa.gov)),  
Environmental Protection Agency,  
Region 2 Office, Air Programs Branch,

290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3892.

**SUPPLEMENTARY INFORMATION:** The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

**I. EPA Action**

- A. What action is the EPA proposing today?
- B. Which provision of the Puerto Rico State sewage sludge incineration (SSI) plan is the EPA not taking action on?
- C. What is the background for Puerto Rico's request that EPA not take action on the affirmative defense provision?
- D. Why is the EPA taking this action?
- E. Who is affected by Puerto Rico's State SSI plan?

**II. Background**

- A. What is a State plan?
- B. What is a State SSI plan?
- C. Why is the EPA requiring Puerto Rico to submit a State SSI plan?
- D. What are the requirements for a State SSI plan?

**III. Puerto Rico's State SSI Plan**

- A. What is contained in the Puerto Rico State SSI plan?
- B. What approval criteria did the EPA use to evaluate Puerto Rico's State SSI plan?

**IV. What is the EPA's conclusion?**

**V. Statutory and Executive Order Reviews**

**I. EPA Action**

*A. What action is the EPA proposing today?*

The EPA is proposing to approve Puerto Rico's State plan, submitted on July 30, 2014, for the control of air emissions from existing SSI units throughout the Commonwealth. Puerto Rico submitted its SSI plan to fulfill the requirements of sections 111(d) and 129 of the Clean Air Act (CAA). The Puerto Rico State SSI plan adopts and implements the Emission Guidelines (EG) applicable to existing SSI units, and establishes emission limits and other requirements for SSI units constructed on or before October 14, 2010.

As explained below, Puerto Rico requested in its July 30, 2014 submittal, that the EPA not take any action on a provision of the Puerto Rico State SSI plan allowing for affirmative defenses of CAA violations in the case of malfunctions. Therefore, the EPA is not taking any proposed action on the affirmative defense provision portion of Puerto Rico's State SSI plan.

*B. Which provision of the Puerto Rico State sewage sludge incineration (SSI) plan is the EPA not taking action on?*

Puerto Rico is requesting that the EPA not take any action on a provision in Puerto Rico's State SSI plan that allows for an affirmative defense by an owner/operator of an SSI unit for violations of

air emissions or other requirements of Puerto Rico's plan in the event of malfunction(s) of a covered SSI unit. With the exception of the affirmative defense provision in Puerto Rico's State SSI plan, the EPA's proposed approval, once finalized and effective, will make Puerto Rico's rules included in Puerto Rico's State SSI plan federally enforceable.

*C. What is the background for Puerto Rico's request that EPA not take action on the affirmative defense provision?*

In an April 18, 2014 opinion, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated an affirmative defense in one of the EPA's Section 112 regulations. *Natural Resources Defense Council v. Environmental Protection Agency*, 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in Section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. The Office of General Counsel determined that EPA policy should reflect the court's decision. The vacated affirmative defense provision in the EPA's Portland cement MACT rule is identical to the affirmative defense provision in the EPA's SSI EG, promulgated on March 21, 2011, under sections 111(d) and 129 of the CAA, at § 60.5181 (“*How do I establish an affirmative defense for exceedance of an emission limit or standard during a malfunction?*”). Puerto Rico's State SSI plan adopted all the applicable requirements of the EPA's SSI EG, including the affirmative defense provisions at § 60.5181, into its State plan at Rule 405(d) of the Regulation for the Control of Atmospheric Pollution (RCAP). Specifically, Puerto Rico requests that the EPA not include the following affirmative defense provisions in Puerto Rico's Rule 405(d): (d)(2)(E), (d)(2)(E)(i) and (d)(2)(E)(ii) in Puerto Rico's State plan.

Because of the April 2014 D.C. Circuit Court's vacatur referred to above, Puerto Rico, in its July 30, 2014 submittal letter to the EPA, requested that the EPA not take action on the affirmative defense provision included in Puerto Rico's State SSI plan submitted to the EPA for approval on July 30, 2014.<sup>1</sup>

<sup>1</sup>EPA has proposed a Federal SSI plan which would apply to SSI units that are not covered by an approved and effective state plan. The proposed federal plan does not include an affirmative defense

Consequently, the EPA is proposing to not take any action on that particular provisions of Puerto Rico's State SSI plan as discussed herein.

*D. Why is the EPA taking this action?*

EPA has evaluated Puerto Rico's State SSI plan for consistency with the CAA, EPA guidelines and policy. The EPA has determined that Puerto Rico's State SSI plan meets all applicable requirements and therefore, the EPA is proposing to approve Puerto Rico's State plan to implement and enforce the EG applicable to existing SSI units, except that, as requested by Puerto Rico, the EPA is proposing not to take action on the affirmative defense provisions of Puerto Rico's SSI State plan for the reasons discussed above.

*E. Who is affected by Puerto Rico's State SSI plan?*

Puerto Rico's State plan regulates all the units designated by the EG for existing SSI units which commenced construction on or before October 14, 2010 and which are located at a wastewater treatment facility designed to treat domestic sewage sludge. If the owner or operator of an SSI unit made changes after September 21, 2011, that meet the definition of modification (see Title 40, Code of Federal Regulations, section 60.5250 (40 CFR 60.5250)), the SSI unit becomes subject to subpart LLLL (New Source Performance Standards for New Sewage Sludge Incineration Units) of 40 CFR part 60, and the State plan no longer applies to that unit.

**II. Background**

*A. What is a State plan?*

Section 111 of the CAA, “Standards of Performance for New Stationary Sources,” authorizes EPA to set air emissions standards for certain categories of sources. These standards are called New Source Performance Standards (NSPS). When a NSPS is promulgated for new sources, section 111(d) also requires that EPA publish an EG applicable to control the same pollutants from existing (or designated) facilities. States<sup>2</sup> with designated facilities must then develop a State plan to adopt the EG into the State's body of regulations. States must also include in their State plan other requirements, such as inventories, legal authority, reporting and recordkeeping, and public participation documentation, to

to violations that result from malfunctions. 80 FR 23402, 23407 (Apr. 27, 2015).

<sup>2</sup>Section 302(d) of the CAA includes the Commonwealth of Puerto Rico in the definition of the term “State.”



demonstrate their ability to enforce the State plans.

Section 129 of the CAA requires EPA to establish performance standards and emission guidelines for various types of new and existing solid waste incineration units. Section 129(b)(2) requires States to submit to EPA for approval section 111(d)/129 plans that implement and enforce the promulgated EG. Section 129(b)(3) requires EPA to promulgate a Federal plan (FP) within two years from the date on which the EG, or when revision to the EG, is promulgated. The FP is applicable to affected facilities when the state has failed to receive EPA approval of the section 111(d)/129 plan. The FP remains in effect until the state submits and receives EPA approval of its section 111(d)/129 plan.

State plan submittals under CAA sections 111(d) and 129 must be consistent with the relevant EG, in this instance 40 CFR part 60, subpart MMMM, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A. Section 129 of the CAA regulates air pollutants that include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, and mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides), particulate matter, and opacity (as appropriate).

#### B. What is a State SSI plan?

A State SSI plan is a State plan, as described above, that controls air pollutant emissions from existing sewage sludge incinerators located at a wastewater treatment facility designed to treat domestic sewage sludge and that commenced construction on or before October 14, 2010. The applicable types of SSI units include fluidized bed and multiple hearth incinerators.

#### C. Why is the EPA requiring Puerto Rico to submit a State SSI plan?

When the EPA developed the NSPS for SSI units, we simultaneously developed the EG to control air emissions from existing SSI units (see 76 FR 15371, March 21, 2011). Under section 129 of the CAA, the EG is not federally enforceable; therefore, section 129 of the CAA also requires states to submit to EPA for approval State plans that implement and enforce the EG. Under section 129 of the CAA, these State plans must be at least as protective as the EG, and they become federally enforceable upon approval by EPA.

The procedures for adopting and submitting State plans are located in 40 CFR part 60, subpart B. If a state fails to have an approvable plan in place by March 21, 2013, the EPA is required to

promulgate a federal plan to establish requirements for those sources not under an EPA-approved State plan. The procedures for EPA's approval and disapproval of State plans are located in 40 CFR part 62, subpart A. The EPA is proposing to approve Puerto Rico's State SSI plan, except, as discussed above, for the affirmative defense provisions, since its SSI plan is deemed at least as protective as the standards set in the EG. Puerto Rico has developed and submitted a State plan, as required by sections 111(d)/129 of the CAA, to gain federal approval to implement and enforce the EG for existing SSI units.

#### D. What are the requirements for a State SSI plan?

A section 111(d) State plan submittal must meet the requirements of 40 CFR part 60, subpart B, sections 60.23 through 60.26, and the EG found at 40 CFR part 60, subpart MMMM (see 76 FR 15371, March 21, 2011). Subpart B contains the procedures for the adoption and submittal of State plans. This subpart addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules, emission inventories, source surveillance, and compliance assurance and enforcement requirements.

EPA promulgated the EG at 40 CFR part 60, subpart MMMM on March 21, 2011. Subpart MMMM contains guidelines to the states for submittal of plans that address existing SSI units. In addition, subpart MMMM contains the technical requirements for existing SSI units located at a wastewater treatment plant designed to treat domestic sewage sludge and applies to SSI units that commenced construction on or before October 14, 2010. A state can address the SSI technical requirements by adopting its own regulation that includes all the applicable requirements of subpart MMMM or by adopting by reference subpart MMMM. The section 111(d) State plan is required to be submitted within one year of the EG promulgation date, *i.e.*, by March 21, 2012. Prior to submittal to EPA, the State must make available to the public the State plan and provide opportunity for public comment, including a public hearing.

### III. Puerto Rico's State SSI Plan

#### A. What is contained in the Puerto Rico State SSI plan?

On July 30, 2014<sup>3</sup>, the Puerto Rico Environmental Quality Board submitted

<sup>3</sup> In emails dated 6/04/2015, 8/10/2015 and 11/10/2015, Puerto Rico responded to EPA's requests to provide clarifying information concerning Puerto Rico's State SSI plan. This clarifying information

its section 111(d) State plan for implementing EPA's EG for existing SSI units located in the Commonwealth of Puerto Rico.

Puerto Rico amended Rule 102, entitled "Definitions of the Regulation for the Control of Atmospheric Pollution (RCAP)," and incorporated Rule 405(d), entitled "Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units (SSI)," to include the requirements for implementing the SSI EG covered under Sections 111(d) and 129 of the CAA, and codified in 40 CFR part 60, subpart MMMM. Revisions to Puerto Rico's Rules became effective on July 13, 2014.

Section 60.5015 of the EG describes all of the required elements that must be included in a state's plan for SSI units. Puerto Rico's State SSI plan includes all of the required elements described in section 60.5015 of the EG, as summarized herein:

(1) A demonstration by the Attorney General of the Puerto Rico Department of Justice of the Commonwealth's legal authority to implement the sections 111(d) and 129 State SSI plan;

(2) State Rules 102 and 405(d) adopted into RCAP as the mechanism for implementing and enforcing the State SSI plan;

(3) An inventory of one known SSI facility, including one SSI unit, along with an inventory of estimated air pollutant emissions (see sections VI of Puerto Rico's State plan as well as the clarifying information submitted by Puerto Rico<sup>4</sup>). The affected SSI unit is a fluidized bed combustor, identified in the inventory as 'Sludge Incinerator,' and is located at the Puerto Rico Aqueduct and Sewer Authority (PRASA) facility in Puerto Nuevo;

(4) Emission limits, emission standards, operator training and qualification requirements, and operating limits that are as protective as the EG;

(5) Enforceable compliance schedules incorporated into Rule 405(d), as follows: if an owner of an affected SSI unit plans to achieve compliance more than one year following the effective date of state plan approval the owner must (1) submit a final control plan to Puerto Rico by September 21, 2014, and (2) achieve final compliance by March 21, 2016 (see section (d)(7) of Puerto Rico's State plan);

also is available in EPA's docket at [www.regulations.gov](http://www.regulations.gov).

<sup>4</sup> In an email dated 11/10/2015, Puerto Rico provided additional emissions inventory data for the one known SSI unit in the Commonwealth. This information is available in the EPA's docket at [www.regulations.gov](http://www.regulations.gov).

(6) Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;

(7) Records of the public hearing on the State SSI plan; and,

(8) Provisions for annual state progress reports to EPA on implementation of the State plan.

The EPA proposes to determine that Puerto Rico's State SSI plan for existing SSI units includes all the required State plan elements described in section 60.5015 of the EG.

*B. What approval criteria did the EPA use to evaluate Puerto Rico's State SSI plan?*

The EPA reviewed Puerto Rico's State SSI plan for approval against the following criteria: 40 CFR 60.23 through 60.26, "Subpart B—Adoption and Submittal of State Plans for Designated Facilities;" and 40 CFR 60.5000 through 60.5250, "Subpart MMM—Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units;" and 40 CFR 62, subpart A, "General Provisions" for "Approval and Promulgation of State Plans for Designated Facilities and Pollutants."

#### IV. What is the EPA's Conclusion?

The EPA has determined that Puerto Rico's State SSI plan meets all the applicable approval criteria as discussed above and, therefore, the EPA is proposing to approve Puerto Rico's sections 111(d) and 129 State plan for existing sewage sludge incineration units. As explained above, at the request of Puerto Rico, the EPA is proposing to not take any action on the affirmative defense provisions in Puerto Rico's State SSI plan.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the Act and applicable Federal regulations. 40 CFR 62.04. Thus, in reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

The 111(d)/129 plan 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 Nation Land, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, waste treatment and disposal.

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

Dated: November 30, 2015.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2015-31182 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 141

[EPA-HQ-OW-2015-0218; FRL-9935-74-OW]

RIN 2040-AF10

### Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 4) for Public Water Systems and Announcement of a Public Meeting

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

**ACTION:** Proposed rule and notice of public meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is proposing a Safe Drinking Water Act (SDWA) rule that requires public water systems to collect occurrence data for contaminants that may be present in tap water but are not yet subject to EPA's drinking water standards set under SDWA. This rule, revised every five years as required by SDWA, benefits public health by providing EPA and other interested parties with scientifically valid data on the national occurrence of selected contaminants in drinking water, such as cyanotoxins associated with harmful algal blooms. This data set is one of the primary sources of information on occurrence, levels of exposure and population exposure the Agency uses to develop regulatory decisions for emerging contaminants in the public drinking water supply. This proposal identifies eleven analytical methods to support water system monitoring for a total of 30 chemical contaminants/groups, consisting of ten cyanotoxins/groups; two metals; eight pesticides plus one pesticide manufacturing byproduct (hereinafter collectively referred to as "pesticides"); three brominated haloacetic acid groups of disinfection byproducts; three alcohols; and three semivolatile organic chemicals. EPA is also announcing a public webinar to discuss this proposal of the fourth Unregulated Contaminant Monitoring Rule.

**DATES:** Comments must be received on or before February 9, 2016. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before January 11, 2016. The public webinar will be held on January 13, 2016, from 1:00 p.m. to 4:30 p.m., eastern time. Persons wishing to participate in the webinar must register

by January 10, 2016, as described in section II.M.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2015-0218, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Brenda D. Parris, Standards and Risk Management Division (SRMD), Office of Ground Water and Drinking Water (OGWDW) (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone number: (513) 569-7961; or email address: [parris.brenda@epa.gov](mailto:parris.brenda@epa.gov); or Melissa Simic, SRMD, OGWDW (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: (513) 569-7864; or email address: [simic.melissa@epa.gov](mailto:simic.melissa@epa.gov). For general information, contact the Safe Drinking Water Hotline. Callers within the United States can reach the Hotline at (800) 426-4791. The Hotline is open Monday through Friday, excluding federal holidays, from 10 a.m. to 4 p.m., eastern time. The Safe Drinking Water Hotline can also be found on the Internet at: <http://water.epa.gov/drink/hotline/>.

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  1. Methods From the U.S. Environmental Protection Agency
  2. Methods From "ASTM International"
  3. Methods From "Standard Methods for the Examination of Water & Wastewater"
  4. Methods From "Standard Methods Online"
  5. Method From "Ohio EPA"
- K. What is the states' role in the UCMR program?
- L. What stakeholder meetings have been held in preparation for UCMR 4?
- M. How do I participate in the upcoming stakeholder meeting?
  1. Webinar Participation
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- N. How did EPA consider Children's Environmental Health?
- O. How did EPA address Environmental Justice?

III. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution or Use

- I. National Technology Transfer and Advancement Act and 1 CFR Part 51
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

IV. References

**Abbreviations and Acronyms**

- µg/L Microgram per liter  
 ADDA (2S, 3S, 8S, 9S, 4E, 6E)-3-amino-9-methoxy-2,6,8-trimethyl-10-phenyl-4, 6-decadienoic acid  
 ASDWA Association of State Drinking Water Administrators  
 ASTM ASTM International  
 CAS Chemical Abstract Service  
 CBI Confidential Business Information  
 CCC Continuing Calibration Check  
 CCL Contaminant Candidate List  
 CFR Code of Federal Regulations  
 CLDA Chlorine Dioxide Applied After SR Sample Location  
 CLDB Chlorine Dioxide Applied Before SR Sample Location  
 CWS Community Water System  
 DBPR Disinfectants and Disinfection Byproducts Rule  
 DSMRT Distribution System Maximum Residence Time  
 ELISA Enzyme-linked Immunosorbent Assay  
 EPA United States Environmental Protection Agency  
 EPTDS Entry Point to the Distribution System  
 FR Federal Register  
 GC Gas Chromatography  
 GC/ECD Gas Chromatography/Electron Capture Detection  
 GC/MS Gas Chromatography/Mass Spectrometry  
 GW Ground Water  
 GWUDI Ground Water Under the Direct Influence of Surface Water  
 HAAs Haloacetic Acids  
 HAA5 Dibromoacetic Acid, Dichloroacetic Acid, Monobromoacetic Acid, Monochloroacetic Acid, Trichloroacetic Acid  
 HAA6Br Bromochloroacetic Acid, Bromodichloroacetic Acid, Dibromoacetic Acid, Dibromochloroacetic Acid, Monobromoacetic Acid, Tribromoacetic Acid  
 HAA9 Bromochloroacetic Acid, Bromodichloroacetic Acid, Chlorodibromoacetic Acid, Dibromoacetic Acid, Dichloroacetic Acid, Monobromoacetic Acid, Monochloroacetic Acid, Tribromoacetic Acid, Trichloroacetic Acid  
 HPXA Hydrogen Peroxide Applied After Source Water Sample Location  
 HPXB Hydrogen Peroxide Applied Before Source Water Sample Location  
 IC-MS/MS Ion Chromatography/Tandem Mass Spectrometry  
 ICP-MS Inductively Coupled Plasma Mass Spectrometry  
 ICR Information Collection Request  
 IDC Initial Demonstration of Capability  
 IS Internal Standard  
 LFB Laboratory Fortified Blank

LRB Laboratory Reagent Blank  
 LCMRL Lowest Concentration Minimum Reporting Level  
 LC/ECI-MS/MS Liquid Chromatography/ Electro-spray Ionization/Tandem Mass Spectrometry  
 LC/MS/MS Liquid Chromatography/ Tandem Mass Spectrometry  
 LT2 Long Term 2 Enhanced Surface Water Treatment Rule  
 M Million  
 MRL Minimum Reporting Level  
 NAICS North American Industry Classification System  
 NCOD National Drinking Water Contaminant Occurrence Database  
 NPDWRs National Primary Drinking Water Regulations  
 NTNCWS Non-transient Non-community Water System  
 OGWDW Office of Ground Water and Drinking Water  
 OMB Office of Management and Budget  
 PA Partnership Agreement  
 PEMA Permanganate Applied After Source Water Sample Location  
 PEMB Permanganate Applied Before Source Water Sample Location  
 PRA Paperwork Reduction Act  
 PT Proficiency Testing  
 PWS Public Water System  
 QCS Quality Control Sample  
 QH Quality HAA Sample  
 RFA Regulatory Flexibility Act  
 SDWA Safe Drinking Water Act  
 SDWARS Safe Drinking Water Accession and Review System  
 SDWIS/Fed Federal Safe Drinking Water Information System  
 SM Standard Methods  
 SMP State Monitoring Plan

SOP Standard Operating Procedure  
 SPE Solid Phase Extraction  
 SR Source Water  
 SRF Drinking Water State Revolving Fund  
 SRMD Standards and Risk Management Division  
 SUR Surrogate Standard  
 SVOCs Semivolatile Organic Chemicals  
 SW Surface Water  
 TNCWS Transient Non-Community Water System  
 TOC Total Organic Carbon  
 UCMR Unregulated Contaminant Monitoring Rule  
 UMRA Unfunded Mandates Reform Act of 1995  
 USEPA United States Environmental Protection Agency

**I. General Information**

*A. Does this action apply to me?*

Public water systems (PWSs) would be regulated by this proposed, fourth Unregulated Contaminant Monitoring Rule (UCMR 4). PWSs are systems that provide water for human consumption through pipes, or other constructed conveyances, to at least 15 service connections or that regularly serve an average of at least 25 individuals daily at least 60 days out of the year. Under this proposal, all large community and non-transient non-community water systems (NTNCWSs) serving more than 10,000 people would be required to monitor. A community water system (CWS) means a PWS that has at least 15 service connections used by year-round

residents or regularly serves at least 25 year-round residents. A NTNCWS means a PWS that is not a CWS and that regularly serves at least 25 of the same people over six months per year. A nationally representative sample of CWSs and NTNCWSs serving 10,000 or fewer people would also be required to monitor (see “Statistical Design and Sample Selection for the Unregulated Contaminant Monitoring Regulation” (USEPA, 2001b) for a description of the statistical approach for the nationally representative sample). As is generally the case for UCMR monitoring, transient non-community water systems (TNCWSs) (*i.e.*, non-community water systems that do not regularly serve at least 25 of the same people over six months per year) would not be required to monitor under UCMR 4. States, territories and tribes, with primary enforcement responsibility (primacy) to administer the regulatory program for PWSs under SDWA, can participate in the implementation of UCMR 4 through Partnership Agreements (PAs) (see discussion of PAs in section II.K). Primacy agencies with PAs can choose to be involved in various aspects of the UCMR 4 monitoring for PWSs they oversee; however, the PWS remains responsible for compliance. Potentially regulated categories and entities are identified in the following table.

Category	Examples of potentially regulated entities	NAICS <sup>a</sup>
State, local, & tribal governments .....	States, local and tribal governments that analyze water samples on behalf of PWSs required to conduct such analysis; states, local and tribal governments that directly operate CWSs and NTNCWSs required to monitor.	924110
Industry .....	Private operators of CWSs and NTNCWSs required to monitor .....	221310
Municipalities .....	Municipal operators of CWSs and NTNCWSs required to monitor .....	924110

<sup>a</sup> NAICS = North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table summarizes the types of entities that EPA is aware could potentially be regulated by this action. If you are uncertain whether your entity is regulated by this action after carefully examining the definition of PWS found in §§ 141.2 and 141.3, and the applicability criteria found in § 141.40(a)(1) and (2) of Title 40 in the Code of Federal Regulations (CFR), please consult the contacts listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. What action is the Agency taking and why?*

EPA is proposing a rule to require PWSs to analyze drinking water samples for unregulated contaminants that do not have health based standards set under SDWA and to report their results to EPA. This will be the fourth national monitoring effort under the UCMR program (see section II.D). The monitoring provides data to inform future regulatory actions to protect public health.

The public will benefit from information about whether or not unregulated contaminants are present in their drinking water. If contaminants are not found, consumer confidence in their drinking water will improve. If contaminants are found, illnesses may be avoided when subsequent actions,

such as regulations, reduce or eliminate those contaminants.

*C. What is the Agency's authority for taking this action?*

As part of its responsibilities under SDWA, EPA implements section 1445(a)(2), Monitoring Program for Unregulated Contaminants. This section, as amended in 1996, requires that once every five years, beginning in August 1999, EPA issue a list of no more than 30 unregulated contaminants to be monitored by PWSs. SDWA requires that EPA enter the monitoring data into the Agency's publically available National Contaminant Occurrence Database (NCOD). EPA's UCMR program must ensure that systems serving a population larger than 10,000 people, as well as a nationally representative

sample of PWSs serving 10,000 or fewer people, are required to monitor. EPA must vary the frequency and schedule for monitoring based on the number of persons served, the source of supply and the contaminants likely to be found. EPA is using this authority as the basis for monitoring 29 of the 30 contaminants/groups proposed under this rule.

Section 1445(a)(1)(A) of SDWA, as amended in 1996, requires that every person who is subject to any SDWA requirement establish and maintain such records, make such reports, conduct such monitoring and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing SDWA regulations. Pursuant to this provision, EPA can also require the monitoring of contaminants already subject to EPA’s drinking water standards. EPA is using this authority as the basis for monitoring one of the chemical groups (Haloacetic Acids 5 (HAA5)) proposed under this rule. Sample collection and analysis for HAA5 can be done concurrent with the unregulated HAA monitoring described in section II.F (resulting in no substantive additional burden) and would allow EPA to better understand co-occurrence between regulated and unregulated disinfection byproducts.

Hereinafter, all 30 proposed contaminants/groups are collectively referred to as “contaminants.”

*D. What is the estimated cost of this proposed action?*

EPA estimates the total average national cost of this proposed action will be \$25.3 million per year from 2017–2021. EPA has documented the assumptions and data sources used in the preparation of this estimate in the Information Collection Request (ICR) (USEPA, 2015a). EPA proposes using eleven analytical methods (eight EPA-developed analytical methods, one state-developed methodology and two alternate equivalent consensus organization-developed methods) to analyze samples for 30 UCMR 4 chemical contaminants. EPA’s estimate of the analytical cost for the UCMR 4 contaminants and related indicators is \$2,562 per sample set. EPA calculated these costs by summing the laboratory unit cost of each method. Exhibit 1 presents a breakdown of EPA estimated annual average national costs. Estimated PWS (*i.e.*, large and very large) and EPA costs reflect the analytical cost (*i.e.*, non-labor) for all UCMR 4 methods. EPA pays for the analytical costs for all systems serving a population of 10,000 or fewer people. Laboratory analysis and sample shipping account for

approximately 80% of the total national cost for UCMR 4 implementation. EPA estimated laboratory unit costs based on consultations with multiple commercial drinking water laboratories and, in the case of new methods, a review of the costs of analytical methods similar to those proposed in this action. The cost of the laboratory methods includes shipping as part of the cost for the analysis.

EPA expects that states would incur labor costs associated with voluntary assistance with UCMR 4 implementation. EPA estimated state costs using the relevant assumptions from the State Resource Model that was developed by the Association of State Drinking Water Administrators (ASDWA) (ASDWA, 2013) to help states forecast resource needs. Model estimates were adjusted to account for actual levels of state participation under UCMR 3. State participation is voluntary; thus, the level of effort is expected to vary among states and would depend on their individual agreements with EPA.

EPA assumes that one-third of the systems would monitor during each of the three monitoring years from January 2018 through December 2020. The total estimated annual costs (labor and non-labor) would be incurred as follows:

EXHIBIT 1—ESTIMATED AVERAGE ANNUAL COSTS OF UCMR 4

Respondent	Avg. annual cost all respondents (2017–2021) <sup>1</sup>
Small Systems (25–10,000), including labor <sup>2</sup> only (non-labor costs <sup>3</sup> paid for by EPA) .....	\$0.16 m
Large Systems (10,001–100,000), including labor and non-labor costs .....	\$15.7 m
Very Large Systems (100,001 and greater), including labor and non-labor costs .....	\$4.3 m
States, including labor costs related to implementation coordination .....	\$0.50 m
EPA, including labor for implementation, non-labor for small system testing .....	\$4.7 m
<b>AVERAGE ANNUAL NATIONAL TOTAL</b> .....	<b>\$25.3 m</b>

<sup>1</sup> Totals may not equal the sum of components due to rounding.

<sup>2</sup> Labor costs pertain to systems, states and EPA. Costs include activities such as reading the rule, notifying systems selected to participate, sample collection, data review, reporting and record keeping.

<sup>3</sup> Non-labor costs would be incurred primarily by EPA and by very large and large PWSs. They include the cost of shipping samples to laboratories for testing and the cost of the laboratory analyses.

Additional details regarding EPA’s cost assumptions and estimates can be found in the “DRAFT Information Collection Request for the Unregulated Contaminant Monitoring Rule (UCMR 4)” (USEPA, 2015a) ICR Number 2192.07, which presents estimated cost and burden for the 2017–2019 period, consistent with the 3-year time frame for ICRs. Estimates of costs over the entire 5-year UCMR 4 sequence of 2017–2021 are attached as an appendix to the ICR. Copies of the ICR and its appendix may be obtained from the EPA public docket

for this proposed rule, under Docket ID No. EPA–HQ–OW–2015–0218.

**II. Background**

*A. How has EPA implemented the unregulated contaminant monitoring program?*

EPA published the list of contaminants for the first UCMR (UCMR 1) in the **Federal Register** (FR) on September 17, 1999 (64 FR 50556, (USEPA, 1999)), the second UCMR (UCMR 2) on January 4, 2007 (72 FR 368, (USEPA, 2007)) and the third

UCMR (UCMR 3) on May 2, 2012 (77 FR 26072, (USEPA, 2012c)). EPA established a three-tiered approach for monitoring contaminants under the UCMR program that takes into account the availability of analytical methods, the source of water supply and the contaminants likely to be found. Assessment Monitoring for “List 1” contaminants typically relies on analytical methods, techniques or technologies that are in common use by drinking water laboratories. Screening Survey monitoring for “List 2”

contaminants typically relies on newer analytical methods that are not as commonly used, such that laboratory capacity to perform List 2 analyses may be limited. Finally, Pre-Screen Testing for “List 3” contaminants is often associated with analytical methods that are very recently developed and/or are particularly complex. In addition to method complexity and laboratory capacity, EPA considers sampling frequency and/or the relevant universe of PWSs when deciding which of the three tiers is appropriate for a contaminant.

EPA designed the Assessment Monitoring sampling approach (USEPA, 2001b) to ensure that sample results would yield a high level of confidence and a low margin of error. The design for a nationally representative sample of small systems called for the sample to be stratified by water source type (ground water (GW) or surface water (SW)), service size category and state (where each state is allocated a minimum of two systems in its state monitoring plan (SMP)).

This action proposes 30 contaminants for List 1, Assessment Monitoring from 2018–2020, with pre-monitoring activity in 2017 and post-monitoring activity in 2021. EPA developed this proposal after considering input from an EPA-state workgroup as well as other stakeholders.

*B. How are the Contaminant Candidate List (CCL), the UCMR program, the Regulatory Determination process and the NCOD interrelated?*

Under the 1996 amendments to SDWA, Congress established a stepwise,

risk-based approach for determining which contaminants would become subject to drinking water standards. Under the first step, EPA is required to publish, every five years, a list of contaminants that are not yet regulated but which are known or anticipated to occur in PWSs; this is the Contaminant Candidate List (CCL). Under the second step, EPA must require, every five years, monitoring of up to 30 unregulated contaminants to determine their occurrence in drinking water systems; this is the UCMR program. Under the third step, EPA is required to determine, every five years, whether or not at least five contaminants from the CCL warrant regulation, based in part on the UCMR occurrence information; this is known as a Regulatory Determination where the following questions are evaluated:

- (1) Which contaminants may have an adverse effect on human health?
- (2) Which contaminants are known to occur or are likely to occur in drinking water with a frequency and at levels of public health concern?
- (3) Does regulation of such contaminants present a meaningful opportunity for risk reduction? Finally, SDWA requires EPA to issue national primary drinking water regulations (NPDWRs) for contaminants the Agency determines should be regulated.

The CCL process identifies contaminants that may require regulation, while the UCMR program helps provide the data necessary for the Regulatory Determination process outlined above. The data collected through the UCMR program are stored in the NCOD to facilitate analysis and review of contaminant occurrence, and

support the Administrator’s determination on whether regulation of a contaminant is in the public health interest, as required under SDWA section 1412(b)(1). UCMR results can be viewed by the public at: <http://www2.epa.gov/dwucmr>.

*C. What notable changes are being proposed for UCMR 4?*

This proposed action refines the existing UCMR, as reflected in the Code of Federal Regulations, to address the contaminants proposed for UCMR 4 monitoring and to reflect lessons learned through prior experience implementing UCMRs. EPA’s proposed approach and rationale for changes are described in the following sections. Key aspects of the UCMR program that would remain the same, and are outside the scope of today’s proposal, include direct implementation of the rule by EPA; the number and types of systems included in Assessment Monitoring for the majority of the proposed contaminants; and EPA funding for the small system testing. Proposed changes include the list of UCMR 4 contaminants, the analytical methods, monitoring time frame, sampling locations, the revised data elements outlined in Exhibit 2 and conforming and editorial changes, such as those necessary to remove requirements solely related to UCMR 3. A track-changes version of the rule language comparing UCMR 3 to the proposed changes for UCMR 4 is included in the public docket (Docket ID No. EPA–HQ–OW 2015–0218) for this proposed rule (USEPA, 2015h).

EXHIBIT 2—NOTABLE CHANGES PROPOSED FOR UCMR 4

CFR Rule section		Description of rule change	Corresponding preamble section
Number	Title/Description		
§ 141.40(a)(3) .....	Analytes to be monitored and related specifications.	Revises Table 1 to include a new list of contaminants and associated analytical methods.	II.D
§§ 141.35(a) and 141.40(a) .....	Applicability .....	Revises the Federal Safe Drinking Water Information System (SDWIS/Fed) applicability date (i.e., the date used to determine which systems are subject to monitoring) to December 31, 2015. Revises the monitoring dates to January 2018 through December 2020.	II.E II.F

EXHIBIT 2—NOTABLE CHANGES PROPOSED FOR UCMR 4—Continued

CFR Rule section		Description of rule change	Corresponding preamble section
Number	Title/Description		
§ 141.40(a)(4) .....	Sampling design requirements—Frequency.	Updates Table 2 to change the sample collection time frame to March—November, and excludes December—February. Additionally, updates the frequency such that, with the exception of cyanotoxins, monitoring would occur every two months (bi-monthly) for SW or ground water under the direct influence of surface water (GWUDI) systems and every six months for GW systems. Updates Table 2 to include monitoring requirements for cyanotoxins for PWSs with SW and GWUDI sources at a frequency of twice a month for four consecutive months (for a total of eight cyanotoxin sampling events).	II.F
§ 141.40(a)(4) .....	Sampling design requirements—Location.	Specifies revised sampling locations for Assessment Monitoring, including HAA5 Stage 2 compliance and/or distribution system maximum residence time (DSMRT) locations for the brominated haloacetic acids (HAAs), and source water intake locations for total organic carbon (TOC), total microcystins (i.e. the sum of congeners as measured by ADDA-ELISA), pH and temperature.	II.F
§ 141.35(e) .....	Reporting requirements—Data elements.	Updates, revises, adds and removes data elements to account for the contaminants being proposed, and requires the reporting of quality control data by all laboratories.	II.G.1
§ 141.40(a)(4)(ii)(F) .....	Small systems sampling requirements—Duplicate samples.	Removes the requirement for small system duplicate quality control samples, although EPA may in the future select a subset of systems to collect duplicate samples if the Agency becomes aware of a need to include this type of quality control.	II.G.2

*D. How did EPA prioritize candidate contaminants and what contaminants are proposed for UCMR 4?*

In establishing the proposed list of contaminants for UCMR 4, EPA started with a priority set of contaminants from the draft fourth Contaminant Candidate List (CCL 4), which includes 100 chemicals or chemical groups and 12 microbes (80 FR 6076, February 4, 2015 (USEPA, 2015b)). The evaluation and selection process that led to the draft CCL 4 carried forward the final list of CCL 3 contaminants (except for those with regulatory determinations), requested and evaluated contaminant nominations from the public and evaluated any new data from previous negative regulatory determinations for potential inclusion on CCL 4 (77 FR 27057, May 8, 2012 (USEPA, 2012b)).

EPA selected the proposed UCMR 4 contaminants using a stepwise prioritization process. The first step included identifying contaminants that: (1) Were not monitored under UCMR 2 or UCMR 3; (2) are anticipated to have significant occurrence nationally; and (3) are expected to have a completed, validated drinking water method in time for rule proposal. This resulted in a set of 45 draft CCL 4 contaminants and another set of related non-CCL analytes

with potential health effects of concern that can be measured concurrently using the analytical methods for the CCL contaminants. Including related non-CCL analytes creates a more cost-effective design and reduces the likelihood of needing to include them in a subsequent UCMR.

The next step was to select contaminants associated with one or more of the following considerations: an available health assessment to facilitate regulatory determinations; high public concern; critical health endpoints (e.g., likely or suggestive carcinogen); active use (e.g., pesticides); and an occurrence data gap. This step identified 31 CCL contaminants, and 18 related non-CCL analytes that can be measured using the analytical methods for the CCL contaminants.

During the final step, EPA considered workgroup and stakeholder input; looked at cost-effectiveness of the method/contaminant groups; considered implementation factors (e.g., laboratory capacity); and further evaluated health, occurrence, and persistence/mobility data to identify a proposed list of 30 UCMR 4 contaminants.

Further information on this prioritization process, as well as contaminant-specific information (source, use, production, release,

persistence, mobility, health effects and occurrence), that EPA used to select the proposed analyte list, is contained in “UCMR 4 Candidate Contaminants—Information Compendium” (USEPA, 2015i). Copies of the Compendium may be obtained from the EPA public docket for this proposed rule, under Docket ID No. EPA-HQ-OW-2015-0218.

EPA invites comment on the proposed UCMR 4 contaminants and their associated analytical methods identified in Exhibit 3, as well as any other priority contaminants commenters wish to recommend. In particular, the Agency welcomes comments on the following contaminants that were considered by the workgroup, but not included in the proposed list because they were deemed a lower UCMR 4 priority than the contaminants identified in Exhibit 3: *Legionella pneumophila* and *Mycobacterium avium* (both are part of the draft CCL 4); ammonia (considered as an indicator of distribution system nitrification potential); and the pesticides vinclozolin, hexazinone and disulfoton (additional analytes in EPA Method 525.3). More specific information on why these contaminants were not included on the proposed list can be found in the Information Compendium (USEPA, 2015i) cited

above. In your comments, please identify the following: Any new contaminant(s) that you think the Agency should include in UCMR 4 monitoring; any contaminant(s) in Exhibit 3 that you think represent a

lower priority than your new recommendation(s) or that should otherwise be removed from the list; the recommended analytical method(s) for any new contaminant(s) that you propose; and other relevant details (e.g.,

reporting level, sampling location and sampling frequency). Comments that provide supporting data or rationale are especially helpful to the Agency.

### EXHIBIT 3—30 PROPOSED UCMR 4 ANALYTES

#### List 1 Analytes

##### One Cyanotoxin Group Using ELISA<sup>1</sup>

total microcystins	
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##### Seven Cyanotoxins Using EPA Method 544 (SPE LC/MS/MS)<sup>2</sup>

microcystin-LA microcystin-LF microcystin-LR microcystin-LY	microcystin-RR microcystin-YR Nodularin
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##### Two Cyanotoxins Using EPA Method 545 (LC/ECI-MS/MS)<sup>3</sup>

anatoxin-a	Cylindrospermopsin
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##### Two Metals Using EPA Method 200.8 (ICP-MS)<sup>4</sup> or Alternate SM<sup>5</sup> or ASTM<sup>6</sup>

Germanium	Manganese
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##### Nine Pesticides Using EPA Method 525.3 (SPE GC/MS)<sup>7</sup>

alpha-hexachlorocyclohexane chlorpyrifos Dimethipin Ethoprop Oxyfluorfen	Profenofos Tebuconazole total permethrin (cis- & trans-) Tribufos
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##### Three Brominated HAA Groups Using EPA Method 552.3 (GC/ECD) or 557 (IC/ECI-MS/MS)<sup>8,9,10</sup>

HAA5 HAA6Br	HAA9
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##### Three Alcohols Using EPA Method 541 (GC/MS)<sup>11</sup>

1-butanol 2-methoxyethanol	2-propen-1-ol
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##### Three Semivolatile Organic Chemicals (SVOCs) Using EPA Method 530 (GC/MS)<sup>12</sup>

butylated hydroxyanisole o-toluidine	quinolone
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<sup>1</sup> ELISA Standard Operating Procedure (SOP) (Ohio EPA, 2015). EPA anticipates having an EPA ELISA method available by the publication of the final rule and anticipates that this method will be similar to the Ohio EPA methodology. Monitoring includes measuring for pH using one of the following methods: EPA Method 150.1 and 150.2 (USEPA, 1983a and 1983b), ASTM D1293-12 (ASTM, 2012a), SM 4500-H+ B (SM, 2005c), SM 4500-H+ B-00 (SM Online, 2000a). Monitoring also includes measuring for water temperature using one of the following methods: SM 2550 (SM, 2005a) or SM 2550-10 (SM Online, 2010).

<sup>2</sup> EPA Method 544 (Solid Phase Extraction (SPE) Liquid chromatography/tandem mass spectrometry (LC/MS/MS)) (USEPA, 2015f). This method would only be used if analyses by ELISA (for "total microcystins") yielded results above reporting limits.

<sup>3</sup> EPA Method 545 (Liquid chromatography/electrospray ionization/tandem mass spectrometry (LC/ESI-MS/MS)) (USEPA, 2015g).

<sup>4</sup> EPA Method 200.8 (Inductively coupled plasma mass spectrometry (ICP-MS)) (USEPA, 1994).

<sup>5</sup> Standard Methods (SM) 3125 (SM, 2005b) or SM 3125-09 (SM Online, 2009).

<sup>6</sup> ASTM International (ASTM) D5673-10 (ASTM, 2010).

<sup>7</sup> EPA Method 525.3 (SPE Gas chromatography/mass spectrometry (GC/MS)) (USEPA, 2012a).

<sup>8</sup> EPA Method 552.3 (GC/Electron capture detection (ECD)) (USEPA, 2003) and EPA Method 557 (Ion chromatography-electrospray ionization-tandem mass spectrometry (IC-ESI-MS/MS)) (USEPA, 2009b). HAA5 includes: dibromoacetic acid, dichloroacetic acid, monobromoacetic acid, monochloroacetic acid, trichloroacetic acid. HAA6Br includes: bromochloroacetic acid, bromodichloroacetic acid, dibromoacetic acid, dibromochloroacetic acid, monobromoacetic acid, tribromoacetic acid. HAA9 includes: bromochloroacetic acid, bromodichloroacetic acid, chlorodibromoacetic acid, dibromoacetic acid, dichloroacetic acid, monobromoacetic acid, monochloroacetic acid, tribromoacetic acid, trichloroacetic acid.

<sup>9</sup> Regulated HAAs (HAA5) are included in the proposed monitoring program to gain a better understanding of co-occurrence with currently unregulated disinfection byproducts.

<sup>10</sup> Brominated HAA monitoring also includes sampling for indicators TOC and bromide using methods approved for compliance monitoring. TOC methods include: SM 5310B, SM 5310C, SM 5310D (SM, 2005d, 2005e, 2005f), or SM 5310B-00, SM 5310C-00, SM 5310D-00 (SM Online, 2000b, 2000c, 2000d), EPA Method 415.3 (Rev. 1.1 or 1.2) (USEPA, 2005, 2009a). Bromide methods include: EPA Methods 300.0 (Rev. 2.1), 300.1 (Rev. 1.0), 317.0 (Rev. 2.0), 326.0 (Rev. 1.0) (USEPA, 1993, 1997, 2001a, 2002) or ASTM D 6581-12 (ASTM, 2012b).

<sup>11</sup> EPA Method 541 (GC/MS) (USEPA, 2015e).

<sup>12</sup> EPA Method 530 (GC/MS) (USEPA, 2015d).



*E. What is the proposed applicability date?*

EPA proposes (in § 141.40(a)) a new applicability date of December 31, 2015. That is, the determination of whether a PWS is required to monitor under UCMR 4 is based on the type of system (e.g., CWS, NTNCWS, etc.) and its retail population served, as indicated by the SDWIS/Fed inventory on December 31, 2015. If a PWS believes its retail population served in SDWIS/Fed is

inaccurate, the system should contact its state to verify its population as of the applicability date and request a correction if necessary. The 5-year UCMR 4 program would take place from January 2017 through December 2021.

*F. What are the proposed UCMR 4 sampling design and timeline of activities?*

The proposed rule identifies sampling and analysis for List 1 contaminants within the 2018 to 2020 time frame.

Preparations prior to 2018 are expected to include coordination of laboratory approval, selection of representative small systems, development of SMPs and establishment of monitoring schedules. EPA anticipates that there is enough laboratory capacity to meet the needs of Assessment Monitoring. Exhibit 4 illustrates the major activities that we expect will take place in preparation for and during the implementation of UCMR 4.

EXHIBIT 4—PROPOSED TIMELINE OF UCMR 4 ACTIVITIES

2017	2018	2019	2020	2021
<p><i>After proposed rule publication:</i> EPA laboratory approval program begins.</p> <p><i>After final rule publication:</i> EPA/state primacy authorities (1) develop SMPs (including the nationally representative sample); and (2) inform PWSs/ establish monitoring plans.</p>	<p>← Assessment Monitoring → List 1 Contaminants</p> <p><i>All large systems serving more than 10,000 people; 800 small systems serving 10,000 or fewer people for cyanotoxins; 800 small systems serving 10,000 or fewer people for the 20 additional chemicals.</i></p>			<p>Complete reporting and analysis of data.</p>

To minimize the impact of the rule on small systems (those serving 10,000 or fewer people), EPA pays for the sample kit preparation, sample shipping fees and analysis costs for these systems. In

addition, no small system would be required to monitor for both cyanotoxins and the 20 additional UCMR chemicals. Consistent with prior UCMRs, large systems (those serving

more than 10,000 people) pay for all costs associated with their monitoring. A summary of the estimated number of systems subject to monitoring is shown in Exhibit 5.

EXHIBIT 5—SYSTEMS TO PARTICIPATE IN UCMR 4 MONITORING

System size (number of people served)	National sample assessment monitoring		Total number of systems per size category
	10 List 1 cyanotoxins	20 Additional List 1 chemicals	
<i>Small Systems:</i> <sup>1</sup> 25–10,000 .....	800 randomly selected SW or GWUDI systems	800 randomly selected SW, GWUDI and GW systems.	1,600
<i>Large Systems:</i> <sup>2</sup> 10,001 and over .....	All SW or GWUDI systems (1,987) .....	All SW, GWUDI and GW systems (4,292) .....	4,292
Total .....	2,787 .....	5,092 .....	5,892

<sup>1</sup> Total for small systems is additive because these systems would only be selected for one component of UCMR 4 sampling (10 cyanotoxins or 20 additional chemicals). EPA would pay for all analytical costs associated with monitoring at small systems.

<sup>2</sup> Large system counts are approximate. The number of large systems is not additive. All SW and GWUDI systems would monitor for cyanotoxins; those same systems would also monitor for the 20 additional List 1 chemicals, as would the large GW systems.

1. Sampling Frequency, Timing

The number of samples for SW, GWUDI and GW systems would generally be consistent with those during prior UCMR cycles, with the exceptions noted for the monitoring of cyanotoxins. Water systems would be required to collect samples during the monitoring time frame of March through November (excluding December, January and February). With the exception of cyanotoxin monitoring, sampling would take place every two months for SW and GWUDI systems (a total of four sampling events), and at 6-month intervals for GW systems (a total of two sampling events). For cyanotoxin monitoring, SW and GWUDI systems would collect samples twice a month for

four consecutive months (total of eight sampling events). GW systems would be excluded from cyanotoxin monitoring.

The Assessment Monitoring sampling time frame would take place during the compressed period of March through November to better reflect the times of year when contaminants are more likely to occur in drinking water. Populations of cyanobacteria generally peak when water temperature is highest (Graham *et al.*, 2008). Seasonality of pesticide occurrence in surface waters has been well documented, and generally relates to the timing of pesticide applications in the watershed, rainfall or irrigation patterns and watershed size (USGS, 2014; Ryberg and Gilliom, 2015). Based on this information, EPA anticipates

that sampling in the December through February time period would not accurately reflect occurrence for some of the contaminants, particularly cyanotoxins and pesticides. Industry and laboratory stakeholders have also observed that the traditional UCMR approach has the potential to underestimate exposure for some contaminants because of seasonal occurrence (Roberson and Eaton, 2014). Therefore, EPA is proposing that no sampling take place during those winter months, except for resampling purposes. EPA welcomes comments on this approach.

Large system schedules (year and months of monitoring) would initially be determined by EPA in conjunction

with the states (as described in section II.K) and these PWSs would have an opportunity to modify this schedule for planning purposes or other reasons (*e.g.*, to conduct monitoring during the months the system or the state believes are most vulnerable, spread costs over multiple years, a sampling location will be closed during the scheduled month of monitoring, etc.). PWSs would not be permitted to reschedule monitoring specifically to avoid sample collection during a suspected vulnerable period. EPA proposes to schedule and coordinate small system monitoring by working closely with partnering states. SMPs provide an opportunity for states to review and revise the initial sampling schedules that EPA proposes (see discussion of SMPs in section II.K).

## 2. Sampling Locations

Sample collection for the UCMR 4 contaminants would take place at the entry point to the distribution system (EPTDS), with the following exceptions/additions. Sampling for “total microcystins” (*i.e.*, the sum of congeners as measured by ADDA–ELISA) would also take place at the source water intake (concurrent with the collection of cyanotoxin samples at the EPTDS) unless the PWS purchases 100 percent of their water. “Consecutive systems” would only sample for cyanotoxins at their EPTDS. Measurements for temperature and pH would take place at the source water intake (concurrent with total microcystin sampling). HAA sampling would take place in the distribution system. Sampling for TOC and bromide would take place at a single source water intake (concurrent with HAA sampling in the distribution system). The indicator data, along with the disinfectant type and water treatment information, would aid in the understanding of brominated HAA and cyanotoxin occurrence and treatment efficacy.

For purposes of total microcystin sampling, temperature and pH measurement, and TOC and bromide sampling, EPA defines source water under UCMR as untreated water entering the water treatment plant (*i.e.*, at a location prior to any treatment). Systems that are subject to the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) would use their source water sampling site(s) that have been identified under that rule (71 FR 654, January 5, 2006 (USEPA, 2006a)). Systems subject to the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR) would use their TOC source water sampling site(s) (63 FR 69390, December 16, 1998

(USEPA, 1998c)). TOC source water sampling site(s) were set under Stage 1 DBPR and remain unchanged under Stage 2 DBPR. If a system has two different source water sampling locations for LT2 and Stage 1 DBPR, the system would be permitted to select the sample point that best represents the definition of source water sample location(s) for UCMR.

EPA proposes that PWSs monitor for HAAs only in the distribution system. If the system’s treatment plant/water source is subject to sampling requirements under § 141.622 (monitoring requirements for Stage 2 DBPR), the water systems must collect samples for the HAAs at the sampling locations identified under that rule (71 FR 388, January 4, 2006 (USEPA, 2006b)). If a treatment plant/water source is not subject to Stage 2 DBPR monitoring, then the water system must collect HAA distribution system samples at a location that represents the DSMRT. UCMR 4 HAA samples and HAA5 Stage 2 DBPR compliance monitoring samples may be collected by the PWS at the same time. However, in such cases, PWSs would be required to arrange for UCMR 4 HAA samples to be analyzed by a UCMR 4 approved laboratory using EPA Method 552.3 or 557 (compliance methods used for analysis of Stage 2 DBPR samples).

## 3. Phased Sample Analysis for Microcystins

EPA is proposing a phased sample analysis approach for microcystins to reduce analytical costs (*i.e.*, PWSs must collect all required samples for each sampling event but not all samples may need to be analyzed). Two samples would be collected for ADDA ELISA (one source water intake sample and one EPTDS), and one sample would be collected for EPA Method 544 at the EPTDS. Initially, source water intake samples (collected by “non-consecutive” SW and GWUDI PWSs) would be analyzed for total microcystins as defined by an ADDA specific ELISA methodology. ADDA ELISA is a widely used screening assay that allows for the aggregate detection of numerous microcystin congeners; it does not allow for measurement of the individual congeners (USEPA, 2015c; Fischer *et al.*, 2001; McElhiney and Lawton, 2005; Zeck *et al.*, 2001). If the source water intake ELISA result is less than 0.3 micrograms per liter ( $\mu\text{g/L}$ ) (*i.e.*, the reporting limit for total microcystins), then the other collected samples (from the EPTDS) would not be analyzed for that sample event and only the source water result would be reported to EPA. If the ELISA result

from the source water intake is greater than or equal to 0.3  $\mu\text{g/L}$ , the result would be reported to EPA and the sample from the EPTDS would then also be analyzed for total microcystins by ELISA. ELISA analysis of the EPTDS sample would be the first step for consecutive systems. If the EPTDS ELISA result is less than 0.3  $\mu\text{g/L}$ , then no additional analyses would be required for that particular sample event and the result would be reported to EPA. If the EPTDS ELISA result is greater than or equal to 0.3  $\mu\text{g/L}$ , then that result would be reported to EPA and the other microcystin sample collected at the EPTDS would be analyzed using EPA Method 544 to identify and quantify six particular microcystin congeners and a related toxin, nodularin. Method 544 uses liquid chromatography with tandem mass spectrometry (LC/MS/MS) to quantify and speciate microcystin congeners at low concentrations. Using Method 544 to analyze EPTDS samples that tested positive for microcystins by ELISA is expected to help EPA and the states to establish the degree to which particular congener occurrence compares with total microcystin occurrence as measured by ADDA ELISA (USEPA, 2015c).

This phased sample analysis approach for microcystins has the potential to achieve significant cost savings. A similar approach is not practical for cylindrospermopsin and anatoxin-a samples. Therefore, EPA proposes that cylindrospermopsin and anatoxin-a sampling be conducted simultaneously with the microcystins, twice a month for four consecutive months only at the EPTDS, and that the samples be analyzed using EPA Method 545.

## 4. Representative Sampling

As during past UCMRs and as described in § 141.35(c)(3), the proposed rule would allow large GW systems that have multiple EPTDSs, with prior approval, to sample at representative sampling locations rather than at each EPTDS. Representative sampling plans approved under prior UCMRs will be recognized as valid for UCMR 4 and these systems must submit a copy of documentation from their state or EPA that approves their alternative sampling plan. Any new GW representative monitoring plans must be submitted to be reviewed by the state or EPA within 120 days from publication of the final rule. Once approved, these representative EPTDS locations, along with previously approved EPTDS locations from prior UCMRs, must be loaded into the Safe Drinking Water

Accession and Review System (SDWARS) by December 31, 2017.

## 5. Summary

With the exception of the increased sample frequency, phased sample analysis for microcystins, revised sampling locations and the compressed monitoring schedule, the approach to UCMR 4 Assessment Monitoring remains consistent with that established for UCMR 3.

EPA invites comments regarding the cyanotoxin monitoring approach and the usefulness of collecting temperature and pH data (concurrently with the ELISA sample) at the source water intake, as well as designating source water type (e.g., lakes/reservoirs or flowing streams), as potential indicators of cyanotoxin occurrence. EPA also invites comments on the appropriateness of other potential cyanotoxin indicators, recognizing that the cost of any additional indicator monitoring would need to be weighed with consideration given to the likelihood of any other parameters serving as effective indicators.

Finally, EPA recognizes the trade-off between PWS burden and occurrence-data representativeness, and has attempted to strike a reasonable balance in selecting the affected PWSs and establishing the monitoring frequency. The Agency welcomes comment on this particular point, including input regarding the appropriateness of collecting occurrence data from fewer PWSs. This could include employing the Screening Survey approach used in UCMR 3 or an alternative design. EPA requests that commenters suggesting alternatives describe how their proposed approach would be nationally representative of the frequency and level of contaminant occurrence.

### G. What are reporting requirements for UCMR 4?

#### 1. Data Elements

EPA proposes the following changes to the reporting requirements listed in Table 1 of § 141.35(e) to account for the UCMR 4 contaminants being proposed and the associated indicators. Additionally, EPA proposes to collect quality control information related to sample analysis. This information would further ensure that methods are followed as written, and would provide continuous quality assurance of data reported. EPA collected this information for small systems in previous UCMRs and found that doing so helps ensure that laboratories consistently follow the methods.

- Add Public Water System Name. New data element to be assigned once by the PWS.
- Add Public Water System Facility Name. New data element to be assigned once by the PWS for every facility identification code.
- Add Public Water System Facility Type. New data element to be assigned once by the PWS for every facility.
- Update Sampling Point Identification Code. Added “source water” as an example of applicable sampling locations.
- Add Sampling Point Name. New data element to be assigned once by the PWS for every sampling point identification code.
- Update Sample Point Type Code. Add source water (SR) to account for brominated HAA indicators and microcystin monitoring at the intake to the treatment plant.
- Update Disinfectant Type. Adding the following primary disinfectant/oxidation practices: Permanganate applied before SR sample location (PEMB) and after (PEMA), hydrogen peroxide applied before SR sample location (HPXB) and after (HPXA), and chlorine dioxide applied before SR sample location (CLDB) and after (CLDA).
- Add Treatment Information. New data element to capture treatment associated with the water being sampled.
- Add Disinfectant Residual Type. New data element to capture disinfectant residual type information associated with the water being sampled.
- Add Extraction Batch Identification Code. New data element to allow evaluation of quality control elements associated with extraction of samples in methods where extraction is required.
- Add Extraction Date. New data element identifying the date of sample extraction.
- Add Analysis Batch Identification Code. New data element to allow evaluation of quality control elements associated with analyzing samples.
- Add Analysis Date. New data element identifying the start date of sample analysis.
- Update Sample Analysis Type. The following elements are proposed as quality assurance measures:
  - Continuing calibration check (CCC), an element that verifies the accuracy of method calibration;
  - Internal standard (IS), an element that measures the relative response of contaminants;
  - Laboratory fortified blank (LFB), an element that verifies method performance in the absence of a sample matrix;

- Laboratory reagent blank (LRB), an element that verifies the absence of interferences in the reagents and equipment;
- Quality control sample (QCS), an element that verifies the accuracy of the calibration standards;
- Quality HAA (QH), HAA sample collected and submitted for quality control; and,
- Surrogate standard (SUR), an element that assesses method performance for each extraction.
- Update Analytical Result—Value. Update to “Analytical Result—Measured Value.” The measured value is the analytical result for the contaminant.
- Add Additional Value. This element is used for quality control samples and is the amount of contaminant added to a QCS.
- Update Sample Event Code. Revise sample event codes to uniquely identify sampling events with specific codes for cyanotoxin and additional chemical monitoring.

#### 2. Duplicate Samples

Currently, § 141.40(a)(4)(ii)(F), requires EPA to randomly select a small percentage of small water systems to collect duplicate water samples for quality control purposes. Based on experience from previous UCMRs, this requirement did not provide significant useful information and EPA proposes to remove the requirement for the collection of duplicate samples from UCMR 4.

### H. What are Minimum Reporting Levels (MRLs) and how were they determined?

The analyte minimum reporting level (MRL) is a quantitation level designed to be an estimate of the reporting level that is achievable, with 95% confidence, by a capable analyst/laboratory at least 75% of the time, using the prescribed method. Demonstration of the ability to reliably make quality measurements at or below the MRL is intended to ensure that high quality results are being reported by participating laboratories. MRLs are generally established as low as is reasonable (and are typically lower than the current health reference levels and health advisories), so that the occurrence data reported to EPA will support sound decision making, including those cases where new information might lead to lower health reference levels. EPA established the proposed MRL for each analyte/method by obtaining data from several laboratories performing “lowest concentration minimum reporting level” (LCMRL) studies. For further information on the LCMRL and MRL

process, see “Technical Basis for the Lowest Concentration Minimum Reporting Level (LCMRL) Calculator” (USEPA, 2010), available on the Internet at (<http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>). EPA will consider raising MRLs if the Agency becomes aware of evidence that a proposed MRL is unattainable or impractical.

#### *I. How do laboratories become approved to conduct UCMR 4 analyses?*

The proposed rule would require EPA approval for all laboratories conducting analyses for UCMR 4. EPA anticipates following the traditional Agency approach to approving UCMR laboratories, which would require laboratories seeking approval to: (1) Provide EPA with data that demonstrate a successful completion of an initial demonstration of capability (IDC) as outlined in each method; (2) verify successful performance at or below the MRLs as specified in this action; (3) provide information about laboratory operating procedures; and (4) successfully participate in an EPA proficiency testing (PT) program for the analytes of interest. Audits of laboratories may be conducted by EPA prior to and/or following approval. The “UCMR 4 Laboratory Approval Requirements and Information Document” (USEPA, 2015j) will provide guidance on the EPA laboratory approval program and the specific method acceptance criteria.

EPA may supply analytical reference standards for select analytes to participating/approved laboratories when reliable standards are not readily available through commercial sources.

The structure of the proposed UCMR 4 laboratory approval program is the same as that employed in previous UCMRs, and would provide an assessment of the ability of laboratories to perform analyses using the methods listed in § 141.40(a)(3), Table 1. The UCMR 4 laboratory approval process is designed to assess whether laboratories possess the required equipment and can meet laboratory-performance and data-reporting criteria described in this action. Laboratory participation in the UCMR laboratory approval program is voluntary. However, as in previous UCMRs and as proposed for UCMR 4, EPA would require PWSs to exclusively use laboratories that have been approved under the program. EPA expects to post a list of approved UCMR 4 laboratories to: <http://www2.epa.gov/dwucmr>. Laboratories are encouraged to apply for UCMR 4 approval as early as possible, as EPA anticipates that large

PWSs scheduled for monitoring in the first year will be making arrangements for sample analyses soon after the final rule is published. The anticipated steps and requirements for the laboratory approval process are listed in the following paragraphs, steps 1 through 6.

#### 1. Request To Participate

Laboratories interested in the UCMR 4 laboratory approval program would first email EPA at: [UCMR\\_Sampling\\_Coordinator@epa.gov](mailto:UCMR_Sampling_Coordinator@epa.gov) to request registration materials. EPA expects to accept such requests beginning December 11, 2015. EPA anticipates that the final opportunity for a laboratory to complete and submit the necessary registration information will be 60 days after final rule publication.

#### 2. Registration

Laboratory applicants provide registration information that includes: laboratory name, mailing address, shipping address, contact name, phone number, email address and a list of the UCMR 4 methods for which the laboratory is seeking approval. This registration step provides EPA with the necessary contact information, and ensures that each laboratory receives a customized application package.

#### 3. Application Package

Laboratories that wish to participate complete and return a customized application package that includes the following: IDC data, including precision, accuracy and results of MRL studies; information regarding analytical equipment and other materials; proof of current drinking water laboratory certification (for select compliance monitoring methods); and example chromatograms for each method under review.

As a condition of receiving and maintaining approval, the laboratory is expected to confirm that it will post UCMR 4 monitoring results and quality control data that meet method criteria (on behalf of its PWS clients) to EPA’s UCMR electronic data reporting system, SDWARS.

#### 4. EPA’s Review of Application Package

EPA will review the application packages and, if necessary, request follow-up information. Laboratories that successfully complete the application process become eligible to participate in the UCMR 4 PT program.

#### 5. Proficiency Testing

A PT sample is a synthetic sample containing a concentration of an analyte or mixture of analytes that is known to EPA, but unknown to the laboratory. To

be approved, a laboratory is expected to meet specific acceptance criteria for the analysis of a UCMR 4 PT sample(s) for each analyte in each method, for which the laboratory is seeking approval. EPA intends to offer up to four opportunities for a laboratory to successfully analyze UCMR 4 PT samples. Up to three of these studies will be conducted prior to the publication of the final rule, and at least one study will be conducted after publication of the final rule. This allows laboratories to complete their portion of the laboratory approval process prior to publication of the final rule and receive their approval immediately following the publication of the final rule. A laboratory is expected to pass one of the PT studies for each analytical method for which it is requesting approval, and will not be required to pass a PT study for a method it already passed in a previous UCMR 4 PT study. EPA does not expect to conduct additional PT studies after the start of system monitoring; however, laboratory audits will likely be ongoing throughout UCMR 4 implementation. Initial laboratory approval is expected to be contingent on successful completion of a PT study. Continued laboratory approval is contingent on successful completion of the audit process and satisfactorily meeting all the other stated conditions.

#### 6. Written EPA Approval

After successfully completing the preceding steps 1 through 5, EPA expects to send each laboratory a letter listing the methods for which approval is pending (*i.e.*, pending promulgation of the final rule if the PT studies have been conducted prior to that time), or for which approval is granted (if after promulgation of the final rule). Laboratories receiving pending approval are expected to be granted approval without further action following promulgation of the final rule if no changes have been made to the rule that impact the laboratory approval program. EPA expects to contact the laboratory if changes are made between the proposed and final rules that warrant additional action by the laboratory.

#### *J. What documents are being incorporated by reference?*

The following methods are being incorporated by reference into this section for UCMR 4 monitoring. All approved material except for the Standard Method Online, is available for inspection electronically at <http://www.regulations.gov> (Docket ID No. OW-2015-0218), or from the sources listed for each method. EPA has worked to make these methods and documents

reasonably available to interested parties. The versions of the EPA and non-EPA methods that may be used to support monitoring under this rule are as follows:

1. Methods From the U.S. Environmental Protection Agency

The following methods are from the U.S. Environmental Protection Agency, Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004.

(i) EPA Method 150.1 "pH Electrometric, in Methods for Chemical Analysis of Water and Wastes," 1983, EPA/600/4-79/020. Available on the Internet at <http://www.nemi.gov>. This is an EPA method for measuring pH in water samples using a meter with a glass electrode and reference electrode or a combination electrode. The proposal includes measurement of pH as a potential indicator for cyanotoxins.

(ii) EPA Method 150.2 "pH, Continuous Monitoring (Electrometric), in Methods for Chemical Analysis of Water and Wastes," 1983, EPA/600/4-79/020. Available on the Internet at <http://www.nemi.gov>. This is an EPA method for measuring pH of in-line water samples using a continuous flow meter with a glass electrode and reference electrode or a combination electrode.

(iii) EPA Method 200.8 "Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma—Mass Spectrometry," Revision 5.4, 1994. Available on the Internet at <https://www.nemi.gov>. This is an EPA method for the analysis of elements in water by ICP-MS and is proposed to measure germanium and manganese.

(iv) EPA Method 300.0 "Determination of Inorganic Anions by Ion Chromatography Samples," Revision 2.1, 1993. Available on the Internet at <http://www.nemi.gov>. This is an EPA method for the analysis of inorganic anions in water samples using ion chromatography (IC) with conductivity detection. The proposal includes measurement of bromide as a potential indicator for HAAs.

(v) EPA Method 300.1 "Determination of Inorganic Anions in Drinking Water by Ion Chromatography," Revision 1.0, 1997. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of inorganic anions in water samples using IC with conductivity detection.

(vi) EPA Method 317.0 "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking

Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis," Revision 2.0, 2001, EPA 815-B-01-001. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of inorganic anions in water samples using IC with conductivity detection.

(vii) EPA Method 326.0 "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis," Revision 1.0, 2002, EPA 815-R-03-007. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of inorganic anions in water samples using IC with conductivity detection.

(viii) EPA Method 415.3 "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," Revision 1.1, 2005, EPA/600/R-05/055. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>. This is an EPA method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

(ix) EPA Method 415.3 "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," Revision 1.2, 2009, EPA/600/R-09/122. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>. This is an EPA method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

(x) EPA Method 525.3 "Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS)," Version 1.0, February 2012, EPA/600/R-12/010. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>. This is an EPA method for the analysis of semivolatile organic chemicals in drinking water using SPE and GC/MS and is proposed to measure nine pesticides (alpha-hexachlorocyclohexane, chlorpyrifos, dimethipin, ethoprop, oxyfluorfen, profenofos, tebuconazole, total cis- and trans- permethrin, and tribufos).

(xi) EPA Method 530 "Determination of Select Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Gas Chromatography/Mass Spectrometry (GC/MS)," Version 1.0, January 2015, EPA/600/R-14/442. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>. This is an EPA method for the analysis of semivolatile organic chemicals in drinking water using SPE and GC/MS and is proposed to measure butylated hydroxyanisole, o-toluidine, and quinoline.

(xii) EPA Method 541 "Determination of 1-Butanol, 1,4-Dioxane, 2-Methoxyethanol and 2-Propen-1-ol in Drinking Water by Solid Phase Extraction and Gas Chromatography/Mass Spectrometry," November 2015, EPA 815-R-15-011. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of selected alcohols and 1,4-dioxane in drinking water using SPE and GC/MS and is proposed to measure 1-butanol, 2-methoxyethanol and 2-propen-1-ol.

(xiii) EPA Method 544 "Determination of Microcystins and Nodularin in Drinking Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS)," Version 1.0, February 2015, EPA/600/R-14/474. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>. This is an EPA method for the analysis of selected cyanotoxins in drinking water using SPE and LC-MS/MS with electrospray ionization (ESI) and is proposed to measure six microcystins (microcystin-LA, microcystin-LF, microcystin-LR, microcystin-LY, microcystin-RR, and microcystin-YR) and nodularin.

(xiv) EPA Method 545 "Determination of Cylindrospermopsin and Anatoxin-a in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI-MS/MS)," April 2015, EPA 815-R-15-009. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of selected cyanotoxins in drinking water using LC-MS/MS with electrospray ionization (ESI) and is proposed to measure cylindrospermopsin and anatoxin-a.

(xv) EPA Method 552.3 "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Microextraction, Derivatization,

and Gas Chromatography with Electron Capture Detection.” Revision 1.0, July 2003, EPA 815-B-03-002. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of haloacetic acids and dalapon in drinking water using liquid-liquid microextraction, derivatization, and GC with electron capture detection (ECD) and is proposed to measure three HAA groups (HAA5, HAA6Br and HAA9).

(xvi) EPA Method 557 “Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS),” Version 1.0, September 2009, EPA 815-B-09-012. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>. This is an EPA method for the analysis of haloacetic acids, bromate, and dalapon in drinking water using IC-MS/MS with electrospray ionization (ESI) and is proposed to measure three HAA groups (HAA5, HAA6Br and HAA9).

## 2. Methods From “ASTM International”

The following methods are from “ASTM International”, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(i) ASTM D1293-12 “Standard Test Methods for pH of Water.” Available for purchase on the Internet at <http://www.astm.org/Standards/D1293.htm>. This is an ASTM method for measuring pH in water samples using a meter and associated electrodes.

(ii) ASTM D5673-10 “Standard Test Method for Elements in Water by Inductively Coupled Plasma-Mass Spectrometry,” approved August 1, 2010. Available for purchase on the Internet at <http://www.astm.org/Standards/D5673.htm>. This is an ASTM method for the analysis of elements in water by ICP-MS and is proposed to measure germanium and manganese.

(iii) ASTM D6581-12 “Standard Test Methods for Bromate, Bromide, Chlorate, and Chlorite in Drinking Water by Suppressed Ion Chromatography.” Available for purchase on the Internet at <http://www.astm.org/Standards/D6581.htm>. This is an ASTM method for the analysis of inorganic anions in water samples using IC with conductivity detection. The proposal includes measurement of bromide as a potential indicator for HAAs.

3. Methods From “Standard Methods for the Examination of Water & Wastewater”

The following methods are from “Standard Methods for the Examination of Water & Wastewater”, 21st edition (2005), American Public Health Association, 800 I Street NW., Washington, DC 20001-3710.

(i) SM 2550 “Temperature.” This is a Standard Method for temperature measurements using a thermometer (mercury). The proposal includes measurement of temperature as a potential indicator for cyanotoxins.

(ii) SM 3125 “Metals by Inductively Coupled Plasma/Mass Spectrometry.” This is a Standard Method for the analysis of metals and metalloids in water by ICP-MS and is proposed for the analysis of germanium and manganese.

(iii) SM 4500-H+ B “pH Value in Water by Potentiometry Using a Standard Hydrogen Electrode.” This is a Standard Method for measuring pH of water samples using a meter, standard hydrogen electrode, and reference electrode.

(iv) SM 5310B “The Determination of Total Organic Carbon by High-Temperature Combustion Method.” This is a Standard Method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

(v) SM 5310C “Total organic carbon by Persulfate-UV or Heated-Persulfate Oxidation Method.” This is a Standard Method for the analysis of TOC in water samples using conductivity detector or a nondispersive infrared detector.

(vi) SM 5310D “Total organic carbon by Wet-Oxidation Method.” This is a Standard Method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

## 4. Methods From “Standard Methods Online”

The following methods are from “Standard Methods Online,” available for purchase on the Internet at <http://www.standardmethods.org>.

(i) SM 2550-10 “Temperature.” This is a Standard Method for temperature measurements using a thermometer (fluid filled or electronic).

(ii) SM 3125-09 “Metals by Inductively Coupled Plasma/Mass Spectrometry (Editorial revisions, 2011).” This is a Standard Method for the analysis of metals and metalloids in water by ICP-MS and is proposed to measure germanium and manganese.

(iii) SM 4500-H+ B-00 “pH Value in Water by Potentiometry Using a

Standard Hydrogen Electrode.” This is a Standard Method for measuring pH in water samples using a meter, standard hydrogen electrode, and reference electrode.

(iv) SM 5310B-00 “The Determination of Total Organic Carbon by High-Temperature Combustion Method.” This is a Standard Method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

(v) SM 5310C-00 “Total organic carbon by Persulfate-UV or Heated-Persulfate Oxidation Method.” This is a Standard Method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

(vi) SM 5310D-00 “Total organic carbon by Wet-Oxidation Method.” This is a Standard Method for the analysis of TOC in water samples using a conductivity detector or a nondispersive infrared detector.

## 5. Method From “Ohio EPA”

The following methodology is from Ohio EPA, Columbus, OH.

(i) ELISA SOP “Ohio EPA Total (Extracellular and Intracellular) Microcystins—ADDA by ELISA Analytical Methodology,” Version 2.0, January 2015, available on the Internet at [http://www.epa.ohio.gov/Portals/28/documents/habs/HAB\\_Analytical\\_Methodology.pdf](http://www.epa.ohio.gov/Portals/28/documents/habs/HAB_Analytical_Methodology.pdf). This is an Ohio EPA method for the analysis of cyanotoxins (microcystins and nodularin) in drinking water using an ELISA technique. The proposal includes measurement of “total microcystins” using this technique.

### K. What is the states’ role in the UCMR program?

UCMR is a direct implementation rule (*i.e.*, EPA has primary responsibility for its implementation) and state participation is voluntary. Under previous UCMRs, specific activities that individual states, tribes and territories agreed to carry out or assist with were identified and established exclusively through Partnership Agreements (PAs). Through PAs, states, tribes and territories can help EPA implement the UCMR program and help ensure that the UCMR data are of the highest quality possible to best support Agency decision making. Under UCMR 4, EPA expects to continue to use the PA process to determine and document the following: The process for review and revision of the SMPs; replacing and updating system information; review and approval of proposed ground water representative monitoring plans; notification and instructions for

systems; and compliance assistance. EPA recognizes that states/primacy agencies often have the best information about PWSs in their state and encourages states to partner.

SMPs include tabular listings of the systems that EPA selected and the proposed schedule for their monitoring. Initial SMPs also typically include instructions to states for revising and/or correcting system information in the SMPs, including modifying the sampling schedules for small systems. EPA expects to incorporate revisions from states, resolve any outstanding questions and return the final SMPs to each state.

#### *L. What stakeholder meetings have been held in preparation for UCMR 4?*

EPA incorporates stakeholder involvement into each UCMR cycle. Specific to the development of UCMR 4, EPA held two public stakeholder meetings and is announcing a third in this proposal (see sections II.L and II.M). EPA held a meeting focused on drinking water methods for CCL contaminants on May 15, 2013, in Cincinnati, Ohio. Participants included representatives of state agencies, laboratories, PWSs, environmental organizations and drinking water associations. Meeting topics included an overview of the regulatory process (CCL, UCMR and Regulatory Determination) and drinking water methods under development, primarily for CCL contaminants (see USEPA, 2013 for presentation materials). EPA held a second stakeholder meeting on June 25, 2014, in Washington, DC. Attendees representing state agencies, tribes, laboratories, PWSs, environmental organizations and drinking water associations participated in the meeting via webinar and in person. Meeting topics included a status update on UCMR 3; UCMR 4 potential sampling design changes relative to UCMR 3; UCMR 4 candidate analytes and rationale; and the laboratory approval process (see USEPA, 2014 for meeting materials).

#### *M. How do I participate in the upcoming stakeholder meeting?*

EPA will hold the third public stakeholder meeting (via webinar) on January 13, 2016. Topics will include the proposed UCMR 4 monitoring requirements, analyte selection and rationale, analytical methods, the laboratory approval process and ground water representative monitoring plans.

#### 1. Webinar Participation

Those who wish to participate in the public webinar must register in advance

no later than 5:00 p.m., eastern time on January 10, 2016, <https://attendee.gotowebinar.com/register/7326881974233959170>. To ensure adequate time for public statements, individuals or organizations interested in making a statement should identify their interest when they register. We ask that only one person present on behalf of a group or organization, and that the presentation be limited to ten minutes. Any additional statements from attendees will be taken during the webinar if time permits; alternatively, official comments can be submitted to the docket. The number of webinar connections available for the meeting is limited and will be available on a first-come, first-served basis. Further details about registration and participation in the webinar can be found on EPA's Unregulated Contaminant Monitoring Program Meetings and Materials Web page at <http://www2.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials>.

#### 2. Webinar Materials

Meeting materials are expected to be sent by email to all registered attendees prior to the public webinar. EPA will post the materials on the Agency's Web site for persons who are unable to attend the webinar. Please note, these materials could be posted after the webinar.

#### *N. How did EPA consider Children's Environmental Health?*

Executive Order 13045 does not apply to UCMR 4, however, EPA's Policy on Evaluating Health Risks to Children is applicable (See III.G. Executive Order 13045). By monitoring for unregulated contaminants that may pose health risks via drinking water, UCMR furthers the protection of public health for all citizens, including children. EPA considered children's health risks during the proposed rule development process for UCMR 4, including the decision-making process for prioritizing candidate contaminants, and included a representative from EPA's Office of Children's Health Protection as a participant on the UCMR 4 workgroup.

The objective of UCMR 4 is to collect nationally representative drinking water data on a set of unregulated contaminants. Wherever feasible, EPA collects occurrence data for contaminants at levels below current "reference concentrations" (e.g., health advisories and health reference levels). By setting reporting levels as low as we reasonably can, the Agency positions itself to better address updated risk information in the future, including that associated with unique risks to children. EPA requests comments regarding any

further steps that may be taken to evaluate and address health risks to children within the scope of UCMR 4.

#### *O. How did EPA address Environmental Justice?*

EPA did not identify any disproportionately high or adverse human health or environmental effects on minority, low-income or indigenous populations in the process of developing the proposed rule for UCMR 4 (See III.J. Executive Order 12898). By seeking to identify unregulated contaminants that may pose health risks via drinking water from all PWSs, UCMR furthers the protection of public health for all citizens. EPA recognizes that unregulated contaminants in drinking water are of interest to all populations and structured the rulemaking process and implementation of the proposed UCMR 4 rule to allow for meaningful involvement and transparency. EPA organized public meetings/webinars to share information regarding the development of UCMR 4; coordinated with tribal governments; and convened a workgroup with representatives from the EPA Regions, EPA Program Offices, EPA's Office of Research and Development and several states.

EPA proposes to continue to collect U.S. Postal Service Zip Codes for each PWS's service area, as collected under UCMR 3, to support an assessment of whether or not minority, low-income and/or indigenous-population communities are uniquely impacted by particular drinking water contaminants. EPA solicits comment on additional actions the Agency could take to further address environmental justice within the UCMR program. EPA welcomes, for example, comments regarding sampling and/or modeling approaches, and the feasibility and utility of applying these approaches to determine disproportionate impacts.

### III. Statutory and Executive Order Reviews

#### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to OMB.

#### *B. Paperwork Reduction Act (PRA)*

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2192.07. You can find a

copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information that EPA proposes to collect under this rule fulfills the statutory requirements of section 1445(a)(2) of SDWA, as amended in 1996. The data will describe the source of the water, location and test results for samples taken from PWSs. The information collected will support Agency decisions as to whether or not to regulate particular contaminants under SDWA. Reporting is mandatory. The data are not subject to confidentiality protection.

The annual burden and cost estimates described in this section are based on the implementation assumptions described in section II.F. Respondents to UCMR 4 include 1,600 small PWSs (800 for cyanotoxin monitoring and a different set of 800 for monitoring the additional 20 chemicals), the ~4,292 large PWSs and the 56 states and primacy agencies (~5,948 total respondents). The frequency of response varies across respondents and years. System costs (particularly laboratory analytical costs) vary depending on the number of sampling locations. For cost estimates, EPA assumed that systems would conduct sampling evenly across March 2018 through November 2020, excluding December, January or February of each year, except for resampling purposes (*i.e.*, one-third of the systems in each year of monitoring). Because the applicable ICR period is 2017–2019, one year of monitoring activity (*i.e.*, 2020) is not captured in the ICR estimates; this will be addressed in a subsequent ICR renewal for UCMR 4.

Small PWSs that are selected for UCMR 4 monitoring would sample an average of 6.7 times per PWS (*i.e.*, number of responses per PWS) across the 3-year ICR period. The average burden per response for small PWSs is estimated to be 2.8 hours. Large PWSs (those serving 10,001 to 100,000 people) and very large PWSs (those serving more than 100,000 people) would sample and report an average of 11.4

and 14.1 times per PWS, respectively, across the 3-year ICR period. The average burden per response for large and very large PWSs is estimated at 6.1 and 9.9 hours, respectively. States are assumed to have an annual average burden of 366.5 hours related to coordination with EPA and PWSs. In aggregate, during the ICR period, the average response (*e.g.*, responses from PWSs and states) is associated with a burden of 6.9 hours, with a labor plus non-labor cost of \$1,705 per response.

The annual average per-respondent burden hours and costs for the ICR period are: Small PWSs—6.2 hours, or \$171, for labor; large PWSs—23.3 hours, or \$682, for labor, and \$6,047 for analytical costs; very large PWSs—46.5 hours, or \$1,248, for labor, and \$16,298 for analytical costs; and states—244.3 hours, or \$11,598, for labor. Annual average burden and cost per respondent (including both systems and states) is estimated to be 23.4 hours, with a labor plus non-labor cost of \$3,470 per respondent. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's rules in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, accuracy of the burden estimates or to provide suggested methods for minimizing respondent burden, reference the public docket for this rule, which includes the ICR. Submit any comments related to the ICR to EPA and OMB. See the **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA and OMB. OMB is required to make a decision concerning the ICR between 30 and 60 days after December 11, 2015. Comments should be sent to OMB by January 11, 2016 for the comment to be appropriately considered. The final rule will contain responses to any OMB or public comments on the information

collection requirements contained in this proposal.

*C. Regulatory Flexibility Act (RFA)*

For purposes of assessing the impacts of this proposed rule on small entities, EPA considered small entities to be PWSs serving 10,000 or fewer people, because this is the system size specified in SDWA as requiring special consideration with respect to small system flexibility. As required by the RFA, EPA proposed using this alternative definition in the FR, (63 FR 7606, February 13, 1998 (USEPA, 1998b)), requested public comment, consulted with the Small Business Administration and finalized the alternative definition in the Consumer Confidence Reports rulemaking, (63 FR 44512, August 19, 1998 (USEPA, 1998a)). As stated in that Final Rule, the alternative definition would be applied to future drinking water rules, including this rule.

The evaluation of the overall impact on small systems, summarized in the preceding discussion, is further described as follows. EPA analyzed the impacts for privately-owned and publicly-owned water systems separately, due to the different economic characteristics of these ownership types, such as different rate structures and profit goals. However, for both publicly- and privately-owned systems, EPA used the "revenue test," which compares annual system costs attributed to the rule to the system's annual revenues. EPA used median revenue data from the 2006 CWS Survey for public and private water systems. The revenue figures were updated to 2014 dollars, and to account for 3 percent inflation. EPA assumes that the distribution of the sample of participating small systems will reflect the proportions of publicly- and privately-owned systems in the national inventory. The estimated distribution of the representative sample, categorized by ownership type, source water and system size, is presented in Exhibit 6.

EXHIBIT 6—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SMALL SYSTEMS SUBJECT TO UCMR 4

System size (number of people served)	Publicly-owned	Privately-owned	Total <sup>1</sup>
<b>Ground Water</b>			
500 and under .....	21	64	85
501 to 3,300 .....	161	62	223
3,301 to 10,000 .....	179	41	220
<i>Subtotal GW</i> .....	<i>361</i>	<i>167</i>	<i>528</i>
<b>Surface Water (and GWUDI)</b>			
500 and under .....	18	21	39



EXHIBIT 6—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SMALL SYSTEMS SUBJECT TO UCMR 4—Continued

System size (number of people served)	Publicly-owned	Privately-owned	Total <sup>1</sup>
501 to 3,300 .....	241	86	327
3,301 to 10,000 .....	548	158	706
<i>Subtotal SW</i> .....	<i>807</i>	<i>265</i>	<i>1,072</i>
<i>Total of Small Water Systems</i> .....	<i>1,168</i>	<i>432</i>	<i>1,600</i>

<sup>1</sup> PWS counts were adjusted to display as whole numbers in each size category.

The basis for the proposed UCMR 4 RFA certification is as follows: For the 1,600 small water systems that would be affected, the average annual cost for complying with this rule represents no more than 0.8% of system revenues (the highest estimated percentage is for GW systems serving 500 or fewer people, at 0.8% of its median revenue). Exhibit 7 presents the yearly cost to small systems and to EPA for the small system sampling program, along with an illustration of system participation for each year of UCMR 4.

EXHIBIT 7—IMPLEMENTATION OF UCMR 4 AT SMALL SYSTEMS

Cost description	2017	2018	2019	2020	2021	Total <sup>1</sup>
<b>Costs to EPA for Small System Program (Assessment Monitoring)</b>						
	\$0	\$5,971,948 .....	\$5,971,948 .....	\$5,971,948 .....	\$0	\$17,915,845
<b>Costs to Small Systems (Assessment Monitoring)</b>						
	0	\$273,210 .....	\$273,210 .....	\$273,210 .....	0	\$819,631
<b>Total Costs to EPA and Small Systems for UCMR 4</b>						
	0	\$6,245,159 .....	\$6,245,159 .....	\$6,245,159 .....	0	\$18,735,476
<b>System Monitoring Activity Timeline <sup>2</sup></b>						
<i>Assessment Monitoring: Cyanotoxins.</i>	.....	1/3 PWSs Sample .....	1/3 PWSs Sample .....	1/3 PWSs Sample .....	.....	800
<i>Assessment Monitoring: 20 Additional Chemicals.</i>	.....	1/3 PWSs Sample .....	1/3 PWSs Sample .....	1/3 PWSs Sample .....	.....	800

<sup>1</sup> Totals may not equal the sum of components due to rounding.

<sup>2</sup> Total number of systems is 1,600. No small system conducts Assessment Monitoring for both cyanotoxins and the 20 additional chemicals.

PWS costs are attributed to the labor required for reading about UCMR 4 requirements, monitoring, reporting and record keeping. The estimated average annual burden across the 5-year UCMR 4 implementation period of 2017–2021 is 2.8 hours at \$103 per small system. Average annual cost, in all cases, is less than 0.8% of system revenues. By assuming all costs for laboratory analyses, shipping and quality control for small entities, EPA incurs the entirety of the non-labor costs associated with UCMR 4 small system monitoring, or 96% of total small system testing costs. Exhibit 8 and Exhibit 9 present the estimated economic impacts in the form of a revenue test for publicly- and privately-owned systems.

EXHIBIT 8—UCMR 4 RELATIVE COST ANALYSIS FOR SMALL PUBLICLY-OWNED SYSTEMS [2017–2021]

System size (number of people served)	Annual number of systems impacted <sup>1</sup>	Average annual hours per system (2017–2021)	Average annual cost per system (2017–2021)	Revenue test <sup>2</sup> (%)
<b>Ground Water Systems</b>				
500 and under .....	4	1.6	\$59	0.16
501 to 3,300 .....	32	1.7	63	0.04
3,301 to 10,000 .....	36	1.9	67	0.01
<b>Surface Water (and GWUDI) Systems</b>				
500 and under .....	4	3.3	118	0.17
501 to 3,300 .....	48	3.3	118	0.04

**EXHIBIT 8—UCMR 4 RELATIVE COST ANALYSIS FOR SMALL PUBLICLY-OWNED SYSTEMS—Continued**  
[2017–2021]

System size (number of people served)	Annual number of systems impacted <sup>1</sup>	Average annual hours per system (2017–2021)	Average annual cost per system (2017–2021)	Revenue test <sup>2</sup> (%)
3,301 to 10,000 .....	109	3.4	123	0.01

<sup>1</sup> PWS counts were adjusted to display as whole numbers in each size category.

<sup>2</sup> The Revenue Test was used to evaluate the economic impact of an information collection on small government entities (e.g., publicly-owned systems); costs are presented as a percentage of median annual revenue in each size category.

**EXHIBIT 9—UCMR 4 RELATIVE COST ANALYSIS FOR SMALL PRIVATELY-OWNED SYSTEMS**  
[2017–2021]

System size (number of people served)	Annual number of systems impacted <sup>1</sup>	Average annual hours per system (2017–2021)	Average annual cost per system (2017–2021)	Revenue test <sup>2</sup> (%)
<b>Ground Water Systems</b>				
500 and under .....	13	1.6	\$59	0.81
501 to 3,300 .....	12	1.7	63	0.05
3,301 to 10,000 .....	8	1.9	67	0.01
<b>Surface Water (and GWUDI) Systems</b>				
500 and under .....	4	3.3	118	0.29
501 to 3,300 .....	17	3.3	118	0.04
3,301 to 10,000 .....	32	3.4	123	0.01

<sup>1</sup> PWS counts were adjusted to display as whole numbers in each size category.

<sup>2</sup> The Revenue Test was used to evaluate the economic impact of an information collection on small government entities (e.g., privately-owned systems); costs are presented as a percentage of median annual revenue in each size category.

The Agency has determined that 1,600 small PWSs (for Assessment Monitoring), or approximately 4.2% of all small systems, would experience an impact of no more than 0.8% of revenues; the remainder of small systems would not be impacted.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA has attempted to reduce this impact by assuming all costs for analyses of the samples and for shipping the samples from small systems to laboratories contracted by EPA to analyze UCMR 4 samples (the cost of shipping is now included in the cost of each analytical method). EPA has set aside \$2.0 million each year from the Drinking Water State Revolving Fund (SRF) with its authority to use SRF monies for the purposes of implementing this provision of SDWA. Thus, the costs to these small systems will be limited to the labor associated with collecting a sample and preparing it for shipping.

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. Although EPA

has concluded that this action will have no significant net regulatory burden for directly regulated small entities, the Agency continues to be interested in the potential impacts of the proposed rule on small entities and welcomes comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an annual unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on the proposed rule from state and local officials.

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

This action will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. As described previously, this proposed rule requires monitoring by all large PWSs. Information in the SDWIS/Fed water system inventory indicates there are approximately 17 large tribal PWSs (ranging in size from 10,001 to 40,000 customers). EPA estimates the average annual cost to each of these large PWSs, over the 5-year rule period, to be \$4,037. This cost is based on a labor component (associated with the collection of samples), and a non-labor component (associated with shipping and laboratory fees), and represents less than 1.2% of average revenue/sales for large PWSs. UCMR also requires monitoring by a nationally representative sample of small PWSs. EPA estimates that less than 2% of small tribal systems will be selected as a nationally representative sample for Assessment Monitoring. EPA estimates the average annual cost to small tribal systems over the 5-year rule period to be \$103. Such cost is based on the labor associated with collecting a sample and preparing it for shipping

and represents less than 0.8% of average revenue/sales for small PWSs. All other small-PWS expenses (associated with shipping and laboratory fees) are paid by EPA.

EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this proposed rule to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in the electronic docket listed in the **ADDRESSES** section at the beginning of this notice. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not think the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are addressed in section II.N of the preamble.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act and 1 CFR Part 51*

This action involves technical standards. EPA proposes to use methods developed by the Agency, three major voluntary consensus method organizations and the Ohio EPA to support UCMR 4 monitoring. The voluntary consensus method organizations are Standard Methods, Association of Analytical Communities International and ASTM International. EPA identified acceptable consensus method organization standards for the analysis of manganese and germanium. Additionally, EPA identified an Ohio EPA method for the analysis of total microcystins using ADDA by ELISA. EPA therefore proposes using a collection of analytical methods published by these parties for the UCMR 4 analytes. In addition, there are several consensus standards that are approved for compliance monitoring that will be available for use in the analysis of TOC and bromide, and for the measurement of temperature and pH. A summary of

each method along with how the method specifically applies to UCMR 4 can be found in section II.J of the preamble.

All of these standards are reasonably available for public use. The Agency methods are free for download on EPA's Web site. The methods in the Standard Method 21st edition are consensus standards, available for purchase from the publisher, and are commonly used by the drinking water community. The methods in the Standard Method Online are consensus standards, available for purchase from the publisher's Web site, and are commonly used by the drinking water community. The methods from ASTM International are consensus standards, are free for download from the publisher's Web site, and are commonly used by the drinking water community. The Ohio EPA method is free for download on their Web site and is increasingly being used by the drinking water community.

EPA welcomes comments on this aspect of the proposed rulemaking; the Agency specifically invites the public to identify potentially-applicable voluntary consensus standards and explain why such standards should be used in this rule.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The results of this evaluation are contained in section II.O of this preamble and an additional supporting document has been placed in the docket.

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#### List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: November 30, 2015.

**Gina McCarthy**,  
Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 141 as follows:

#### PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for part 141 continues to read as follows:

**Authority:** 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

#### Subpart D—Reporting and Recordkeeping

■ 2. In § 141.35:

■ a. Revise the third sentence in paragraph (b)(1).

■ b. Revise the second and third sentences in paragraph (b)(2).

■ c. Remove “October 1, 2012,” and add in its place “December 31, 2017,” in paragraph (c)(1).

■ d. Revise the second and third sentences in paragraph (c)(2).

■ e. Revise the last sentence in paragraph (c)(3)(i).

■ f. Revise the fifth sentence in paragraph (c)(3)(ii).

■ g. Remove “October 1, 2012,” and add in its place “[WITHIN 120 DAYS FROM PUBLICATION OF THE FINAL RULE],” in paragraph (c)(4).

■ h. Revise paragraphs (c)(5)(i), (c)(6) introductory text, (d)(2), and (e).

The revisions and additions read as follows:

#### § 141.35 Reporting for unregulated contaminant monitoring results.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* Information that must be submitted using EPA’s electronic data reporting system must be submitted through: <http://www2.epa.gov/dwucmr>. \* \* \*

(2) \* \* \* If you have received a letter from EPA or your State concerning your required monitoring and your system does not meet the applicability criteria for UCMR established in § 141.40(a)(1) or (2), or if a change occurs at your system that may affect your requirements under UCMR as defined in § 141.40(a)(3) through (5), you must mail or email a letter to EPA, as specified in paragraph (b)(1) of this section. The letter must be from your PWS Official and must include your PWS Identification (PWSID) Code along with an explanation as to why the UCMR requirements are not applicable to your PWS, or have changed for your PWS, along with the appropriate contact information. \* \* \*

(c) \* \* \*

(2) \* \* \* You must provide your sampling location(s) and associate each source water location with its entry point location(s) by December 31, 2017, using EPA’s electronic data reporting system. You must submit, verify or update the following information for each sampling location, or for each approved representative sampling location (as specified in paragraph (c)(3) of this section regarding representative sampling locations): PWSID Code; PWS Name; PWS Facility Identification Code; PWS Facility Name; PWS Facility Type; Water Source Type; Sampling Point Identification Code; Sampling Point Name; and Sampling Point Type Code; (as defined in Table 1 of paragraph (e) of this section).

(3) \* \* \*

(i) \* \* \* You must submit a copy of the existing alternate EPTDS sampling plan or your representative well proposal, as appropriate, [DATE 120 DAYS AFTER PUBLICATION OF THE FINAL RULE], as specified in paragraph (b)(1) of this section.

(ii) \* \* \* You must submit the following information for each proposed representative sampling location: PWSID Code; PWS Name; PWS Facility Identification Code; PWS Facility Name; PWS Facility Type; Sampling Point Identification Code; and Sampling Point Name (as defined in Table 1, paragraph (e) of this section). \* \* \*

\* \* \* \* \*

(5) \* \* \*

(i) *General rescheduling notification requirements*. Large systems may change their monitoring schedules up to December 31, 2017, using EPA’s electronic data reporting system, as specified in paragraph (b)(1) of this section. After this date has passed, if your PWS cannot sample according to your assigned sampling schedule (e.g., because of budget constraints, or if a sampling location will be closed during the scheduled month of monitoring), you must mail or email a letter to EPA, as specified in paragraph (b)(1) of this section, prior to the scheduled sampling date. You must include an explanation of why the samples cannot be taken according to the assigned schedule, and you must provide the alternative schedule you are requesting. You must not reschedule monitoring specifically to avoid sample collection during a suspected vulnerable period. You are subject to your assigned UCMR sampling schedule or the schedule that you revised on or before December 31, 2017, unless and until you receive a

letter from EPA specifying a new schedule.

\* \* \* \* \*

(6) *Reporting monitoring results.* For UCMR samples, you must report all data elements specified in Table 1 of paragraph (e) of this section, using EPA's electronic data reporting system. You also must report any changes, relative to what is currently posted, made to data elements 1 through 9 to EPA, in writing, explaining the nature and purpose of the proposed change, as specified in paragraph (b)(1) of this section.

\* \* \* \* \*

(d) \* \* \*

(2) *Reporting sampling information.*

You must provide your sampling location(s) and associate each source water location with its entry point location(s) by December 31, 2017, using EPA's electronic data reporting system, as specified in paragraph (b)(1) of this section. If this information changes, you must report updates, including new sources and sampling locations that are put in use before or during the PWS' UCMR sampling period, to EPA's electronic data reporting system within 30 days of the change, as specified in paragraph (b)(1) of this section. You must record all data elements listed in

Table 1 of paragraph (e) of this section on each sample form and sample bottle, as appropriate, provided to you by the UCMR Sampling Coordinator. You must send this information as specified in the instructions of your sampling kit, which will include the due date and return address. You must report any changes made in data elements 1 through 9 by mailing or emailing an explanation of the nature and purpose of the proposed change to EPA, as specified in paragraph (b)(1) of this section.

(e) *Data elements.* Table 1 defines the data elements that must be provided for UCMR monitoring.

TABLE 1—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data element	Definition
1. Public Water System Identification (PWSID) Code.	The code used to identify each PWS. The code begins with the standard 2-character postal State abbreviation or Region code; the remaining 7 numbers are unique to each PWS in the State. The same identification code must be used to represent the PWS identification for all current and future UCMR monitoring.
2. Public Water System Name.	Unique name, assigned once by the PWS.
3. Public Water System Facility Identification Code.	An identification code established by the State or, at the State's discretion, by the PWS, following the format of a 5-digit number unique within each PWS for each applicable facility (i.e., for each source of water, treatment plant, distribution system, or any other facility associated with water treatment or delivery). The same identification code must be used to represent the facility for all current and future UCMR monitoring.
4. Public Water System Facility Name.	Unique name, assigned once by the PWS, for every facility ID (e.g., Treatment Plant).
5. Public Water System Facility Type.	That code that identifies that type of facility as either: CC = consecutive connection DS = distribution system IN = source water intake SS = sampling station TP = treatment plant OT = other
6. Water Source Type .....	The type of source water that supplies a water system facility. Systems must report one of the following codes for each sampling location: SW = surface water (to be reported for water facilities that are served all or in part by a surface water source at any time during the twelve-month period). GW = ground water (to be reported for water facilities that are served entirely by a ground water source). GU = ground water under the direct influence of surface water (to be reported for water facilities that are served all or in part by ground water under the direct influence of surface water at any time during the twelve-month sampling period), and are not served at all by surface water during this period.
7. Sampling Point Identification Code.	An identification code established by the State, or at the State's discretion, by the PWS, that uniquely identifies each sampling point. Each sampling code must be unique within each applicable facility, for each applicable sampling location (i.e., entry point to the distribution system, source water intake or distribution system sample at maximum residence time). The same identification code must be used to represent the sampling location for all current and future UCMR monitoring.
8. Sampling Point Name .....	Unique sample point name, assigned once by the PWS, for every sample point ID (e.g., Entry Point).
9. Sampling Point Type Code.	A code that identifies the location of the sampling point as either: SR = source water taken from plant intake; untreated water entering the water treatment plant (i.e., a location prior to any treatment). EP = entry point to the distribution system. MR = distribution system sample at maximum residence time.
10. Disinfectant Type .....	All of the primary disinfectants/oxidants that have been added in the treatment plant to the water being sampled. To be reported by systems for each sampling point. PEMB = Permanganate (applied before SR sample location) PEMA = Permanganate (applied after SR sample location) HPXB = Hydrogen peroxide (applied before SR sample location) HPXA = Hydrogen peroxide (applied after SR sample location) CLGA = Gaseous chlorine CLOF = Offsite Generated Hypochlorite (stored as a liquid form) CLON = Onsite Generated Hypochlorite CAGC = Chloramine (formed from gaseous chlorine) CAOF = Chloramine (formed from offsite hypochlorite) CAON = Chloramine (formed from onsite hypochlorite) CLDB = Chlorine dioxide (applied before SR sample location) CLDA = Chlorine dioxide (applied after SR sample location) OZON = Ozone

TABLE 1—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
11. Treatment Information ...	<p>ULVL = Ultraviolet light  OTHD = All other types of disinfectant/oxidant  NODU = No disinfectant/oxidant used  Treatment information associated with the water being sampled.  CON = Conventional (non-softening)  SCO = Softening conventional  RBF = River bank filtration  PSD = Pre-sedimentation  INF = In-line filtration  DFL = Direct filtration  PCF = Precoat filtration  SSF = Slow sand filtration  BIO = Biological filtration  REC = Reactor clarification (e.g. solids contact clarification, slurry recirculation clarification, Aciflo®)  SBC = Sludge blanket clarification (e.g. Pulsator®, Super Pulsator®, contact adsorption clarifiers, floc-blanket clarifiers)  ADC = Adsorption clarification (contact adsorption clarification)  UTR = Unfiltered treatment  PAC = Application of powder activated carbon  GAC = Granular activated carbon (not part of filters in CON, SCO, INF, DFL, or SSF)  AIR = Air stripping (packed towers, diffused gas contactors)  POB = Pre-oxidation/disinfection with chlorine (applied before SR sample location)  POA = Pre-oxidation/disinfection with chlorine (applied after SR sample location)  MFL = Membrane filtration  IEX = Ionic exchange  UVT = Ultraviolet light  AOX = Advanced oxidation (ultraviolet light with hydrogen peroxide and/or ozone)  DAF = Dissolved air floatation  CWL = Clear well/finished water storage without aeration  CWA = Clear well/finished water storage with aeration  ADS = Aeration in distribution system (localized treatment)  OTH = All other types of treatment  NTU = No treatment used</p>
12. Disinfectant Residual Type.	<p>Secondary disinfectant type added in the distribution system for each finished water sample.  CL2 = Chlorine (i.e., originating from addition of free chlorine only)  CLM = Chloramines (originating from with addition of chlorine and ammonia or pre-formed chloramines)  CAC = Chlorine and chloramines (if being mixed from chlorinated and chloraminated water)  NOD = No disinfectant residual</p>
13. Sample Collection Date	The date the sample is collected, reported as 4-digit year, 2-digit month, and 2-digit day (YYYY/MM/DD).
14. Sample Identification Code.	An alphanumeric value up to 30 characters assigned by the laboratory to uniquely identify containers, or groups of containers, containing water samples collected at the same sampling location for the same sampling date.
15. Contaminant .....	The unregulated contaminant for which the sample is being analyzed.
16. Analytical Method Code	The identification code of the analytical method used.
17. Extraction Batch Identification Code.	Laboratory assigned extraction batch ID. Must be unique for each extraction batch within the laboratory for each method. For CCC samples report the Analysis Batch Identification Code as the value for this field. For methods without an extraction batch, leave this field null.
18. Extraction Date .....	Date for the start of the extraction batch (YYYY/MM/DD). For methods without an extraction batch, leave this field null.
19. Analysis Batch Identification Code.	Laboratory assigned analysis batch ID. Must be unique for each analysis batch within the laboratory for each method.
20. Analysis Date .....	Date for the start of the analysis batch (YYYY/MM/DD).
21. Sample Analysis Type ...	<p>The type of sample collected and/or prepared, as well as the fortification level. Permitted values include:  CF = concentration fortified; the concentration of a known contaminant added to a field sample reported with sample analysis types LFSM, LFSMD, LFB, CCC and QCS.  CCC = continuing calibration check; a calibration standard containing the contaminant, the internal standard, and surrogate analyzed to verify the existing calibration for those contaminants.  FS = field sample; sample collected and submitted for analysis under this rule.  IS = internal standard; a standard that measures the relative response of contaminants.  LFB = laboratory fortified blank; an aliquot of reagent water fortified with known quantities of the contaminants and all preservation compounds.  LRB = laboratory reagent blank; an aliquot of reagent water treated exactly as a field sample, including the addition of preservatives, internal standards, and surrogates to determine if interferences are present in the laboratory, reagents, or other equipment.  LFSM = laboratory fortified sample matrix; a UCMR field sample with a known amount of the contaminant of interest and all preservation compounds added.  LFSMD = laboratory fortified sample matrix duplicate; duplicate of the laboratory fortified sample matrix.  QCS = quality control sample; a sample prepared with a source external to the one used for initial calibration and CCC. The QCS is used to check calibration standard integrity.  QH = quality HAA; HAA sample collected and submitted for quality control purposes.  SUR = surrogate standard; a standard that assesses method performance for each extraction.</p>
22. Analytical Results—Sign	A value indicating whether the sample analysis result was:

TABLE 1—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
	(<) “less than” means the contaminant was not detected, or was detected at a level below the Minimum Reporting Level. (=) “equal to” means the contaminant was detected at the level reported in “Analytical Result— Measured Value.”
23. Analytical Result—Measured Value.	The actual numeric value of the analytical results for: field samples; laboratory fortified matrix samples; laboratory fortified sample matrix duplicates; and concentration fortified.
24. Additional Value .....	Represents the true value or the fortified concentration for spiked samples for QC Sample Analysis Types (CCC, EQC, LFB, LFSM and LFSMD). For Sample Analysis Type FS and LRB and for IS and surrogate QC Contaminants, leave this field null.
25. Laboratory Identification Code.	The code, assigned by EPA, used to identify each laboratory. The code begins with the standard two-character State postal abbreviation; the remaining five numbers are unique to each laboratory in the State.
26. Sample Event Code .....	A code assigned by the PWS for each sample event. This will associate samples with the PWS monitoring plan to allow EPA to track compliance and completeness. Systems must assign the following codes: SEC1, SEC2, SEC3, SEC4, SEC5, SEC6, SEC7 and SEC8—represent samples collected to meet UCMR Assessment Monitoring requirements for cyanotoxins; where “SEC1” represents the first sampling period, “SEC2” the second period and so forth, for all eight sampling events. SEA1, SEA2, SEA3 and SEA4—represent samples collected to meet UCMR Assessment Monitoring requirements for the additional chemicals; where “SEA1” and “SEA2” represent the first and second sampling period for all water types; and “SEA3” and “SEA4” represent the third and fourth sampling period for SW and GU sources only.

**Subpart E—Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use**

- 3. In § 141.40:
- a. Remove “December 31, 2010” and add in its place “December 31, 2015” in paragraph (a) introductory text.
- b. Revise paragraphs (a)(1), (a)(2)(i)(A), (a)(2)(ii)(A) and (C), (a)(3), and (a)(4)(i)(B) and (C).
- c. Remove “October 1, 2012.” and add in its place “December 31, 2017.” in paragraph (a)(4)(i).
- d. Revise paragraph (a)(4)(ii) introductory text.
- e. Remove and reserve paragraph (a)(4)(ii)(F).
- f. Add paragraph (a)(4)(iii).
- g. Remove “August 1, 2012.” and add in its place “[DATE 60 DAYS AFTER PUBLICATION OF THE FINAL RULE], and necessary application material [DATE 120 DAYS AFTER PUBLICATION OF THE FINAL RULE].” in paragraph (a)(5)(ii).

- h. Revise paragraph (a)(5)(v), the second sentence in paragraph (a)(5)(vi), and paragraph (c).

The revisions and addition read as follows:

**§ 141.40 Monitoring requirements for unregulated contaminants.**

- (a) \* \* \*
- (1) *Applicability to transient non-community systems.* If you own or operate a transient non-community water system, you are not subject to monitoring requirements in this section.
- (2) \* \* \*
- (i) \* \* \*
- (A) *Assessment monitoring.* You must monitor for the contaminants on List 1, per Table 1, UCMR Contaminant List, in paragraph (a)(3) of this section. If you serve a retail population of more than 10,000 people, you are required to perform this monitoring regardless of whether you have been notified by the State or EPA.

\* \* \* \* \*

(ii) \* \* \*

(A) *Assessment monitoring.* You must monitor for the contaminants on List 1: Assessment Monitoring Cyanotoxin Chemical Contaminants, or List 1: Assessment Monitoring Additional Chemical Contaminants, per Table 1, in paragraph (a)(3) of this section, if you are notified by your State or EPA that you are part of the State Monitoring Plan for Assessment Monitoring.

\* \* \* \* \*

(C) *Pre-screen testing.* You must monitor for the unregulated contaminants on List 3 of Table 1, in paragraph (a)(3) of this section, if you are notified by your State or EPA that you are part of the State Monitoring Plan for Pre-Screen Testing.

(3) *Analytes to be monitored.* Lists 1, 2, and 3 contaminants are provided in the following table:

TABLE 1—UCMR CONTAMINANT LIST

1—Contaminant	2—CAS registry number	3—Analytical methods <sup>a</sup>	4—Minimum reporting level <sup>b</sup>	5—Sampling location <sup>c</sup>	6—Period during which monitoring to be completed
<b>List 1: Assessment Monitoring Cyanotoxin Chemical Contaminants<sup>e</sup></b>					
total microcystin .....	N/A .....	ELISA .....	0.3 µg/L .....	EPTDS and SR .....	3/1/2018–11/30/2020
anatoxin-a .....	64285–06–9 .....	EPA 545 .....	0.03 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
cyindrospermopsin .....	143545–90–8 .....	EPA 545 .....	0.09 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-LA .....	96180–79–9 .....	EPA 544 .....	0.008 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-LF .....	154037–70–4 .....	EPA 544 .....	0.006 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-LR .....	101043–37–2 .....	EPA 544 .....	0.02 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-LY .....	123304–10–9 .....	EPA 544 .....	0.009 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-RR .....	111755–37–4 .....	EPA 544 .....	0.006 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
microcystin-YR .....	101064–48–6 .....	EPA 544 .....	0.02 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
nodularin .....	118399–22–7 .....	EPA 544 .....	0.005 µg/L .....	EPTDS .....	3/1/2018–11/30/2020



TABLE 1—UCMR CONTAMINANT LIST—Continued

1—Contaminant	2—CAS registry number	3—Analytical methods <sup>a</sup>	4—Minimum reporting level <sup>b</sup>	5—Sampling location <sup>c</sup>	6—Period during which monitoring to be completed
<b>List 1: Assessment Monitoring Additional Chemical Contaminants</b>					
<b>Metals</b>					
germanium .....	7440–56–4 .....	EPA 200.8, ..... ASTM D5673–10, SM 3125.	0.3 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
manganese .....	7439–96–5 .....	EPA 200.8, ..... ASTM D5673–10, SM 3125.	0.4 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
<b>Pesticides and a Pesticide Manufacturing Byproduct</b>					
alpha-hexachloro- cyclohexane.	319–84–6 .....	EPA 525.3 .....	0.01 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
chlorpyrifos .....	2921–88–2 .....	EPA 525.3 .....	0.03 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
dimethipin .....	55290–64–7 .....	EPA 525.3 .....	0.2 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
ethoprop .....	13194–48–4 .....	EPA 525.3 .....	0.03 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
oxyfluorfen .....	42874–03–3 .....	EPA 525.3 .....	0.05 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
profenofos .....	41198–08–7 .....	EPA 525.3 .....	0.3 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
tebuconazole .....	107534–96–3 .....	EPA 525.3 .....	0.2 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
total permethrin (cis- & trans-).	52645–53–1 .....	EPA 525.3 .....	0.04 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
tribufos .....	78–48–8 .....	EPA 525.3 .....	0.07 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
<b>Brominated Haloacetic Acid (HAA) Groups<sup>d</sup></b>					
HAA5 .....	N/A .....	EPA 552.3 or EPA 557.	N/A .....	Stage 2 DBPR and/or DSMRT.	3/1/2018–11/30/2020
HAA6Br .....	N/A .....	EPA 552.3 or EPA 557.	N/A .....	Stage 2 DBPR and/or DSMRT.	3/1/2018–11/30/2020
HAA9 .....	N/A .....	EPA 552.3 or EPA 557.	N/A .....	Stage 2 DBPR and/or DSMRT.	3/1/2018–11/30/2020
<b>Alcohols</b>					
1-butanol .....	71–36–3 .....	EPA 541 .....	2.0 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
2-methoxyethanol .....	109–86–4 .....	EPA 541 .....	0.4 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
2-propen-1-ol .....	107–18–6 .....	EPA 541 .....	0.5 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
<b>Other Semivolatile Chemicals</b>					
butylated hydroxanisole.	25013–16–5 .....	EPA 530 .....	0.03 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
o-toluidine .....	95–53–4 .....	EPA 530 .....	0.007 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
quinoline .....	91–22–5 .....	EPA 530 .....	0.02 µg/L .....	EPTDS .....	3/1/2018–11/30/2020
<b>List 2: Screening Survey</b>					
Reserved .....	Reserved .....	Reserved .....	Reserved .....	Reserved .....	Reserved
<b>List 3: Pre-Screen Testing</b>					
Reserved .....	Reserved .....	Reserved .....	Reserved .....	Reserved .....	Reserved

Column headings are:

1—Contaminant: The name of the contaminant to be analyzed.

2—CAS (Chemical Abstract Service) Registry Number or Identification Number: A unique number identifying the chemical contaminants.

3—Analytical Methods: Method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level (MRL): The value and unit of measure at or above which the concentration of the contaminant must be measured using the approved analytical methods. If EPA determines, after the first six months of monitoring that the specified MRLs result in excessive resampling, EPA will establish alternate MRLs and will notify affected PWSs and laboratories of the new MRLs. N/A is defined as non-applicable.

5—Sampling Location: The locations within a PWS at which samples must be collected.

6—Period During Which Monitoring to be Completed: The time period during which the sampling and testing will occur for the indicated contaminant.

<sup>a</sup> The analytical procedures shall be performed in accordance with the documents associated with each method, see paragraph (c) of this section.

<sup>b</sup> The MRL is the minimum concentration of each analyte that must be reported to EPA.

<sup>c</sup> Sampling must occur at entry points to the distribution system (EPTDSs), after treatment is applied, that represent each non-emergency water source in routine use over the 12-month period of monitoring. Systems that purchase water with multiple connections from the same wholesaler may select one representative connection from that wholesaler. This EPTDS sampling location must be representative of the highest annual volume connections. If the connection selected as the representative EPTDS is not available for sampling, an alternate highest volume representative connection must be sampled. See 40 CFR 141.35(c)(3) for an explanation of the requirements related to the use of representative ground water EPTDSs. Sampling for brominated HAA groups must be conducted at the Stage 2 Disinfectants and Disinfection Byproduct Rule (DBPR) sampling locations (40 CFR 141.622). If these locations are not defined, the PWS is required to collect samples at locations that best represent the distribution system maximum residence time (DSMRT). DSMRT is defined as an active point (*i.e.*, a location that currently provides water to customers) in the distribution system where the water has been in the system the longest relative to the EPTDS. Sampling must occur at source water (SR) intake locations defined by EPA under the UCMR as untreated water entering the water treatment plant (*i.e.*, a location prior to any treatment). Systems subject to the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) should use their source water sampling site(s) from 40 CFR 141.703. Systems subject to the Stage 1 DBPR should use their TOC source water sampling site(s) from 40 CFR 141.132. TOC source water sampling site(s) were set under Stage 1 DBPR and remain unchanged under Stage 2 DBPR. If a system has two different sampling locations for LT2 and Stage 1 DBPR, the system should select the sample point the best represents the definition of source water sample location(s) for UCMR. For each EPTDS there should be one source water sample point associated with that EPTDS. It is possible that different EPTDSs share the same source water. PWSs that purchase 100 percent of their water; "consecutive systems" are not required to collect source water samples.

<sup>d</sup> TOC and bromide must be collected at the same time as HAA samples. These indicator samples must be collected at a single source water intake (as defined in footnote c, above) using methods already approved for compliance monitoring. TOC methods include: SM 5310 B, SM 5310 C, SM 5310 D (21st edition), or SM 5310 B-00, SM 5310 C-00, SM 5310 D-00 (SM Online), EPA Method 415.3 (Rev. 1.1 or 1.2). Bromide methods include: EPA Methods 300.0 (Rev. 2.1), 300.1 (Rev. 1.0), 317.0 (Rev. 2.0), 326.0 (Rev. 1.0) or ASTM D 6581-12. The MRLs for the individual HAAs are discussed in paragraph (a)(5)(v) of this section.

<sup>e</sup> Temperature and pH must be measured at the same time as cyanotoxin samples at the source water intake as described in footnote c, above. pH methods include: EPA Method 150.1 and 150.2, ASTM D1293-12, SM 4500-H+ B (21st edition) or SM 4500-H+ B-00 (SM Online). Temperature methods include: SM 2550 (21st edition), or SM 2550-10 (SM Online).

(4) \* \* \* for each sampling location, as specified scheduled sampling month (*i.e.*, it is not possible for you to sample within the window specified in Table 2, in this paragraph), you must notify EPA as specified in § 141.35(c)(5) to reschedule your sampling.

(i) \* \* \* in Table 2, in this paragraph. For the second or subsequent round of sampling, if a sample location is non-operational for more than one month before and one month after the

(B) *Frequency*. You must collect the samples within the time frame and according to the frequency specified by contaminant type and water source type

TABLE 2—MONITORING FREQUENCY BY CONTAMINANT AND WATER SOURCE TYPES

Contaminant type	Water source type	Time frame <sup>1</sup>	Frequency <sup>2</sup>
List 1 Cyanotoxins Chemicals.	Surface water or Ground water under the direct influence of surface water (GWUDI).	March–November .....	You must monitor twice a month for four consecutive months (total of eight sampling events). Sample events must occur two week apart.
List 1 Contaminants—Additional Chemicals.	Surface water or GWUDI .....	March–November .....	You must monitor four times during your 12-month monitoring period. Sample events must occur two months apart. (Example: If your first sampling event is in March, the second monitoring must occur during May, the third during July, and the fourth during September).
	Ground water .....	March–November .....	You must monitor two times during your 12-month monitoring period. Sample events must occur six months apart. (Example: If your first monitoring is in March, the second monitoring must occur during September. If your first monitoring is in November, the second monitoring must occur in May).

<sup>1</sup> No sampling will take place during the months of December, January or February, except for resampling purposes.

<sup>2</sup> Systems must assign a sample event code for each contaminant listed in Table 1. Sample event codes must be assigned by the PWS for each sample event. For more information on sample event codes see § 141.35(e) Table 1.

(C) *Location*. You must collect samples for each List 1 Assessment Monitoring contaminant, and, if applicable, for each List 2 Screening Survey, or List 3 Pre-Screen Testing contaminant, as specified in Table 1, in paragraph (a)(3) of this section. Samples must be collected at each sample point that is specified in column 5 and footnote c of Table 1, in paragraph (a)(3) of this section. PWSs conducting List 1 monitoring for the brominated HAA groups must collect TOC and bromide samples as specified in footnote d of

Table 1, in paragraph (a)(3) of this section. PWSs conducting List 1 monitoring for cyanotoxins must measure temperature and pH as specified in footnote e of Table 1, in paragraph (a)(3) of this section. If you are a ground water system with multiple EPTDSs, and you request and receive approval from EPA or the State for sampling at representative EPTDS(s), as specified in § 141.35(c)(3), you must

collect your samples from the approved representative sampling location(s).

\* \* \* \* \*

(ii) *Small systems*. If you serve 10,000 or fewer people and are notified that you are part of the State Monitoring Plan for Assessment Monitoring, Screening Survey or Pre-Screen monitoring, you must comply with the requirements specified in paragraphs (a)(4)(ii)(A) through (H) of this section. If EPA or the State informs you that they will be collecting your UCMR samples,

you must assist them in identifying the appropriate sampling locations and in collecting the samples.

\* \* \* \* \*

(iii) *Phased sample analysis for microcystins.* You must collect the three required samples (one at the source water intake and two at the EPTDS) for each sampling event, but not all samples may need to be analyzed. PWSs that purchase 100 percent of their water; “consecutive systems” only sample at their EPTDS. If the ELISA result from the source water intake is less than 0.3 µg/L, report that result and do not

analyze the additional EPTDS samples for that sample event. If the ELISA result from the source water intake is greater than or equal to 0.3 µg/L, report that value and analyze the EPTDS ELISA sample. If the EPTDS ELISA result is less than 0.3 µg/L, report that result and do not analyze the additional EPTDS samples for that sample event. If the EPTDS ELISA result is greater than or equal to 0.3 µg/L, report the value and analyze the other microcystin samples collected at the EPTDS using EPA Method 544.

\* \* \* \* \*

(5) \* \* \*

(v) *Method defined quality control.* You must ensure that your laboratory analyzes Laboratory Fortified Blanks and conducts Laboratory Performance Checks, as appropriate to the method’s requirements, for those methods listed in Table 1, column 3, in paragraph (a)(3) of this section. Each method specifies acceptance criteria for these QC checks. The following HAA results must be reported using EPA’s electronic data reporting system for quality control purposes.

TABLE 4—HAA QC RESULTS

1—Contaminant	2—CAS Registry No.	3—Analytical methods <sup>a</sup>	4—Minimum reporting level <sup>b</sup>	5—HAA6Br group	6—HAA9 group	7—HAA5 group
<b>Brominated Haloacetic Acid (HAA) Groups</b>						
Bromochloroacetic acid (BCAA) .....	5589–96–8 ....	EPA 552.3 or EPA 557 .....	0.3 µg/L .....	HAA6Br ....	HAA9.	
Bromodichloroacetic acid (BDCAA) ..	71133–14–7 ..	EPA 552.3 or EPA 557 .....	0.5 µg/L.			
Chlorodibromoacetic acid (CDBAA) ..	5278–95–5 ....	EPA 552.3 or EPA 557 .....	0.3 µg/L.			
Tribromoacetic acid (TBAA) .....	75–96–7 .....	EPA 552.3 or EPA 557 .....	2.0 µg/L.			
Monobromoacetic acid (MBAA) .....	79–08–3 .....	EPA 552.3 or EPA 557 .....	0.3 µg/L .....			HAA5.
Dibromoacetic acid (DBAA) .....	631–64–1 .....	EPA 552.3 or EPA 557 .....	0.3 µg/L.			
Dichloroacetic acid (DCAA) .....	79–43–6 .....	EPA 552.3 or EPA 557 .....	0.2 µg/L.			
Monochloroacetic acid (MCAA) .....	79–11–8 .....	EPA 552.3 or EPA 557 .....	2.0 µg/L.			
Trichloroacetic acid (TCAA) .....	76–03–9 .....	EPA 552.3 or EPA 557 .....	0.5 µg/L.			

Column headings are:

1—Contaminant: The name of the contaminant to be analyzed.

2—CAS (Chemical Abstract Service) Registry Number or Identification Number: A unique number identifying the chemical contaminants.

3—Analytical Methods: Method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level (MRL): The value and unit of measure at or above which the concentration of the contaminant must be measured using the approved analytical methods. If EPA determines, after the first six months of monitoring that the specified MRLs result in excessive resampling, EPA will establish alternate MRLs and will notify affected PWSs and laboratories of the new MRLs.

5—7—HAA groups identified in paragraph (a)(3) of this section to be monitored as UCMR contaminants.

<sup>a</sup> The analytical procedures shall be performed in accordance with the documents associated with each method, see paragraph (c) of this section, and must meet all quality control requirements outlined paragraph (a)(5) of this section.

<sup>b</sup> The MRL is the minimum concentration of each analyte that must be reported to EPA.

(vi) \* \* \* You must require your laboratory to submit these data electronically to the State and EPA using EPA’s electronic data reporting system, accessible at <http://www2.epa.gov/dwucmr>, within 120 days from the sample collection date.

\* \* \* \* \*

(c) *Incorporation by reference.* These standards are incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection either electronically at <http://www.regulations.gov>, in hard copy at the Water Docket, EPA/DC, and from the sources as follows. The Public Reading Room (EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC) is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for this Public Reading Room is (202) 566–1744, and the telephone number for the Water

Docket is (202) 566–2426. The material is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to <http://www.archives.gov/federal-register/cfr/about.html>.

(1) The following methods are from the U.S. Environmental Protection Agency, Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004.

(i) EPA Method 150.1 “pH Electrometric, in Methods for Chemical Analysis of Water and Wastes,” 1983, EPA/600/4–79/020. Available on the Internet at <http://www.nemi.gov>.

(ii) EPA Method 150.2 “pH, Continuous Monitoring (Electrometric), in Methods for Chemical Analysis of Water and Wastes,” 1983, EPA/600/4–79/020. Available on the Internet at <http://www.nemi.gov>.

(iii) EPA Method 200.8 “Determination of Trace Elements in

Waters and Wastes by Inductively Coupled Plasma—Mass Spectrometry,” Revision 5.4, 1994. Available on the Internet at <https://www.nemi.gov>.

(iv) EPA Method 300.0 “Determination of Inorganic Anions by Ion Chromatography Samples,” Revision 2.1, 1993. Available on the Internet at <http://www.nemi.gov>.

(v) EPA Method 300.1 “Determination of Inorganic Anions in Drinking Water by Ion Chromatography,” Revision 1.0, 1997. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>.

(vi) EPA Method 317.0 “Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis,” Revision 2.0, 2001, EPA 815–B–01–001. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/>

*approved-drinking-water-analytical-methods.*

(vii) EPA Method 326.0

“Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis,” Revision 1.0, 2002, EPA 815-R-03-007. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>.

(viii) EPA Method 415.3

“Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water,” Revision 1.1, 2005, EPA/600/R-05/055. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

(ix) EPA Method 415.3

“Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water,” Revision 1.2, 2009, EPA/600/R-09/122. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

(x) EPA Method 525.3 “Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),” Version 1.0, February 2012, EPA/600/R-12/010. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

(xi) EPA Method 530 “Determination of Select Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Gas Chromatography/Mass Spectrometry (GC/MS),” Version 1.0, January 2015, EPA/600/R-14/442. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

(xii) EPA Method 541 “Determination of 1-Butanol, 1,4-Dioxane, 2-Methoxyethanol and 2-Propen-1-ol in Drinking Water by Solid Phase Extraction and Gas Chromatography/Mass Spectrometry,” November 2015, EPA 815-R-15-011. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

(xiii) EPA Method 544

“Determination of Microcystins and Nodularin in Drinking Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS),” Version 1.0, February 2015, EPA 600-R-14/474. Available on the Internet at <http://www2.epa.gov/water-research/epa-drinking-water-research-methods>.

[www2.epa.gov/water-research/epa-drinking-water-research-methods](http://www2.epa.gov/water-research/epa-drinking-water-research-methods).

(xiv) EPA Method 545 “Determination of Cylindrospermopsin and Anatoxin-a in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI-MS/MS),” April 2015, EPA 815-R-15-009. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>.

(xv) EPA Method 552.3

“Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection,” Revision 1.0, July 2003, EPA 815-B-03-002. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>.

(xvi) EPA Method 557 “Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS),” Version 1.0, September 2009, EPA 815-B-09-012. Available on the Internet at <http://www2.epa.gov/dwanalyticalmethods/approved-drinking-water-analytical-methods>.

(2) The following methods are from “ASTM International,” 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(i) ASTM D1293-12 “Standard Test Methods for pH of Water.” Available for purchase on the Internet at <http://www.astm.org/Standards/D1293.htm>.

(ii) ASTM D5673-10 “Standard Test Method for Elements in Water by Inductively Coupled Plasma-Mass Spectrometry,” approved August 1, 2010. Available for purchase on the Internet at <http://www.astm.org/Standards/D5673.htm>.

(iii) ASTM D6581-12 “Standard Test Methods for Bromate, Bromide, Chlorate, and Chlorite in Drinking Water by Suppressed Ion Chromatography.” Available for purchase on the Internet at <http://www.astm.org/Standards/D6581.htm>.

(3) The following methods are from “Standard Methods for the Examination of Water & Wastewater,” 21st edition (2005), American Public Health Association, 800 I Street NW., Washington, DC 20001-3710.

(i) SM 2550. “Temperature.”

(ii) SM 3125 “Metals by Inductively Coupled Plasma/Mass Spectrometry.”

(iii) SM 4500-H+ B “pH Value in Water by Potentiometry Using a Standard Hydrogen Electrode.”

(iv) SM 5310B “The Determination of Total Organic Carbon by High-Temperature Combustion Method.”

(v) SM 5310C “Total Organic Carbon by Persulfate-UV or Heated-Persulfate Oxidation Method.”

(vi) SM 5310D “Total Organic Carbon by Wet-Oxidation Method.”

(4) The following methods are from “Standard Methods Online.” Available for purchase on the Internet at <http://www.standardmethods.org>.

(i) SM 2550-10 “Temperature.”

(ii) SM 3125-09 “Metals by Inductively Coupled Plasma/Mass Spectrometry (Editorial revisions, 2011).”

(iii) SM 4500-H+ B-00 “pH Value in Water by Potentiometry Using a Standard Hydrogen Electrode.”

(iv) SM 5310B-00 “The Determination of Total Organic Carbon by High-Temperature Combustion Method.”

(v) SM 5310C-00 “Total Organic Carbon by Persulfate-UV or Heated-Persulfate Oxidation Method.”

(vi) SM 5310D-00 “Total Organic Carbon by Wet-Oxidation Method.”

(5) The following methodology is from Ohio EPA, Columbus, OH.

(i) ELISA SOP. “Ohio EPA Total (Extracellular and Intracellular) Microcystins—ADDA by ELISA Analytical Methodology,” Version 2.0, January 2015. Available on the Internet at [http://www.epa.ohio.gov/Portals/28/documents/habs/HAB\\_Analytical\\_Methodology.pdf](http://www.epa.ohio.gov/Portals/28/documents/habs/HAB_Analytical_Methodology.pdf).

(ii) [Reserved]

[FR Doc. 2015-30824 Filed 12-10-15; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 63

[GN Docket No. 13-5, WC Docket No. 05-25; Report No. 3035]

### Petition for Reconsideration of Action in a Rulemaking Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration.

**SUMMARY:** In this document, a Petition for Reconsideration (Petition) has been filed in the Commission’s Rulemaking Proceeding by Tamar E. Finn, on behalf of U.S. TelePacific Corp.

**DATES:** Oppositions to the Petition must be filed on or before December 28, 2015. Replies to an opposition must be filed on or before January 5, 2016.

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

**FOR FURTHER INFORMATION CONTACT:** Michele Levy Berlove, Wireline

Competition Bureau, 202-418-1477, [michele.berlove@fcc.gov](mailto:michele.berlove@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document, Report No. 3035, released December 4, 2015. The full text of the Petition is 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 *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A) because this notice does not have an impact on any rules of particular applicability.

While the petition is styled a petition for clarification, at least one of the forms of relief it seeks may require a modification to the Commission's rules. As a result, the Commission's Wireline Competition Bureau has determined that the petition is more properly treated as a petition for reconsideration, for the purpose of seeking public input.

*Subject:* Technology Transitions; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, published at 80 FR 63322, October 19, 2015, in GN Docket No. 13-5, WC Docket No. 05-25, FCC 15-97. This *Notice* is published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1).

Number of Petitions Filed: 1.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015-31265 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

RIN 0648-BF15

#### Fisheries Off West Coast States; Comprehensive Ecosystem-Based Amendment 1; Amendments to the Fishery Management Plans for Coastal Pelagic Species, Pacific Coast Groundfish, U.S. West Coast Highly Migratory Species, and Pacific Coast Salmon

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces that the Pacific Fishery Management Council (Council) has submitted Comprehensive Ecosystem-Based Amendment 1 (CEBA 1) for Secretarial review. CEBA 1 would bring new ecosystem component species (collectively, "Shared EC Species") into each of the Council's four fishery management plans (FMPs) through amendments to those FMPs, and would prohibit the future development of new directed commercial fisheries for Shared EC Species within the U.S. West Coast Exclusive Economic Zone (EEZ).

**DATES:** Comments on CEBA 1 must be received on or before February 9, 2016.

**ADDRESSES:** You may submit comments on CEBA 1, identified by NOAA-NMFS-2015-0123, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0123](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0123), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; Attn: Yvonne deReynier.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.),

confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of CEBA 1 may be obtained from the Council Web site at <http://www.pcouncil.org>.

**FOR FURTHER INFORMATION CONTACT:**

Yvonne deReynier, 206-526-6129, [yvonne.dereynier@noaa.gov](mailto:yvonne.dereynier@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Ocean fisheries in the EEZ off Washington, Oregon, and California are managed under the CPS, Groundfish, HMS, and Salmon FMPs. CEBA 1 includes the following amendments to the Council's FMPs: Amendment 15 to the CPS FMP, Amendment 25 to the Pacific Coast Groundfish FMP, Amendment 3 to the FMP for U.S. West Coast HMS, and Amendment 19 to the Pacific Coast Salmon FMP. All FMPs are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.*, by regulations at 50 CFR part 660. The MSA requires that each regional fishery management council submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The MSA also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve the FMP amendments that would implement CEBA 1.

#### Background

The Council maintains a Fishery Ecosystem Plan, which includes an ecosystem initiative process for reviewing fisheries management issues that may affect multiple FMPs and for developing policies and regulations to address those issues under the authority of its FMPs. Under the ecosystem initiative process, the Council has reviewed trophic connections between the West Coast EEZ's unfished forage fish species and the EEZ's predator species managed under the MSA, the Endangered Species Act, the Marine Mammal Protection Act, and the Migratory Bird Treaty Act. Through that review, the Council determined that it wanted to bring a suite of unfished and unmanaged forage fish species into its FMPs as ecosystem component (EC)

species, and to prohibit directed commercial fisheries for those species.

The Council has recommended including the following species as Shared EC Species in all four of its FMPs: Round herring (*Etrumeus teres*) and thread herring (*Opisthonema libertate* and *O. medirastre*); mesopelagic fishes of the families *Myctophidae*, *Bathylagidae*, *Paralepididae*, and *Gonostomatidae*; Pacific sand lance (*Ammodytes hexapterus*); Pacific saury (*Cololabis saira*); silversides (family *Atherinopsidae*); smelts of the family *Osmeridae*; and pelagic squids (families: *Cranchiidae*, *Gonatidae*, *Histioteuthidae*, *Octopoteuthidae*, *Ommastrephidae* except Humboldt squid (*Dosidicus gigas*), *Onychoteuthidae*, and *Thysanoteuthidae*). Under Federal regulations at 50 CFR 600.310(d)(5)(iii), a species may be included in an FMP as an EC species: For data collection purposes; to inform the understanding of ecosystem considerations related to specification of OY for the associated fishery; to assist in the development of conservation and management measures for the associated fishery; or to address other ecosystem issues. The Council recommended including the suite of Shared EC Species in its FMPs as EC

species to address “other ecosystem issues,” because these species are broadly used as prey by marine mammals, seabird, and fish of the U.S. West Coast EEZ. The Council also noted that Shared EC Species are among the known prey of fishery management unit species of all four of the Council’s FMPs; therefore, Shared EC Species support predator species’ growth and development and may also be identified as EC species “for ecosystem considerations related to specification of optimum yield for the associated fishery.”

CEBA 1, through its implementing FMP amendments and regulations, would prohibit the future development of fisheries for Shared EC Species within the U.S. West Coast EEZ until the Council has had an adequate opportunity to assess the scientific information relating to any proposed directed fishery and to consider potential impacts to existing fisheries, fishing communities, and the greater marine ecosystem. The Council deemed this action necessary to proactively protect unmanaged, unfished forage fish of the U.S. West Coast EEZ, in recognition of the importance of these forage fish to the species managed under the Council’s FMPs and to the larger California Current Ecosystem. This

action would not supersede tribal or state fishery management for these species.

#### Consideration of Public Comments

NMFS welcomes comments on CEBA 1 and the proposed FMP amendments through the end of the comment period. CEBA 1 is available on the Council’s Web site ([www.pcouncil.org](http://www.pcouncil.org)). The Council also transmitted a proposed rule to implement CEBA 1 for Secretarial review and approval. NMFS expects to publish and request public review and comment on that rule in the near future. Public comments on the proposed rule must be received by the end of the comment period for CEBA 1 in order to be considered in the approval/disapproval decision on the FMP amendments. All comments received by the end of the CEBA 1 comment period, whether specifically directed to the FMP amendments or the proposed rule, will be considered in the approval/disapproval decision.

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

Dated: December 8, 2015.

**Alan D. Risenhoover,**

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

[FR Doc. 2015–31236 Filed 12–10–15; 8:45 am]

**BILLING CODE 3510–22–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

#### Submission for OMB Review; Comment Request

December 8, 2015.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by January 11, 2016. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Agricultural Marketing Service

*Title:* Specialty Crops Inspection Division Order Forms.

*OMB Control Number:* 0581–NEW.

*Summary of Collection:* The Agricultural Marketing Act of 1946 as amended, (7 U.S.C. 1621–1627) *et seq.* authorizes the Secretary to inspect, certify, and identify the class, quantity, quality, and condition of agricultural products when shipped or received in interstate commerce, and collect such fees as reasonable to cover the cost of services rendered. The Agricultural Marketing Service (AMS) is authorized to perform inspections, on a user fee basis and does so through the Specialty Crops Inspection Division (SCI). SCI provides a nationwide inspection, grading, and auditing service for fresh and processed fruits, vegetables and other products to shippers, importers, processors, sellers, buyers, and other financially interested parties.

*Need and Use of the Information:* AMS will use forms FV–380 “Order Form for SCI Division Inspection Equipment and Miscellaneous Items;” FV–357 “Notification of Entry” and FV–387 “SCI Alternate Payment Application” to collect necessary information. Such information includes; the name and location of the person or company requesting services, the type and location of the product to be inspected, the type of inspection being requested, information that will identify the product or type and scope of audit requested. This information is needed to carry out the inspection, grading, or auditing services.

*Description of Respondents:* Business or other for-profit; Federal, State, Local and Tribal Government.

*Number of Respondents:* 49,842.

*Frequency of Responses:* Reporting: Other—As needed.

*Total Burden Hours:* 4,156.

### Agricultural Marketing Service

*Title:* Export Certificate Request Forms.

*OMB Control Number:* 0581–0283.

*Summary of Collection:* The Agricultural Marketing Service, Dairy Grading Branch, dairy grading program is a voluntary user fee program authorized under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621). The regulations governing inspection and grading services of manufactured or processed dairy products are contained in 7 CFR part 58. International markets are increasing for U.S. dairy products. Forms will provide a format for exporters to provide information to the Dairy Grading Branch on consignments they wish to export so that the Dairy Grading Branch can issue the proper health certificate with the information required by the importing country.

*Need and Use of the Information:* Importing countries are requiring certification as to production methods and sources of raw ingredients for dairy products. Information will be gathered using DA–228 “Request for Applicant Number,” DA–253 European Union Health Certificate Request,” and the Sanitary Certificate Request. The information required on the sanitary certificates varies from country to country requiring specific forms for each country. Such information includes, but not limited to, identity of the importer and exporter; consignment specifics and border entry point at the country of destination. Information gathered from the applicants is transferred to the proper health certificate, certified by the proper authority and returned to the exporter. The collection of the information on the forms is necessary for the Dairy Grading Branch to be able to properly complete the required export certificate.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 250.

*Frequency of Responses:* Reporting: Each time a product is exported.

*Total Burden Hours:* 8,522.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2015–31298 Filed 12–10–15; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF AGRICULTURE****Food and Nutrition Service****Agency Information Collection****Activities: Proposed Collection;  
Comment Request—Child and Adult  
Care Food Program (CACFP) Family  
Day Care Home Meal Claim Feasibility  
Study**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection for estimating erroneous payments due to meals claimed improperly by family day care home providers participating in the CACFP.

**DATES:** Written comments must be received on or before February 9, 2016.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Veronica Uzoobo, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Veronica Uzoobo at 703-305-2576 or via email to [Veronica.Uzoobo@fns.usda.gov](mailto:Veronica.Uzoobo@fns.usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information

should be directed to Veronica Uzoobo at 703-305-2105.

**SUPPLEMENTARY INFORMATION:**

*Title:* Child and Adult Care Food Program (CACFP) Family Day Care Homes Meal Claim Feasibility Study

*Form Number:* N/A

*OMB Number:* Not Yet Assigned.

*Expiration Date:* Not Yet Determined.

*Type of Request:* New collection.

*Abstract:* The objective of this feasibility study is to design and test a data collection method that enables FNS to estimate erroneous payments due to meals claimed improperly by family day care home providers participating in the CACFP. Specifically, the study focuses on accurately estimating meals that are claimed but not served.

The study relies on data from four sources: (1) State agencies that administer the program for FNS, (2) sponsors who manage CACFP on behalf of State agencies, (3) providers that operate family day care homes, and (4) parents with children enrolled in a participating provider's facility. State agencies will provide lists of sponsors including administrative information about them. Sponsors will prepare extant administrative records of participating providers. Providers and parents will provide primary data on meal services and child attendance. Providers will report meal service information via a smart phone application (app) or a reporting Web site; parents will report child attendance via text messaging or a reporting Web site. These data, in combination with extant administrative records collected from sponsors, will be used to estimate improper payments.

The study activities subject to this notice include collecting administrative records and meal serving information from 300 providers associated with 15 sponsors in two States.

For a period of one month, providers selected and assigned to the study group will report meal serving times in addition to their regular meal claims for reimbursement purposes; parents whose children are attending these providers' facilities will report the drop-off and pick-up times of their children on a daily basis. Providers selected and assigned to the control group will take part under the business-as-usual condition and will have no direct involvement in the study as their meal claims will be obtained directly from the sponsors.

Providers and parents in the study group will receive study materials with full details of what they will be asked to do. They will also receive contact information to contact the study team for additional questions.

*Affected Public:* This study includes three respondent groups: State and local government (state agencies), for-profit or non-profit businesses (CACFP sponsors and family day care home providers), and individuals/households (parents of children enrolled in selected family day care homes).

*Estimated Number of Respondents:* The total estimated respondents is 917 (2 State agencies, 15 sponsors, 150 family day care providers, and 750 parents).

Selected States agencies, sponsors and providers are required to support this federally funded study. Upon FNS's approval of the two States selected for this study, a purposive sample of 15 sponsors will be selected to represent sponsors of varying sizes in urban, suburban, and rural areas.

With each selected sponsor, 20 providers will be randomly selected and evenly assigned to a study or control group, *i.e.*, 10 providers to the study group and the other 10 to the control group. Therefore, there will be a total of 300 providers in the study, *i.e.*, 20 providers per sponsor  $\times$  15 sponsors. Since the providers assigned to the control group will not be contacted for this study, the respondents will only include the 150 providers in the study group.

Parents can voluntarily participate in the study if their children attend participating providers' day care homes. Assuming an average of five families per provider, the study group will include an initial sample of 750 parents, *i.e.*, 5 families  $\times$  10 providers in the study group  $\times$  15 sponsors. Assuming that 20% of these parents refuse to participate in the study or fail to report attendance data on the daily basis during the study month, the final analytic sample include approximately 600 parents, *i.e.*, 750 parents  $\times$  20%.

*Estimated Frequency of Responses per Respondent:* FNS estimates that the frequency of responses per respondent will average an estimated 24 responses per respondent across the entire collection. Each State agency will provide two responses for the study: (1) Attend an orientation conference call, including reading an advance letter and study materials in preparation for the call and any follow-up communication with the study team after the call; and (2) provide requested information about sponsors, including communication regarding the data request and transfer.

Each sponsor will provide four types of responses: (1) Attend a study orientation conference call including reading an advance letter and study materials before the call and any follow-up communication with the study team



after the call; (2) provide monthly meal claim data for November 2016, January 2017, and March 2017 (3 times), including communication about the data transfer; (3) provide administrative records for CACFP day care providers including communication about the data transfer; and (4) facilitate study recruitment as needed.

Each day care home provider selected for the study will provide three types of responses: (1) Review an advance letter and study materials to provide requested child enrollment information, including communication about the study and the requested enrollment

information; (2) report meal service information via the smart phone app or the reporting Web site (22 times); and (3) facilitate parent recruitment as needed.

Participating parents will provide two types of responses: (1) Review an advanced letter and study materials to decide whether to participate in the study, including communication with the study team about the study; and (2) if they agree to participate, report child attendance via text messages on their personal mobile phone or a reporting Web site (22 times).

*Estimated Total Annual Responses:* 17,644 (see table below)

*Estimated Time per Response:* The estimated time of response varies from three minutes to two hours depending on respondent group, as shown in the table below, with an average estimated time of 0.11 hours for respondents and 0.05 hours for non-respondents.

*Estimated Total Annual Burden on Respondents:* The total public reporting burden for this collection of information is estimated at 1,875.50 hours. The estimated burden for each type of participant is detailed in the table below.

**BILLING CODE 3410-30-P**

**Estimated Burden of the CACFP Family Day Care Homes Meal Claim Feasibility Study**

			RESPONDENTS						NON-RESPONDENTS					Grand Total Burden Estimate (Hours)
Affected public	Respondents Type	Instrument	Sample Size	Estimated Number of Respondents	Frequency of Response	Total Responses	Average Time Per Response (Hours)	Total Estimated Annual Burden (Hours)	Estimated Number of Non-Respondents	Frequency of Response	Total Responses	Average Time Per Response (Hours)	Total Estimated Annual Burden (Hours)	
<b>State, local, and Tribal government</b>														
State Government	State Agency (a)	Review Study Materials and Participate in the Orientation and Follow-Up Calls	2	2	1	2	2.00	4.00	-	-	-	-	-	4.00
		Provide Sponsor Data	2		1	2	2.00	4.00	-	-	-	-	-	4.00
<b>Subtotal of State, Local, and Tribal Government</b>			<b>2</b>	<b>2</b>	<b>4</b>	<b>2.00</b>	<b>8</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>8</b>
<b>Business for-not-for profit</b>														
For-Profit/ Non-Profit Business	Sponsor (a)	Review Study Materials and Participate in Orientation and Follow-Up Calls Regarding Data Request	15	15	1	15	1.00	15.00	-	-	-	-	-	15.00
		Provide Provider Data and Respond to Follow-Up Calls	15		1	15	1.00	15.00	-	-	-	-	-	15.00
		Provide Meal Claim Data and Respond to Follow-Up Calls	15		3	45	1.00	45.00	-	-	-	-	-	45.00
		Facilitate the Recruitment of Providers	15		1	15	1.00	15.00	-	-	-	-	-	15.00

For-Profit/ Non-Profit Business	Provider (a)	Review Study Materials, Provide Enrollment Data, and Answer Follow-Up Calls	150	150	1	150	0.50	75.00	-	-	-	-	-	75.00	
		Report Meal Service During the Study Month, Including Reviewing User Guide, Contacting Helpdesk and Answering Following-Up Calls	150		22	3,300	0.08	264.00	-	-	-	-	-	-	264.00
		Facilitate the Recruitment of Parents	150		1	150	0.50	75.00	-	-	-	-	-	-	75.00
<b>Subtotal of For-Profit/Non-Profit Business Sector</b>			<b>165</b>		<b>22</b>	<b>3,690</b>	<b>0.14</b>	<b>504</b>	-	-	-	-	-	<b>504.00</b>	
<b>Individual/Households</b>															
Households	Parent	Review Study Materials and Decide to Participate in the Study (b)	750	600	1	600	0.50	300.00	150	1	150	0.05	7.5	307.50	
		Report Child Attendance Time During the Study Month, Including Reviewing User Guide, Contacting Help Desk and Answering Following-Up Calls (c)	600		22	13,200	0.08	1,056.00	0	0	0	0.08	0.00	1,056.00	
<b>Subtotal of Individual/Households</b>			<b>600</b>		<b>23</b>	<b>13,800</b>	<b>0.10</b>	<b>1,356.00</b>	<b>150</b>	<b>-</b>	<b>150</b>	<b>-</b>	<b>7.50</b>	<b>1,363.50</b>	
<b>Grand total</b>			<b>767</b>		<b>23</b>	<b>17,494</b>	<b>0.11</b>	<b>1,868.00</b>	<b>150</b>	<b>1.00</b>	<b>150</b>	<b>0.05</b>	<b>7.50</b>	<b>1,875.50</b>	

Total # of respondents (including participants and non-respondents)	917
Total # of annual responses (including participants and non-respondents)	17,644
Total annual burden estimates (including participants and non-respondents)	1,875.5

## Notes:

- (a) State agencies, sponsors and day care home providers receive federal funding and, therefore, are required to support this study per *Section 305 of the Healthy Hunger Free Kids Act of 2010*.
- (b) Based on our experience with similar populations and the results from the pilot test, we assume 83% of parents will agree to participate in the study.
- (c) We assume 96% of participants will remain eligible and enrolled at the same providers' day care homes at the time of the study.

Dated: December 3, 2015.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2015–31199 Filed 12–10–15; 8:45 am]

**BILLING CODE 3410–30–C**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Submission for OMB Review; Comment Request

December 7, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Food and Nutrition Service

*Title:* Annual State Report on Verification of Supplemental Nutrition Assistance Program Participation.

*OMB Control Number:* 0584—NEW.

*Summary of Collection:* The purpose of the Annual State Report of Verification of Supplemental Nutrition Assistance Program (SNAP) Participants is to ensure that no person who is deceased, or has been permanently disqualified from SNAP, improperly received SNAP benefits. Section 4032 of the Agriculture Act of 2014 mandates that States will “submit to the Secretary a report containing sufficient information for the Secretary to determine whether the State agency has, for the most recently concluded fiscal year preceding that annual date, verified that the State agency in that fiscal year—(1) did not issue benefits to a deceased individual; and (2) did not issue benefits to an individual who had been permanently disqualified from receiving benefits.”

*Need and Use of the Information:* To ensure that benefits are not issued to deceased individuals or those permanently disqualified from SNAP.

*Description of Respondents:* State, Local, or Tribal Government.

*Number of Respondents:* 53.

*Frequency of Responses:* Reporting and Recordkeeping: Annually.

*Total Burden Hours:* 57.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2015–31183 Filed 12–10–15; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection for the Residue and Biomass Field Survey.

**DATES:** Comments on this notice must be received by February 9, 2016 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–0251, Residue and Biomass Field Survey by any of the following methods:

- *Email:* [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

Include docket number and title above in the subject line of the message.

- *Fax:* (855) 838–6382

- *Mail:* Mail any paper, disk, or CD-ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:** R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388 or at [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Residue and Biomass Field Survey.

*OMB Control Number:* 0535–0251.

*Type of Request:* Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

*Abstract:* The primary objectives of the National Agricultural Statistics Service are to prepare and issue State and national estimates of crop production, livestock production, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. This project is conducted as a cooperative effort with USDA's Agricultural Research Service (ARS).

The Residue and Biomass Field Survey will use as a sampling universe, fields in the South Fork watershed in central Iowa (Buckeye, IA). This study will investigate the effect crop residue removal has on soil and water quality. Measurements of crop residues will be compared with remotely sensed data to measure crop residue cover and soil tillage intensity for the entire watershed. The survey will be conducted in several phases. The farm operators will only be involved in three parts of the complete survey process. After obtaining the operators' permission, field enumerators will return several times during the growing season to measure and collect samples from the target areas. The farm operators will be contacted two other times to collect some additional data relating to cropping practices performed during the growing season.

*Authority:* These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data

collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork

Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

NASS also complies with OMB Implementation Guidance, “Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical

Efficiency Act of 2002 (CIPSEA),” **Federal Register**, 72 FR 33376, June 15, 2007.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average a total of 70 minutes per respondent for the complete survey cycle.

ANNUAL ESTIMATED SAMPLE SIZE AND RESPONDENT BURDEN FOR 2016–2018

Survey	Sample size	Freq.	Responses				Non-response				Total burden hours
			Resp. count	Freq. × count	Min./ resp.	Burden hours	Nonresp. count	Freq. × count	Min./ nonr.	Burden hours	
Screening Phase in May .....	100	1	80	80	20	27	20	20	2	1	27
Field Measurements in May/June <sup>1</sup> .....	80	1	25	25	0	0	55	55	0	0	0
Screening Phase in September .....	80	1	42	42	20	14	38	38	2	1	15
Harvest Sample crops <sup>1</sup> .....	80	2	42	42	0	0	38	38	0	0	0
Cropping Practices survey .....	80	1	42	42	30	21	38	38	2	1	22
<b>Total</b> .....	<b>100</b>	.....	<b>146</b>	<b>230</b>	.....	<b>62</b>	.....	.....	.....	<b>3</b>	<b>65</b>

<sup>1</sup> The operator does not need to be present for the field visits (measurement and harvesting), so no respondent burden is associated with these phases of the survey.

*Respondents:* Farmers, ranchers, and farm managers in the South Fork Watershed in Central Iowa.

*Estimated Number of Respondents:* 100

*Estimated Total Annual Burden on Respondents:* 65 hours

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, December 3, 2015.

**R. Renee Picanso,**  
Associate Administrator.

[FR Doc. 2015–31243 Filed 12–10–15; 8:45 am]

**BILLING CODE 3410–20–P**

**DEPARTMENT OF AGRICULTURE**

**National Agricultural Statistics Service**

**Notice of Intent To Request To Conduct a New Information Collection**

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to conduct a new information collection to gather data related to agricultural activity in two urbanized areas (Seattle, WA and Austin, TX). The data will be used to develop and refine procedures to be used to collect agricultural data in urbanized areas for the 2017 Census of Agriculture.

**DATES:** Comments on this notice must be received by February 9, 2016 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–NEW, by any of the following methods:

- Email: [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).
- E-fax: (855) 838–6382.
- Mail: Mail any paper, disk, or CD-ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

Include docket number above in the subject line of the message.

- Hand Delivery/Courier: Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of

Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:** R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Urban Agriculture Pilot Surveys.

*OMB Control Number:* 0535–NEW.

*Type of Request:* Intent to seek approval to conduct a new information collection for a period of three years.

*Abstract:* The National Agricultural Statistics Service (NASS) has traditionally been focused on production agriculture. This focus has omitted some urban agriculture, which is attracting increased interest from individuals and local governments. In contrast with traditional agriculture, agriculture in urbanized areas tends to be conducted in smaller areas and have less potential for sales. Yet, urban agriculture contributes to the Nation’s food security by providing local sources. NASS intends to integrate urban agriculture in future Censuses of Agriculture. In 2015, NASS conducted a small scale urban agriculture study in Baltimore, Maryland. This new data collection will build on the Baltimore project by refining methodology and procedures for: (1) Building the list of potential urban agricultural locations, (2) developing the questionnaire used to collect urban agricultural data, (3) data

collection, and (4) summarizing data on urban agriculture. The intent is that the resulting methodology and procedures will be integrated into the 2017 Census of Agriculture to collect data on urban agriculture, in addition to traditional agriculture. This data collection includes surveys to be conducted in two urbanized areas: Seattle, Washington and Austin, Texas. The first survey will be conducted in Seattle. The second survey will be conducted in Austin to address methodological issues that remain after analyzing results from the Baltimore and Seattle projects. All results from these surveys will be used for internal purposes only; no publications will be generated. These surveys will be voluntary.

**Authority:** The data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501, *et seq.*), and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, "Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)," **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

**Estimate of Burden:** This collection of information contains two components. The first component consists of up to 50 cognitive interviews (conducted through personal enumeration) and is intended to develop the questionnaire used to gather data on agricultural activity in urbanized areas. Public reporting burden for this component is estimated to average 60 minutes per response. The second component is a survey conducted in two urbanized areas (Seattle, WA and Austin, TX). The sample sizes for the Seattle and Austin surveys will be 390 and 545, respectively. Public reporting burden for this component is estimated to average 50 minutes per response. For this component, NASS plans to use a combination of mailed pre-survey letters, mailed questionnaires, telephone enumeration, and personal enumeration.

**Respondents:** Individuals and households.

**Estimated Number of Respondents:** 985.

**Estimated Total Annual Burden on Respondents:** 700 hours.

**Comments:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, December 1, 2015.

**R. Renee Picanso,**

*Associate Administrator.*

[FR Doc. 2015-31246 Filed 12-10-15; 8:45 am]

**BILLING CODE 3410-20-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

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

**ACTION:** Notice of open meetings.

**SUMMARY:** This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

**DATES:** The meetings will be held on January 20, 2016 from 12:00 p.m. to 3:00 p.m., and January 21, 2016 from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

**ADDRESSES:** The meetings on January 20 and 21 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Research Library (Room 1894), Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration. (Phone: (202) 482-1135 or Email: [richard.boll@trade.gov](mailto:richard.boll@trade.gov))

**SUPPLEMENTARY INFORMATION:**

**Background:** The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: <http://trade.gov/td/services/oscpb/supplychain/acsccl/>.

**Matters To Be Considered:** Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; information technology and data requirements; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda's may change to accommodate Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agenda's on its Web site, <http://trade.gov/td/services/oscpb/supplychain/acsccl/>, at least one week prior to the meeting. The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482-1135 or [richard.boll@trade.gov](mailto:richard.boll@trade.gov) five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave, NW., Room 11014, Washington, DC, 20230, or email to [richard.boll@trade.gov](mailto:richard.boll@trade.gov).

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later

than 5:00 p.m. EST on January 12, 2016. Comments received after January 12, 2016, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: December 7, 2015.

**David Long,**

Director, Office of Supply Chain and Professional & Business Services.

[FR Doc. 2015-31195 Filed 12-10-15; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket Number: 151103999-5999-01]

#### Views on the Framework for Improving Critical Infrastructure Cybersecurity

**ACTION:** Notice; Request for Information (RFI).

**SUMMARY:** The National Institute of Standards and Technology (NIST) is seeking information on the “Framework for Improving Critical Infrastructure Cybersecurity” (the “Framework”).

As directed by Executive Order 13636, “Improving Critical Infrastructure Cybersecurity” (the “Executive Order”), the Framework consists of standards, methodologies, procedures, and processes that align policy, business, and technological approaches to address cyber risks. The Framework was released on February 12, 2014, after a year-long open process involving private and public sector organizations, including extensive industry input and public comments. In order to fulfill its responsibilities under the Cyber Security Enhancement Act of 2014, NIST is committed to maintaining an inclusive approach, informed by the views of a wide array of individuals, organizations, and sectors.

In this RFI, NIST requests information about the variety of ways in which the Framework is being used to improve cybersecurity risk management, how best practices for using the Framework are being shared, the relative value of different parts of the Framework, the possible need for an update of the Framework, and options for the long-term governance of the Framework. This information is needed in order to carry out NIST’s responsibilities under the Cybersecurity Enhancement Act of 2014 and the Executive Order.

Responses to this RFI—which will be posted at <http://www.nist.gov/cyberframework/cybersecurity->

[framework-rfi.cfm](http://www.nist.gov/cyberframework/rfi.cfm)—will inform NIST’s planning and decision-making about how to further advance the Framework so that the Nation’s critical infrastructure is more secure by enhancing its cybersecurity and risk management.

All information provided will also assist in developing the agenda for a workshop on the Framework being planned by NIST for April 6 and 7, 2016, in Gaithersburg, Maryland. Specifics about the workshop will be announced at a later date.

**DATES:** Comments must be received by 5:00 p.m. Eastern time on February 9, 2016.

**ADDRESSES:** Written comments may be submitted by mail to Diane Honeycutt, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899. Online submissions in electronic form may be sent to [cyberframework@nist.gov](mailto:cyberframework@nist.gov) in any of the following formats: HTML; ASCII; Word; RTF; or PDF. Please include your name and your organization’s name (if any), and cite “Views on the Framework for Improving Critical Infrastructure Cybersecurity” in all correspondence. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Please do not submit additional materials.

All comments received in response to this RFI will be posted at <http://www.nist.gov/cyberframework/cybersecurity-framework-rfi.cfm> without change or redaction, so commenters should not include information they do not wish to be posted (e.g., personal or confidential business information).

**FOR FURTHER INFORMATION CONTACT:** For questions about this RFI contact: Diane Honeycutt, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899 or [cyberframework@nist.gov](mailto:cyberframework@nist.gov). Please direct media inquiries to NIST’s Office of Public Affairs at (301) 975-2762.

**SUPPLEMENTARY INFORMATION:** NIST is authorized by the Cybersecurity Enhancement Act of 2014<sup>1</sup> to “facilitate and support the development of a voluntary, consensus-based, industry-led set of standards, guidelines, best practices, methodologies, procedures, and processes to cost-effectively reduce cyber risks to critical infrastructure.”<sup>2</sup>

<sup>1</sup> Public Law 113-274 (2014): <http://www.gpo.gov/fdsys/pkg/PLAW-113publ274/pdf/PLAW-113publ274.pdf>.

<sup>2</sup> *Id.*, codified in relevant part at 15 U.S.C. 272(c)(15). Congress’s intent was to codify NIST’s

role in Executive Order No. 13636: “Title I would codify certain elements of Executive Order 13636 by directing the National Institute of Standards and Technology (NIST) to develop a framework of voluntary standards designed to reduce risks arising from cyberattacks on critical infrastructure that is privately owned and operated.” S. Rep. No. 113-270, at 9 (2014).

role in Executive Order No. 13636: “Title I would codify certain elements of Executive Order 13636 by directing the National Institute of Standards and Technology (NIST) to develop a framework of voluntary standards designed to reduce risks arising from cyberattacks on critical infrastructure that is privately owned and operated.” S. Rep. No. 113-270, at 9 (2014).

<sup>3</sup> *Id.*, codified in relevant part at 15 U.S.C. 272(e)(A)(i).

<sup>4</sup> Exec. Order No. 13636, Improving Critical Infrastructure Cybersecurity, 78 FR 11739 (Feb. 19, 2013).

<sup>5</sup> NIST, Gaithersburg April 3, 2013; Carnegie Mellon University May 29-31, 2013; University of California San Diego July 10-12, 2013; University of Texas Dallas September 11-13, 2013; North Carolina State November 14-15, 2013.

In carrying out this function, NIST is directed to “coordinate closely and regularly with relevant private sector personnel and entities, critical infrastructure owners and operators, and other relevant industry organizations.”<sup>3</sup> NIST has taken this approach since February 2013 when Executive Order 13636, “Improving Critical Infrastructure Cybersecurity”<sup>4</sup> tasked the Secretary of Commerce to direct the Director of NIST to lead the development of the Framework. NIST developed the Framework by using information collected through a Request for Information (RFI) that was published in the **Federal Register** (78 FR 13024) on February 26, 2013; a series of five open public workshops;<sup>5</sup> and a 45-day public comment period in response to a draft version of the Framework announced in the **Federal Register** (78 FR 64478) on October 29, 2013. A final version of Framework 1.0 was published on February 12, 2014, after a year-long, open process involving private and public sector organizations, including extensive industry input and public comments, and announced in the **Federal Register** (79 FR 9167) on February 18, 2014. NIST subsequently solicited information on Framework users’ experiences through an RFI published in the **Federal Register** (79 FR 50891) on August 26, 2014 as well as another workshop held on October 29 and 30, 2014, at the University of South Florida.

In addition to extensive outreach and providing responses to inquiries, NIST has made information about the Cybersecurity Framework available on its Web site at <http://www.nist.gov/cyberframework/> to assist organizations in learning more about using the Framework. This includes an Industry Resources page (available at <http://www.nist.gov/cyberframework/cybersecurity-framework-industry-resources.cfm>), listing publicly available materials developed by organizations other than NIST that support use of the Framework. NIST does not necessarily

role in Executive Order No. 13636: “Title I would codify certain elements of Executive Order 13636 by directing the National Institute of Standards and Technology (NIST) to develop a framework of voluntary standards designed to reduce risks arising from cyberattacks on critical infrastructure that is privately owned and operated.” S. Rep. No. 113-270, at 9 (2014).

<sup>3</sup> *Id.*, codified in relevant part at 15 U.S.C. 272(e)(A)(i).

<sup>4</sup> Exec. Order No. 13636, Improving Critical Infrastructure Cybersecurity, 78 FR 11739 (Feb. 19, 2013).

<sup>5</sup> NIST, Gaithersburg April 3, 2013; Carnegie Mellon University May 29-31, 2013; University of California San Diego July 10-12, 2013; University of Texas Dallas September 11-13, 2013; North Carolina State November 14-15, 2013.

endorse, approve, or recommend any of the commercial entities, equipment, or materials listed on the Industry Resources page, nor does it imply that the entities, materials, or equipment are necessarily the best available for the purpose.

Since the Framework's release as version 1.0, NIST has continued to work on topics raised during the Framework's development but not integrated into version 1.0 of the Framework. These are listed in the NIST Roadmap for Improving Critical Infrastructure Cybersecurity. Significant progress has been made in several of these areas, through programs like the National Initiative for Cybersecurity Education and the National Strategy for Trusted Identities in Cyberspace.

### Request for Information

Continuing its inclusive approach, in advance of any decision regarding possible updates of the Framework and Framework stewardship, NIST is interested in hearing from all stakeholders.<sup>6</sup>

In this RFI, NIST seeks specific information about the variety of ways in which the Framework is being used and the relative value of different parts of the Framework, the possible need for an update of the Framework, how best practices for using the Framework are being shared and might be enhanced, and the long-term governance of Framework. This information is needed to carry out NIST's statutory responsibilities with the ultimate goal of assisting organizations as they seek to improve their cybersecurity risk management practices.

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Do not include in comments or otherwise submit proprietary or confidential information, as all comments received in response to this RFI will be made available publicly at <http://www.nist.gov/cyberframework/cybersecurity-framework-rfi.cfm>.

Respondents may organize their submissions in response to this RFI

<sup>6</sup>The Cybersecurity Enhancement Act of 2014, Public Law 113-274 (2014), codified in relevant part at 15 U.S.C. 272(e)(A)(i) and 272(e)(A)(ii) specifically calls for NIST to "coordinate closely and regularly with relevant private sector personnel and entities, critical infrastructure owners and operators, and other relevant industry organizations, including Sector Coordinating Councils and Information Sharing and Analysis Centers, and incorporate industry expertise" and to "consult with the heads of agencies with national security responsibilities, sector-specific agencies and other appropriate agencies, State and local governments, the governments of other nations, and international organizations."

using the template available at <http://www.nist.gov/cyberframework/cybersecurity-framework-rfi.cfm>. Use of this template is not required and all responses that comply with the requirements listed in the **ADDRESSES** and **DATES** section of this notice will be considered whether or not the template is used.

While the Framework and associated outreach activities by NIST have focused on critical infrastructure, this RFI generally uses the broader term "organizations" in seeking information.

The following questions cover the major areas about which NIST seeks comment. They are not intended to limit the topics that may be addressed. Responses may include any topic believed to have implications for the voluntary use and subsequent improvement of the Framework, regardless of whether the topic is included in this document.

### Use of the Framework

1. Describe your organization and its interest in the Framework.
2. Indicate whether you are responding as a Framework user/non-user, subject matter expert, or whether you represent multiple organizations that are or are not using the Framework.
3. If your organization uses the Framework, how do you use it? (e.g., internal management and communications, vendor management, C-suite communication).
4. What has been your organization's experience utilizing specific portions of the Framework (e.g., Core, Profile, Implementation Tiers, Privacy Methodology)?
5. What portions of the Framework are most useful?
6. What portions of the Framework are least useful?
7. Has your organization's use of the Framework been limited in any way? If so, what is limiting your use of the Framework (e.g., sector circumstance, organizational factors, Framework features, lack of awareness)?
8. To what extent do you believe the Framework has helped reduce your cybersecurity risk? Please cite the metrics you use to track such reductions, if any.
9. What steps should be taken to "prevent duplication of regulatory processes and prevent conflict with or superseding of regulatory requirements, mandatory standards, and related processes" as required by the Cybersecurity Enhancement Act of 2014?<sup>7</sup>

<sup>7</sup>*Id.*, codified in relevant part at 15 U.S.C. 272(e)(1)(A)(vii).

### Possible Framework Updates

10. Should the Framework be updated? Why or why not?

11. What portions of the Framework (if any) should be changed or removed? What elements (if any) should be added to the Framework? Please be as specific as possible.

12. Are there additions, updates or changes to the Framework's references to cybersecurity standards, guidelines, and practices that should be considered for the update to the Framework?

13. Are there approaches undertaken by organizations—including those documented in sector-wide implementation guides—that could help other sectors or organizations if they were incorporated into the Framework?

14. Should developments made in the nine areas identified by NIST in its Framework-related "Roadmap"<sup>8</sup> be used to inform any updates to the Framework? If so, how?

15. What is the best way to update the Framework while minimizing disruption for those currently using the Framework?

### Sharing Information on Using the Framework

16. Has information that has been shared by NIST or others affected your use of the Framework? If so, please describe briefly what those resources are and what the effect has been on your use of the Framework. What resources, if any, have been most useful?

17. What, if anything, is inhibiting the sharing of best practices?

18. What steps could the U.S. government take to increase sharing of best practices?

19. What kind of program would help increase the likelihood that organizations would share information about their experiences, or the depth and breadth of information sharing (e.g., peer-recognition, trade association, consortia, federal agency)?

### Private Sector Involvement in the Future Governance of the Framework

20. What should be the private sector's involvement in the future governance of the Framework?

21. Should NIST consider transitioning some or even all of the

<sup>8</sup>NIST Roadmap for Improving Critical Infrastructure Cybersecurity (February 12, 2014), Roadmap areas for Development, Alignment, and Collaboration include: Authentication; automated indicator sharing; conformity assessment; cybersecurity workforce; data analytics; federal agency cybersecurity alignment; international aspects, impacts, and alignment; supply chain risk management; and technical privacy standards. <http://www.nist.gov/cyberframework/upload/roadmap-021214.pdf>.



Framework's coordination to another organization?

22. If so, what might be transitioned (e.g., all, Core, Profile, Implementation Tiers, Informative References, methodologies)?

23. If so, to what kind of organization (e.g., not-for-profit, for-profit; U.S. organization, multinational organization) could it be transitioned, and could it be self-sustaining?

24. How might any potential transition affect those currently using the Framework? In the event of a transition, what steps might be taken to minimize or prevent disruption for those currently using the Framework?

25. What factors should be used to evaluate whether the transition partner (or partners) has the capacity to work closely and effectively with domestic and international organizations and governments, in light of the importance of aligning cybersecurity standards, guidelines, and practices within the United States and globally?

**Richard Cavanagh,**

*Acting Associate Director for Laboratory Programs.*

[FR Doc. 2015-31217 Filed 12-10-15; 8:45 am]

**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Permit and Reporting Requirements for Non-Commercial Fishing in the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before February 9, 2016.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at [Jjessup@doc.gov](mailto:Jjessup@doc.gov)).

#### FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information or copies of the information collection instrument and instructions to Walter Ikehara, (808) 725-5175 or [Walter.Ikehara@noaa.gov](mailto:Walter.Ikehara@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This request is for extension of a current information collection.

The National Marine Fisheries Service (NMFS) manages fishing activities in the Rose Atoll Marine, Marianas Trench, and Pacific Remote Islands Marine National Monuments. Regulations at 50 CFR part 665 require the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess any management unit species in these monuments to hold a valid permit.

Regulations also require the owner and operator of a vessel that is chartered to fish recreationally for, take, retain, or possess, any management unit species in these monuments to hold a valid permit. The fishing vessel must be registered to the permit. The charter business must be established legally in the permit area where it will operate. Charter vessel clients are not required to have a permit.

The permit application collects basic information about the permit applicant, type of operation, vessel, and permit area. NMFS uses this information to determine permit eligibility. The information is important for understanding the nature of the fishery and provides a link to participants. It also aids in the enforcement of Fishery Ecosystem Plan measures.

Regulations also require the vessel operator to report a complete record of catch, effort, and other data on a NMFS logsheet. The vessel operator must record all requested information on the logsheet within 24 hours of the completion of each fishing day. The vessel operator also must sign, date, and submit the form to NMFS within 30 days of the end of each fishing trip.

##### II. Method of Collection

NMFS collects information on paper permit applications and logsheets.

##### III. Data

*OMB Control Number:* 0648-0664.

*Form Number(s):* None.

*Type of Review:* Regular (extension of a currently approved information collection).

*Affected Public:* Business or other for-profit organizations, individuals or households.

*Estimated Number of Respondents:* 25.

*Estimated Time per Response:* 15 minutes per permit application; 20 minutes per logsheet form.

*Estimated Total Annual Burden Hours:* 40.

*Estimated Total Annual Cost to Public:* \$100 in recordkeeping/reporting costs.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 7, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015-31164 Filed 12-10-15; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XD065**

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Murray Street Bridge Seismic Retrofit Project by the California State Department of Transportation

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments and information.

**SUMMARY:** NMFS has received an application from California State Department of Transportation (Caltrans) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to Murray Street Bridge seismic retrofit project in Santa Cruz, California.

Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to Caltrans to incidentally take, by Level B Harassment only, marine mammals during the specified activity.

**DATES:** Comments and information must be received no later than January 11, 2016.

**ADDRESSES:** Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is [itp.guan@noaa.gov](mailto:itp.guan@noaa.gov). NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application may be obtained by writing to the address specified above or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to

harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

**Summary of Request**

On October 22, 2013, CALTRANS submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of Pacific harbor seal (*Phoca vitulina richardii*) and California sea lion (*Zalophus californianus*) incidental to construction associated with the Murray Street Bridge seismic retrofit project in the city of Santa Cruz, California, for a period of one year starting March 2016. After receiving NMFS comments and questions, CALTRANS submitted a revised IHA application on February 17, 2015. NMFS determined the IHA application was complete on May 29, 2015, and proposes to issue an IHA that would be valid between March 1, 2016, and February 28, 2016. NMFS is proposing to authorize the Level B harassment of Pacific harbor seal and California sea lion.

**Description of the Specified Activity**

*Overview*

The proposed project consists of a seismic retrofit of the existing Murray Street Bridge, which spans the Santa Cruz Small Craft Harbor and additional minor modifications to replace deficient bridge barriers (widening shoulders to standard widths and replacement and improvement of sidewalks and railings). The seismic retrofit project will provide the bridge with additional vertical support and resistance to lateral seismic forces by installing additional pilings and supplemental structural elements. In order to provide sufficient area for construction operations, some boats, Harbor facilities, and commercial businesses will require temporary relocation. Pile installation would include both impact and vibratory pile driving methods.

The nine-span bridge is supported by two abutments (identified as Abutments 1 and 10, located at the western and eastern ends of the bridge, respectively) and 8 “bents” (identified as Bents 2 through 9, located at 60-foot intervals between the abutments). The seismic retrofit project consists of the following basic in-water elements:

- Installation of concrete infill walls at Bents 2, 3, 4, and 9 to span the voids between the existing concrete support columns. The infill walls will also span the void between the existing and new columns at Bent 9.
- Installation of shear keys and seat extenders at Bents 2 through 9.
- Retrofit of foundations with 16-inch diameter CISS (cast-in-steel-shell) piles at Bent 9. These piles will extend to depths of approximately –55 feet to –90 feet at Bent 9.
- Retrofit of both outriggers and bents with 30-inch diameter CISS piles at Bents 6, 7, and 8 and 30-inch diameter CIDH piles at Bents 2, 3, 4, and 5. These piles will extend to depths of approximately –55 feet to –85 feet at Bent 5 and at approximately –85 feet to –120 feet at Bents 6–8.
- Installation of fenders to protect boats passing by the pier foundations, new pile caps at Bents, 5, 6, 7, and 8, and replacement of existing fender.

A summary of in-water piles to be removed and installed is listed in Table 1.

TABLE 1—SUMMARY OF IN-WATER PILES TO BE REMOVED AND INSTALLED FOR CALTRANS' MURRAY STREET BRIDGE SEISMIC RETROFIT PROJECT

	Location	Number	Pile type
Removal-Bridge .....	Bridge Bent 6 .....	4	14-inch P/C concrete.
<i>Total in-water removal</i> .....	.....	4	
Install new permanent bridge piles .....	Bridge Bent 5 .....	4	30-inch CIDH.
	Bridge Bent 6–8 .....	12	30-inch CISS.
	Bridge Bent 9 .....	8	16-inch CISS.
<i>Total in-water bridge pile installation</i> .....	.....	24	

#### Dates and Duration

The Murray Street Bridge Retrofit project is currently planned to commence in the spring of 2016. Overall, the seismic retrofit work will be executed over a period of approximately 18 months, with in-water construction lasting for an approximate total 10-month period over two years with 5 months during the first year and 5 months during the second year. The in-water pile driving for the bridge piles would occur over a total of 30 days within the 10-month period. Due to in-water work timing restrictions to protect federally-listed salmonids, all in-water construction activities including pile removal/installation would occur between the period from July 1 to mid-November. This IHA would cover activities conducted March 1, 2016–February 28, 2017.

#### Specified Geographic Region

The project area includes waters within the Santa Cruz Small Craft Harbor and adjacent lands managed by the Santa Cruz Port District (see Figure 2 of the IHA application). The study area consists of the open waters, docks, and other potential haul-out features of the Harbor from the Harbor Launch Ramp area (including the fuel dock and Vessel Assist dock) to 500 feet upstream of the boundary of the Area of Impact (see Figure 2 of the IHA application).

The Murray Street Bridge Retrofit project is tentatively proposed for construction in five partially overlapping interchangeable phases. Generally, work will begin on the eastern side of the Harbor and progress to the western side.

#### Detailed Description of Murray Street Bridge Seismic Retrofit

Details of each activity for the Murray Street Bridge seismic retrofit project are provided below.

(1) *Installation of Bridge Piles:* The most intense activity would be the

installation of new bridge support piles, which will also involve the demolition of the existing piles at Bent 6. CISS piles at Bents 5 through 8 will be installed within the waterway by impact driving 30-inch steel casings either to refusal at rock or into a shaft drilled within rock (depending on the location). The installation of new piles at Bents 5 through 8 will include two piles on each side for a total of 16 piles in the water. The work activity will be focused within the area of the bridge. Overall the installation of piles is expected to take a total of approximately 1 day for each 30-inch pile and 4 days for 8 16-inch piles for a total of 30 days. The installation of these piles requires the use of a crane(s), a drilling rig, a pile driver, excavation and earthmoving equipment, concrete trucks and pumps, concrete vibrators, supply trucks, welding equipment, and other machinery.

(2) *Installation of In-Water Barge or Temporary Bridge Trestle:* Installation of an in-water barge or temporary bridge trestle is planned to accommodate equipment for pile installation. The installation would be done using impact and vibratory hammers. Work within the waterway will require either the use of barges or construction of trestles to provide work platforms. If barges are utilized, prefabricated modular units may be brought to the site and locked together. This type of platform can be installed, reconfigured, and removed relatively quickly, but the system is not suitable for areas that are too narrow to accommodate the modules. For example, footings from the Union Pacific Railroad Bridge to the north and footings from the Murray Street Bridge appear too close together to allow use of a modular barge between footings. In these areas, a trestle likely will need to be constructed.

(3) *Removal and Replacement of Boat Berths:* The temporary use of portions of the eastern harbor boat yard and the

western parking lot for contractor staging, in combination with provision of construction access to the bridge from the waterway, will result in temporary disruptions of harbor activities including temporary removal of existing boat berths and replacement upon completion of the project. To accommodate construction staging and in-water construction, the project calls for the temporary relocation of berths at Dock FF and Dock BY (Boat Yard on east side) to existing visitor berths with reconstruction of Dock FF and Dock BY upon completion of the bridge seismic retrofit construction. Dock FF accommodates University of California Santa Cruz (UCSC) boats that are used for university classes. A walking dock (gangway) would be constructed to connect the existing parking lot area to the portion of Dock FF that will remain during construction. Six temporary berths may be constructed adjacent to the gangway to minimize relocation of some of the existing boats. Upon completion of construction, no additional new boat berths will be constructed as was originally proposed. Although design plans have not yet been completed for the reinstalled berths, it is expected that the berth docks would be plastic, wood or concrete over polyethylene floats and would be anchored with pilings. Piles would be driven into the harbor floor by impact hammer. There would be no dredging or placement of fill in harbor waters with reinstallation of docks and both berths.

#### Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species under NMFS jurisdiction most likely to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

Species	ESA status	MMPA status	Occurrence
Harbor Seal .....	Not listed .....	Non-depleted .....	Frequent.
California Sea Lion .....	Not listed .....	Non-depleted .....	Frequent.

General information on the marine mammal species found in Oregon coastal waters can be found in Caretta *et al.* (2015), which is available at the following URL: [http://www.nmfs.noaa.gov/pr/sars/pdf/pacific\\_sars\\_2014\\_final\\_noaa\\_swfsc\\_tm\\_549.pdf](http://www.nmfs.noaa.gov/pr/sars/pdf/pacific_sars_2014_final_noaa_swfsc_tm_549.pdf). Refer to that document for information on these species. A list of marine mammals in the vicinity of the action and their status are provided in Table 2. Specific information concerning these species in the vicinity of the proposed action area is provided in detail in the CALTRANS' IHA application (CALTRANS, 2015).

#### Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.*, pile removal and pile driving) have been observed to impact marine mammals. This discussion may include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The “Estimated Take by Incidental Harassment” section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The “Negligible Impact Analysis” section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the “Estimated Take by Incidental Harassment” section, the “Proposed Mitigation” section, and the “Anticipated Effects on Marine Mammal Habitat” section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate “functional hearing groups” for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia*, the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in Water: Functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, two marine mammal species (both are pinniped species) are likely to occur in the proposed seismic survey area.

Marine mammals exposed to high-intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.* 1999; Schlundt *et al.* 2000; Finneran *et al.* 2002; 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is unrecoverable, or temporary (TTS), in which case the

animal's hearing threshold will recover over time (Southall *et al.* 2007). Since marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, finding prey, and avoiding predators, hearing impairment could result in the reduced ability of marine mammals to detect or interpret important sounds. Repeated noise exposure that causes TTS could lead to PTS.

Experiments on a bottlenose dolphin (*Tursiops truncatus*) and beluga whale (*Delphinapterus leucas*) showed that exposure to a single watergun impulse at a received level of 207 kPa (or 30 psi) peak-to-peak (p-p), which is equivalent to 228 dB (p-p) re 1  $\mu$ Pa, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.* 2002). No TTS was observed in the bottlenose dolphin. Although the source level of one hammer strike for pile driving is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more noise exposure in terms of sound exposure level (SEL) than from the single watergun impulse (estimated at 188 dB re 1  $\mu$ Pa<sup>2</sup>-s) in the aforementioned experiment (Finneran *et al.* 2002).

Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.* 2009). Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Masking generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking can interfere with detection of acoustic signals, such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired.

Masking occurs at the frequency band which the animals utilize. Since noise generated from in-water vibratory pile removal and driving is mostly

concentrated at low frequency ranges, it may have little effect on high-frequency echolocation sounds by odontocetes (toothed whales), which may hunt California sea lion and harbor seal. However, the lower frequency man-made noises are more likely to affect the detection of communication calls and other potentially important natural sounds, such as surf and prey noise. The noises may also affect communication signals when those signals occur near the noise band, and thus reduce the communication space of animals (e.g., Clark *et al.* 2009) and cause increased stress levels (e.g., Foote *et al.* 2004; Holt *et al.* 2009).

Unlike TS, masking can potentially impact the species at community, population, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could, in certain circumstances, have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels in the world's oceans have increased by as much as 20 dB (more than 3 times, in terms of SPL) from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand 2009). All anthropogenic noise sources, such as those from vessel traffic and pile removal and driving, contribute to the elevated ambient noise levels, thus intensifying masking.

Finally, in addition to TS and masking, exposure of marine mammals to certain sounds could lead to behavioral disturbance (Richardson *et al.* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities, such as socializing or feeding; visible startle response or aggressive behavior, such as tail/fluke slapping or jaw clapping; avoidance of areas where noise sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haulouts or rookeries). The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography), and is therefore difficult to predict (Southall *et al.* 2007). The activities of workers in the project area may also cause behavioral reactions by marine mammals, such as pinnipeds flushing from the jetty or pier or moving farther from the disturbance to forage. However, observations of the area show that it is unlikely that more than 10 to 20 individuals of pinnipeds would be

present in the project vicinity at any one time. Therefore, even if pinnipeds were flushed from the haul-out, a stampede is very unlikely, due to the relatively low number of animals onsite. In addition, proposed mitigation and monitoring measures would minimize the startle behavior of pinnipeds and prevent the animals from flushing into the water.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Some of these types of significant behavioral modifications include: Drastic change in diving/surfacing patterns (such as those thought to be causing beaked whale strandings due to exposure to military mid-frequency tactical sonar); habitat abandonment due to loss of desirable acoustic environment; and cessation of feeding or social interaction.

#### Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

#### Potential Impacts on Prey Species

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.* 1981) and possibly avoid predators (Wilson and Dill 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.* 1993). In general, fish react more strongly to pulses of sound rather than non-pulse signals (such as noise from pile driving) (Blaxter *et al.* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared

to sound rising more slowly to the same level.

During the coastal construction only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on the abilities of marine mammals to feed in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species.

#### Proposed Mitigation Measures

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For CALTRANS' proposed Murray Street Bridge seismic retrofit project, CALTRANS worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, to monitor marine mammals within designated zones of influence (ZOI) corresponding to NMFS' current Level B harassment thresholds and, if marine mammals are detected within or approaching the exclusion zone, to initiate immediate shutdown or power down of the impact piling hammer, making it very unlikely potential injury or TTS to marine mammals would occur and ensuring that Level B behavioral harassment of marine mammals would be reduced to the lowest level practicable.

#### Time Restriction

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

#### Pre-Construction Removal of Artificial Haul-Out Sites

All known and potential artificial structures could be used by pinnipeds for haul-out that occur in the construction work area would be removed, preferably to a near-by location outside of the work area prior to construction. These structures could

include floating docks (*i.e.* Dock FF), rubber docks, or boats, such as those used by UCSC.

*Pre-Construction Workers Training*

Prior to in-water construction, the approved monitor would conduct a workers training to instruct construction crews regarding the status and sensitivity of the target species in the area and the actions to be taken to avoid or minimize impacts in the event of a target species entering the in-water work area.

*Establish Exclusion Zones*

A 10-m (33 ft) radius around the piling site should be established as an exclusion zone. The commencement of pile driving activities should be delayed if marine mammals are present within the exclusion zone. This exclusion zone is based on measured source level at 10

m by CALTRANS (2012) where the noise level reached 190 dB re 1 μPa from impact pile driving of a 30-in diameter steel pile in similar environment. There would be no exclusion zone for vibratory pile driving. Each day prior to the start of pile-driving, the PSO would survey the exclusion zone for marine mammals. If a pinniped is detected, impact pile driving would be delayed until the marine pinniped(s) has moved beyond the exclusion zone, verified by visual confirmation or lack of visual sighting within the next 15 minutes of the last sighting, to assume that the animal has moved beyond the exclusion zone.

*Establishment of Level B Harassment Zones of Influence*

A 1,000-m (0.62-mi) radius around the piling site should be established as a

preliminary zone of influence (ZOI) for impact pile driving. This distances is calculated based on practical spreading model where the edge of the ZOI correspond to received level falls to 160 dB re 1 μPa from impact pile driving. The preliminary ZOI would be adjusted based on a measurement of the distance to the 160 dB isopleth. CALTRANS stated that it would not be able to monitor beyond several km for marine mammal takes. Therefore, if underwater acoustic monitoring shows that the 120 dB isopleth for vibratory pile driving is beyond 1,000 m, CALTRANS would not use vibratory pile driving for this project. A summary of modeled exclusion zone and ZOI radii based on CALTRANS (2012) is listed in Table 3.

TABLE 3—MODELED EXCLUSION ZONE AND ZOI DISTANCES TO FROM PILE DRIVING ACTIVITIES FOR CALTRANS' MURRAY STREET BRIDGE SEISMIC RETROFIT PROJECT

Pile type/method	Source level (dB <sub>rms</sub> re 1 μPa at 10m)	Exclusion zone (m) for pinnipeds (190 dB re 1 μPa)	ZOI (m) for impact hammer (160 dB re 1 μPa)	ZOI (m) for vibratory hammer (120 dB re 1 μPa)
14-inch P/C concrete vibratory removal (use 12-inch steel H pile as proxy)	150	NA	NA	1,000
16-inch CISS impact pile driving	187	10	631	NA
16-inch CISS vibratory pile driving (using 24-inch steel pile as proxy)	160	NA	NA	4,642
30-inch CISS or CIDH impact pile driving	190	10	1,000	NA
30-inch CISS or CIDH vibratory pile driving (use 36-inch steel pile as proxy)	170	NA	NA	21,544

*Soft Start*

CALTRANS would implement “soft start” (or ramp up) to reduce potential startling behavioral responses from marine mammals. Soft start requires contractors to initiate noise from the vibratory hammer for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure would be repeated two additional times. Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. Each day, CALTRANS would use the soft-start technique at the beginning of pile driving, or if pile driving has ceased for more than one hour.

*Shutdown Measures*

CALTRANS shall implement shutdown measures if a marine mammal is sighted approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

In addition, CALTRANS shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA (if issued), if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B ZOI during in-water pile driving.

Furthermore, CALTRANS shall implant shutdown measures if any marine mammals not authorized under the IHA (if issued) are sighted within the vicinity of the project area and are approaching the Level B ZOI during in-water pile driving.

*Mitigation Conclusions*

NMFS has carefully evaluated the applicant’s proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is

expected to minimize adverse impacts to marine mammals

- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

- (1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
- (2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
- (3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to

received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

### Proposed Monitoring and Reporting

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. CALTRANS submitted a marine mammal monitoring plan as part of the IHA application. It can be found at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

### Proposed Monitoring Measures

During in-water pile driving, CALTRANS would employ NMFS-approved protected species observers (PSOs) to conduct marine mammal monitoring for its Murray Street Bridge seismic retrofit project. The PSOs would observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and after all pile removal and pile installation work. If a PSO observes a marine mammal approaching the exclusion zone, in-water impact pile driving would be ceased immediately. In addition, if a PSO observes a marine mammal within a ZOI that appears to be disturbed by the work activity, the PSO would notify the work crew to initiate shutdown measures.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (e.g., Zeiss, 10 x 42 power). The PSO(s) should be deployed in locations with the best vantage point where the entire ZOI can be monitored.

CALTRANS would also conduct hydroacoustic monitoring of its initial pile driving to establish exclusion zones and ZOIs based on acoustic measurements. CALTRANS would also submit the hydroacoustic monitoring plan for NMFS approval before the measurements are conducted. The size of these zones listed in Table 3 may be adjusted based on in situ acoustic measurements.

Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

### Proposed Reporting Measures

CALTRANS would be required to submit a final monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, CALTRANS would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require CALTRANS to notify NMFS' Office of Protected Resources and NMFS' Stranding Network within 48 hours of sighting an injured or dead marine mammal in the vicinity of the construction site. CALTRANS shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that CALTRANS finds an injured or dead marine mammal that is not in the vicinity of the construction area, CALTRANS would report the same information as listed above to NMFS as soon as operationally feasible.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the

wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

As discussed above, in-water pile removal and pile driving (vibratory and impact) generate loud noises that could potentially harass marine mammals in the vicinity of CALTRANS’s proposed Murray Street Bridge seismic retrofit project.

As mentioned earlier in this document, currently NMFS uses 120 dB re 1 μPa and 160 dB re 1 μPa at the received levels for the onset of Level B harassment from non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. Table 4 summarizes the current NMFS marine mammal take criteria.

TABLE 4—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

Criterion	Criterion definition	Threshold
Level A Harassment (Injury) .....	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa (cetaceans). 190 dB re 1 μPa (pinnipeds) root mean square (rms).
Level B Harassment .....	Behavioral Disruption (for impulse noises) .....	160 dB re 1 μPa (rms).
Level B Harassment .....	Behavioral Disruption (for non-impulse noise) .....	120 dB re 1 μPa (rms).

Numbers of marine mammals that could be incidentally harassed are calculated by estimating the maximum number of marine mammal being present within a ZOI during active pile driving based on estimates of numbers of animals identified during the marine mammal surveys. Numbers of residential harbor seals are expected to be at a maximum during the season in which surveys were conducted (outside of breeding and molting seasons).

Pile driving (in-water and on-land) estimates are based on the maximum number of days that pile driving could potentially occur (installation of 42 permanent bridge; installation and removal of 120 temporary piles to support a construction trestle, if used;

removal and reinstallation 35 boat berth piles, and removal of 4 existing bridge piles. In total, up to 49 days of pile driving and 15.5 days of pile removal are anticipated.

For the exposure estimate, it is conservatively assumed that the highest count of sea lions, harbor seals, and sea otters observed will be foraging within the ZOI and be exposed multiple times during the Project.

The calculation for estimated marine mammal takes is:  
Instances of estimated take = N (number of animals in the area) \* Number of days of pile removal/driving activity

Numbers of animals in the proposed project area are based on CALTRANS

marine mammal counts conducted in September and October, 2009. Estimates include the number of anticipated instances of Level B acoustical harassment during impact pile driving and vibratory pile removal. All estimates are conservative, as pile removal/driving would not be continuous during the work day. Additionally, the number of individual marine mammals taken is anticipated to be lower than the number of estimated instances, because we expect some individuals to be taken on multiple days. Using this approach, a summary of estimated instances of takes of marine mammals incidental to CALTRANS’s Murray Street Bridge seismic retrofit project are provided in Table 5.

TABLE 5—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO LEVEL B BEHAVIORAL HARASSMENT

Species	Estimated instances of marine mammal take	Abundance	Percentage
Pacific harbor seal .....	710	30,968	2.29%
California sea lion .....	968	296,750	0.32

**Analysis and Preliminary Determinations**

*Negligible Impact*

Negligible impact is “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival” (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number

of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of

estimated mortalities, and effects on habitat.

To avoid repetition, this introductory discussion of our analyses applies to both species listed in Table 5, given that the anticipated effects of CALTRANS’s Murray Street Bridge seismic retrofit project on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else



species-specific factors would be identified and analyzed.

CALTRANS's proposed Murray Street Bridge seismic retrofit project would involve vibratory pile removal and impact pile driving activities. Elevated underwater noises are expected to be generated as a result of these activities. The exclusion zone for Level A harassment is extremely small (10 m from the source), and with the implementation of the proposed monitoring and mitigation measures described above, there would be no Level A take of marine mammals. For vibratory pile removal and pile driving, noise levels are not expected to reach the level that may cause TTS, injury (including PTS), or mortality to marine mammals.

Additionally, the sum of noise from CALTRANS's proposed Murray Street Bridge seismic retrofit activities is confined to a limited area within the Santa Cruz Harbor; therefore, the noise generated is not expected to contribute to increased ocean ambient noise outside the Harbor. In addition, due to shallow water depths in the project area, underwater sound propagation of low-frequency sound (which is the major noise source from pile driving) is expected to be poor.

In addition, CALTRANS's proposed activities are localized and of short duration. The entire project area is limited to CALTRANS's Murray Street Bridge seismic retrofit work. The entire project would involve the removal of 4 existing piles and installation of 24 in-water piles. The duration for pile removal and pile driving would be 30 days within the 10-month period. These low-intensity, localized, and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Moreover, the proposed mitigation and monitoring measures are expected to reduce potential exposures and behavioral modifications even further. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed Murray Street Bridge seismic retrofit work is not reasonably expected to, and is not reasonably likely to, adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival.

The proposed project area is not a prime habitat for marine mammals, nor is it considered an area frequented by marine mammals. Behavioral

disturbances that could result from anthropogenic noise associated with CALTRANS's construction activities are expected to affect only a small number of marine mammals on an infrequent and limited basis.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the "Anticipated Effects on Marine Mammal Habitat" section. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from CALTRANS's Murray Street Bridge seismic retrofit project will have a negligible impact on the affected marine mammal species or stocks.

#### *Small Number*

Based on analyses provided above, it is estimated that approximately 710 harbor seals and 968 California sea lions could be exposed to received noise levels that could cause Level B behavioral harassment from the proposed construction work at the Murray Street Bridge in Santa Cruz, California. These numbers represent approximately 2.29% and 0.32% of the populations of harbor seal and California sea lion, respectively, that could be affected by Level B behavioral harassment, respectively (see Table 5 above), which are small percentages relative to the total populations of the affected species or stocks. Accordingly, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

#### **Impact on Availability of Affected Species for Taking for Subsistence Uses**

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse

impact on the availability of such species or stocks for taking for subsistence purposes.

#### **Endangered Species Act (ESA)**

NMFS has determined that issuance of the IHA will have no effect on listed marine mammals, as none are known to occur in the action area.

#### **National Environmental Policy Act (NEPA)**

NMFS prepared a draft Environmental Assessment (EA) for the proposed issuance of an IHA, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

#### **Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to CALTRANS for conducting the Murray Street Bridge seismic retrofit project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

1. This Authorization is valid from March 1, 2016, through February 28, 2017.

2. This Authorization is valid only for activities associated in-water construction work at the Murray Street Bridge seismic retrofit project in Santa Cruz, California.

3. (a) The species authorized for incidental harassment takings, Level B harassment only, are: Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Impact pile driving;
- Vibratory pile removal; and
- Work associated with above piling activities.

(c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the West Coast Administrator (206-526-6150), National Marine Fisheries Service (NMFS) and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427-8401, or her designee (301-427-8401).

4. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of activities identified in 3(b) (unless constrained by the date

of issuance of this Authorization in which case notification shall be made as soon as possible).

#### 5. Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 5. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

#### 6. Mitigation

##### (a) Time Restriction

In-water construction work shall occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

##### (b) Pre-Construction Removal of Artificial Haul-out Sites.

All known and potential artificial structures could be used by pinnipeds for haul-out that occur in the construction work area shall be removed. These structures include floating docks (*i.e.* Dock FF), rubber docks, or boats.

(c) Pre-Construction Workers Training  
Prior to in-water construction, construction crews should be trained regarding the status and sensitivity of the target species in the area and the actions to be taken to avoid or minimize impacts in the event of a target species entering the in-water work area.

##### (d) Establish Exclusion Zones

A 10-m (33 ft) radius around the piling site should be established as an exclusion zone. This exclusion zone is based on received sound levels exceed 190 dB re 1  $\mu$ Pa from impact pile driving.

##### (e) Establishment of Level B Harassment Zones of Influence

A 1,000-m (0.62-mi) radius around the piling site should be established as a preliminary zone of influence (ZOI) for impact pile driving and for vibratory pile removal. The distance to the edge of the ZOI correspond to received level falls to 160 dB re 1  $\mu$ Pa from impact pile driving and 120 dB re 1  $\mu$ Pa from vibratory pile removal.

##### (f) Soft Start

(i) CALTRANS shall implement "soft start" (or ramp up) to reduce potential startling behavioral responses from marine mammals.

(ii) Soft start requires contractors to initiate noise from the vibratory hammer

for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure would be repeated two additional times.

(iii) Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets.

(iv) Each day, CALTRANS would use the soft-start technique at the beginning of pile driving, or if pile driving has ceased for more than one hour.

##### (g) Shutdown Measures

(i) CALTRANS shall implement shutdown measures if a marine mammal is sighted approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

(ii) CALTRANS shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA (if issued), if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B ZOI during in-water pile driving.

(iii) CALTRANS shall implement shutdown measures if any marine mammals not authorized under the IHA (if issued) are sighted within the vicinity of the project area and are approaching the Level B ZOI during in-water pile driving.

#### 7. Monitoring:

##### (a) Visual Monitoring

(i) CALTRANS shall employ NMFS-approved PSO(s) to conduct marine mammal monitoring for its construction project.

(ii) Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.*, Zeiss, 10 x 42 power).

(iii) The PSO(s) should be deployed in locations with the best vantage point where the entire ZOI can be monitored.

(iv) The PSO(s) shall observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work.

(v) Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions: Weather, visibility, temperature, tide

level, current, and sea state shall also be recorded.

#### (b) Hydroacoustic Monitoring

(i) CALTRANS shall conduct hydroacoustic monitoring of its initial pile driving to establish exclusion zones and ZOIs based on acoustic measurements.

(ii) CALTRANS shall submit the hydroacoustic monitoring plan for NMFS approval before the measurements are conducted.

(iii) The size of modeled exclusion zones and ZOIs may be adjusted based on in situ acoustic measurements.

#### 8. Reporting:

(a) CALTRANS shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work or within 90 days of the expiration of the IHA, whichever comes first. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from the NMFS West Coast Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury, serious injury, or mortality, CALTRANS shall immediately cease all operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Status of all sound source use in the 24 hours preceding the incident;

(iv) Environmental conditions (including wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) Description of marine mammal observations in the 24 hours preceding the incident;

(vi) Species identification or description of the animal(s) involved;

(vii) The fate of the animal(s); and

(viii) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with CALTRANS to

determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. CALTRANS may not resume their activities until notified by NMFS via letter, email, or telephone.

(E) In the event that CALTRANS discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), CALTRANS will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with CALTRANS to determine whether modifications in the activities are appropriate.

(F) In the event that CALTRANS discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), CALTRANS shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. CALTRANS shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. CALTRANS can continue its operations under such a case.

9. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

10. A copy of this Authorization must be in the possession of each contractor who performs the construction work at the Murray Street Bridge seismic retrofits project.

Dated: December 7, 2015.

**Donna S. Wieting**,  
Director, Office of Protected Resources,  
National Marine Fisheries Service.

[FR Doc. 2015-31205 Filed 12-10-15; 8:45 am]

**BILLING CODE 3510-22-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Deletions from the Procurement List.

**SUMMARY:** This action deletes products from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* 1/10/2016.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202-4149.

**FOR FURTHER INFORMATION CONTACT:** Patricia Briscoe, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

### SUPPLEMENTARY INFORMATION:

#### Deletions

On 10/30/2015 (80 FR 66880) and 11/6/2015 (80 FR 68860-68862), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the products deleted from the Procurement List.

#### End of Certification

Accordingly, the following products are deleted from the Procurement List:

#### Products

*NSN(s)—Product Name(s):* 7125-00-449-

6862—Cabinet, Storage  
*Mandatory Source(s) of Supply:* UNKNOWN  
*Contracting Activity:* Defense Logistics Agency Aviation, Richmond, VA  
*NSN(s)—Product Name(s):*  
7510-01-429-6946—DAYMAX System, Scratch Pad Refill, Lined, 6-hole  
7510-01-429-7418—DAYMAX System, Replacement Binder, LE, Zipper Closure, 3-hole, Burgundy  
7510-01-429-7414—DAYMAX System, Replacement Binder, LE, Zipper Closure, 3-hole, Black  
7510-01-429-7413—DAYMAX System, Replacement Binder, GLE, 7-hole, Black  
7510-01-429-7034—DAYMAX System, Tabbed Sections, 3-hole  
7510-01-429-7035—DAYMAX System, Itinerary Refill, 7-hole  
7510-01-429-7038—DAYMAX System, 'Things to Do' Refill, 3-hole  
7510-01-429-7040—DAYMAX System, Account Ledger Refill, 3-hole  
7510-01-429-7041—DAYMAX System, Assignment List Refill, DOD, 3-hole.  
7510-01-429-7046—DAYMAX System, Account Ledger Refill, 7-hole  
7510-01-429-7050—DAYMAX System, Task Plan Refill, DOD, 3-hole.  
7510-01-429-7051—DAYMAX System, Tabbed Alpha Directory, 3-hole  
7510-01-429-7052—DAYMAX System, DIA 'Log' Refill, DOD, 3-hole  
7510-01-429-7053—DAYMAX System, Address Directory Refill, 3-hole  
7510-01-429-7059—DAYMAX System, Tabbed Alpha Directory, 7-hole  
7510-01-429-7063—DAYMAX System, Priority Tabs, DOD, 3-hole.  
7510-01-429-7065—DAYMAX System, Agenda Refill, 3-hole  
7510-01-429-7066—DAYMAX System, Address Directory Refill, 7-hole  
7510-01-429-7068—DAYMAX System, Project Coordinator Refill, 3-hole  
7510-01-429-7069—DAYMAX System, Daily Coordinator Refill, DOD, 3-hole.  
7510-01-429-7072—DAYMAX System, Project Coordinator Refill, 7-hole  
7510-01-429-7074—DAYMAX System, Agenda Refill, 7-hole  
7510-01-429-7076—DAYMAX System, Itinerary Refill, 3-hole  
7510-01-429-7081—DAYMAX System, Journal Refill, 3-hole  
7510-01-429-7412—DAYMAX System, Replacement Binder, IE, Velcro Closure, 3-hole, Burgundy  
7510-01-429-7415—DAYMAX System, Replacement Binder, IE, Velcro Closure, 3-hole, Black  
7510-01-429-7416—DAYMAX System, Replacement Binder, IE, Velcro Closure, 3-hole, Navy  
7510-01-429-7417—DAYMAX System, Replacement Binder, LE, Zipper Closure, 3-hole, Navy  
7510-01-429-7472—DAYMAX System, Replacement Binder, GLE, 7-hole, Burgundy  
7510-01-429-7474—DAYMAX System, Replacement Binder, GLE, 7-hole, Navy  
7510-01-429-7475—DAYMAX System, Replacement Binder, DOD Logo, 3-hole, Zipper Closure, Burgundy  
7510-01-429-7477—DAYMAX System,

- Replacement Binder, 7-hole, Zipper Closure, Woodland Camouflage  
7510-01-429-7835—DAYMAX System, Vinyl Zipper Pouch, 3-hole  
7510-01-429-7838—DAYMAX System, Tabbed Alpha Directory, 6-hole  
7510-01-429-7841—DAYMAX System, 'Things to Do Refill', 7-hole  
7510-01-429-9609—DAYMAX System, Journal Refill, 7-hole  
7510-01-429-7843—DAYMAX System, Sheet Lifter, 3-hole  
7510-01-429-9985—DAYMAX System, Business/Credit Card Holder, 3-hole  
7510-01-429-9986—DAYMAX System, Ruler/Pagemark, 3-hole  
7510-01-463-0794—DAYMAX System, Sheet Lifter, 6-hole  
7510-01-463-0802—Logo, Customized, Silkscreen  
7510-01-485-6563—DAYMAX System, Sheet Lifter, 7-hole  
7510-01-485-6564—DAYMAX System, Vinyl Zipper Pouch, 7-hole  
7510-01-485-6565—DAYMAX System, Ruler/Pagemark, 7-hole  
7510-01-485-8334—DAYMAX System, Business/Credit Card Holder, 7-hole  
7510-01-463-0796—DAYMAX System, 'Things-To-Do' Refill, 6-hole  
7530-01-429-6938—DAYMAX System, Scratch Pad Refill, Lined, 3-hole  
7530-01-429-6940—DAYMAX System, Scratch Pad Refill, Lined, 7-hole  
7530-01-429-6948—DAYMAX System, Scratch Pad Refill, Graph, 3-hole  
7530-01-429-9505—DAYMAX System, Scratch Pad Refill, Graph, 7-hole  
7510-01-429-7043—DAYMAX System, Tabbed Sections, 7-hole  
7510-01-545-3775—DAYMAX System, 2014, Calendar Pad, Type II  
7510-01-545-3792—DAYMAX System, 2014, Calendar Pad, Type I  
7510-01-588-0116—DAYMAX System, 2014, Tabbed Monthly, JR, 6-hole  
7510-01-588-0120—DAYMAX System, 2015, Tabbed Monthly, JR, 6-hole  
7510-01-588-0132—DAYMAX System, 2014, Week at a View, GLE, 7-hole  
7510-01-588-0137—DAYMAX System, 2015, Week at a View, GLE, 7-hole  
7530-01-545-3737—DAYMAX System, 2014, Appointment Refill  
7530-01-545-3743—DAYMAX System, 2015, Appointment Refill  
7530-01-587-9717—DAYMAX System, 2014, JR Deluxe Planner, 6-hole, Digital Camouflage  
7530-01-587-9717L—DAYMAX System, 2014, JR Deluxe Planner, 6-hole, Digital Camouflage w/logo  
7510-01-588-0144—DAYMAX System, 2014, Month at a View, IE/LE, 3-hole  
7510-01-588-0149—DAYMAX System, 2014, Tabbed Monthly, IE/LE, 3-hole  
7510-01-588-0150—DAYMAX System, 2015, Month at a View, IE/LE, 3-hole  
7510-01-588-0153—DAYMAX System, 2015, Tabbed Monthly, IE/LE, 3-hole  
7510-01-588-0161—DAYMAX System, 2014, Day at a View, GLE, 7-hole  
7510-01-588-0163—DAYMAX System, 2015, Day at a View, GLE, 7-hole  
7510-01-588-0165—DAYMAX System, 2015, Month at a View, GLE, 7-hole  
7510-01-588-0167—DAYMAX System, 2015, Day at a View, IE/LE, 3-hole  
7510-01-588-0182—DAYMAX System, 2014, Tabbed Monthly, GLE, 7-hole  
7510-01-588-0184—DAYMAX System, 2015, Tabbed Monthly, GLE, 7-hole  
7510-01-588-0190—DAYMAX System, 2014, Month at a View, GLE, 7-hole  
7510-01-588-0194—DAYMAX System, 2015, Week at a View, IE/LE, 3-hole  
7510-01-588-0200—DAYMAX System, 2014, Day at a View, IE/LE, 3-hole  
7530-01-587-9593—DAYMAX System, 2014, LE Planner, 3-hole, Burgundy  
7530-01-587-9593L—DAYMAX System, 2014, LE Planner, 3-hole, Burgundy w/logo  
7530-01-587-9594—DAYMAX System, 2014, JR Planner, 6-hole, Burgundy  
7530-01-587-9594L—DAYMAX System, 2014, JR Planner, 6-hole, Burgundy w/logo  
7530-01-587-9597—DAYMAX System, 2015, JR Planner, 6-hole, Burgundy  
7530-01-587-9597L—DAYMAX System, 2015, JR Planner, 6-hole, Burgundy w/logo  
7530-01-587-9599—DAYMAX System, 2015, LE Planner, 3-hole, Burgundy  
7530-01-587-9599L—DAYMAX System, 2015, LE Planner, 3-hole, Burgundy w/logo  
7530-01-587-9613—DAYMAX System, 2014, IE Planner, 3-hole, Burgundy  
7530-01-587-9613L—DAYMAX System, 2014, IE Planner, 3-hole, Burgundy w/logo  
7530-01-587-9615—DAYMAX System, 2015, IE Planner, 3-hole, Navy  
7530-01-587-9615L—DAYMAX System, 2015, IE Planner, 3-hole, Navy w/logo  
7530-01-587-9618—DAYMAX System, 2015, IE Planner, 3-hole, Burgundy  
7530-01-587-9618L—DAYMAX System, 2015, IE Planner, 3-hole, Burgundy w/logo  
7530-01-587-9708—DAYMAX System, 2014, LE Planner, 3-hole, Black  
7530-01-587-9708L—DAYMAX System, 2014, LE Planner, 3-hole, Black w/logo  
7530-01-587-9621—DAYMAX System, 2014, IE Planner, 3-hole, Black  
7530-01-587-9621L—DAYMAX System, 2014, IE Planner, 3-hole, Black w/logo  
7530-01-587-9622—DAYMAX System, 2015, IE Planner, 3-hole, Black  
7530-01-587-9622L—DAYMAX System, 2015, IE Planner, 3-hole, Black w/logo  
7530-01-587-9634—DAYMAX System, 2014, IE Planner, 3-hole, Navy  
7530-01-587-9634L—DAYMAX System, 2014, IE Planner, 3-hole, Navy w/logo  
7530-01-587-9643—DAYMAX System, 2014, GLE Planner, 7-hole, Burgundy  
7530-01-587-9643L—DAYMAX System, 2014, GLE Planner, 7-hole, Burgundy  
7530-01-587-9647—DAYMAX System, 2015, GLE Planner, 7-hole, Burgundy  
7530-01-587-9647L—DAYMAX System, 2015, GLE Planner, 7-hole, Burgundy w/logo  
7530-01-587-9661—DAYMAX System, 2015, GLE Planner, 7-hole, Navy  
7530-01-587-9661L—DAYMAX System, 2015, GLE Planner, 7-hole, Navy w/logo  
7530-01-587-9678—DAYMAX System, 2014, GLE Planner, 7-hole, Black  
7530-01-587-9678L—DAYMAX System, 2014, GLE Planner, 7-hole, Black w/logo  
7530-01-587-9684—DAYMAX System, 2014, JR Deluxe Planner, 6-hole, Black  
7530-01-587-9684L—DAYMAX System, 2014, JR Deluxe Planner, 6-hole, Black w/logo  
7530-01-587-9685—DAYMAX System, 2015, GLE Planner, 7-hole, Black  
7530-01-587-9685L—DAYMAX System, 2015, GLE Planner, 7-hole, Black w/logo  
7530-01-587-9687—DAYMAX System, 2015, JR Deluxe Planner, 6-hole, Black  
7530-01-587-9687L—DAYMAX System, 2015, JR Deluxe Planner, 6-hole, Black w/logo  
7530-01-587-9705—DAYMAX System, 2014, JR Planner, 6-hole, Navy  
7530-01-587-9705L—DAYMAX System, 2014, JR Planner, 6-hole, Navy w/logo  
7530-01-587-9704—DAYMAX System, 2014, JR Planner, 6-hole, Black  
7530-01-587-9704L—DAYMAX System, 2014, JR Planner, 6-hole, Black w/logo  
7530-01-587-9706—DAYMAX System, 2015, JR Planner, 6-hole, Black  
7530-01-587-9706L—DAYMAX System, 2015, JR Planner, 6-hole, Black w/logo  
7530-01-587-9707—DAYMAX System, 2014, LE Planner, 3-hole, Navy  
7530-01-587-9707L—DAYMAX System, 2014, LE Planner, 3-hole, Navy w/logo  
7530-01-587-9709—DAYMAX System, 2015, JR Planner, 6-hole, Navy  
7530-01-587-9709L—DAYMAX System, 2015, JR Planner, 6-hole, Navy w/logo  
7530-01-587-9711—DAYMAX System, 2015, LE Planner, 3-hole, Black  
7530-01-587-9711L—DAYMAX System, 2015, LE Planner, 3-hole, Black w/logo  
7530-01-587-9712—DAYMAX System, 2015, LE Planner, 3-hole, Navy  
7530-01-587-9712L—DAYMAX System, 2015, LE Planner, 3-hole, Navy w/logo  
7530-01-587-9719—DAYMAX System, 2014, GLE Planner, 7-hole, Navy  
7530-01-587-9719L—DAYMAX System, 2014, GLE Planner, 7-hole, Navy w/logo  
7530-01-587-9720—DAYMAX System, 2015, JR Deluxe Planner, 6-hole, Digital Camouflage  
7530-01-587-9720L—DAYMAX System, 2015, JR Deluxe Planner, 6-hole, Digital Camouflage w/logo  
7530-01-587-9722—DAYMAX System, 2015, Planner, 7-hole, Desert Camouflage  
7530-01-587-9722L—DAYMAX System, 2015, Planner, 7-hole, Desert Camouflage w/logo  
7530-01-587-9731—DAYMAX System, 2014, Planner, 7-hole, Desert Camouflage  
7530-01-587-9731L—DAYMAX System, 2014, Planner, 7-hole, Desert Camouflage w/logo  
7530-01-588-0039—DAYMAX System, 2015, DOD Planner, 3-hole, Burgundy  
7530-01-588-0039L—DAYMAX System, 2015, DOD Planner, 3-hole, Burgundy w/logo  
7530-01-588-0108—DAYMAX System, 2014, DOD Planner, 3-hole, Burgundy  
7530-01-588-0108L—DAYMAX System, 2014, DOD Planner, 3-hole, Burgundy w/

logo  
7530-01-588-0128—DAYMAX System, 2015, Planner, 7-hole, Woodland Camouflage  
7530-01-588-0128L—DAYMAX System, 2015, Planner, 7-hole, Woodland Camouflage w/logo  
7530-01-588-0122—DAYMAX System, 2014, Planner, 7-hole, Woodland Cam  
7530-01-588-0122L—DAYMAX System, 2014, Planner, 7-hole, Woodland Camouflage w/logo  
7510-01-565-8330—DAYMAX System, Replacement Binder, JR, Velcro Closure, 6-hole, Burgundy  
7510-01-565-8331—DAYMAX System, Replacement Binder, JR Deluxe, Zipper Closure, 6-hole, Digital Camouflage  
7510-01-565-8334—DAYMAX System, Business/Credit Card Holder, 6-hole  
7510-01-566-3925—DAYMAX System, Address Directory Refill, 6-hole  
7530-00-NSH-0099—DAYMAX System, Polyethylene Black Binder, 6 Ring  
7510-01-565-8332—DAYMAX System, Replacement Binder, JR Deluxe, Zipper Closure, 6-hole, Black Denier  
7510-01-565-8333—DAYMAX System, Replacement Binder, Zipper Closure, 7-hole, Desert Camouflage  
7510-01-565-8335—DAYMAX System, Replacement Binder, JR, Velcro Closure, 6-hole, Black  
7510-01-565-8336—DAYMAX System, Replacement Binder, JR, Velcro Closure, 6-hole, Navy  
*Mandatory Source(s) of Supply:* Easter Seals Western and Central Pennsylvania, Pittsburgh, PA  
*Contracting Activity:* General Services Administration, New York, NY

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2015-31263 Filed 12-10-15; 8:45 am]

**BILLING CODE 6353-01-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List, Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to the Procurement List.

**SUMMARY:** The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agency employing persons who are blind or have other severe disabilities.

**DATES:** *Comments Must Be Received on or Before:* 1/10/2016.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202-4149.

**FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT:** Patricia Briscoe,

Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entity of the Federal Government identified in this notice will be required to procure the products listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agency listed:

#### Products

NSN(s)—Product Name(s):

8415-01-492-0176—Gloves, Disposable,

Nitrile, Industrial-Grade, Small

8415-01-492-0178—Gloves, Disposable,

Nitrile, Industrial-Grade, Large

8415-01-492-0179—Gloves, Disposable,

Nitrile, Industrial-Grade, Medium

8415-01-492-0180—Gloves, Disposable,

Nitrile, Industrial-Grade, XLarge

*Mandatory Source(s) of Supply:* Central

Association for the Blind & Visually

Impaired, Utica, NY

*Mandatory For:* Total Government

Requirement

*Contracting Activity:* General Services

Administration, Fort Worth, TX

*Distribution:* A-List

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2015-31262 Filed 12-10-15; 8:45 am]

**BILLING CODE 6353-01-P**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m., Friday, December 18, 2015.

**PLACE:** Three Lafayette Centre, 1155 21st Street NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Surveillance, enforcement, and examinations matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's Web site at <http://www.cftc.gov>.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202-418-5964.

**Natise Allen,**

*Executive Assistant.*

[FR Doc. 2015-31417 Filed 12-9-15; 4:15 pm]

**BILLING CODE 6351-01-P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Proposed Information Collection; Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general 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 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to 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 requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed surveys to be conducted for its Process Evaluation of the Social Innovation Fund (SIF) Pay for Success (PFS) Grant Program. The study involves two major survey data collection activities: (1) Grantee Survey, and (2) Subgrantee/Subrecipient Survey. CNCS funded eight grantees in 2014 to provide technical assistance to community organizations and state or local government agencies (referred to as subgrantees/subrecipients) to assist them to determine feasibility of implementing PFS projects in a particular state or locality and to negotiate the terms and structure of the PFS deals (for PFS projects determined feasible). CNCS expects to fund approximately four additional grantees in 2015 and potentially an additional six grantees in 2016 (pending continuation of the grant program). Each grantee is expected to receive three years of funding. Responses will be collected from all current and future SIF PFS grantees and their subgrantees/subrecipients annually for the duration of their SIF PFS funding. The

completion of this information collection is not required to be considered for or to obtain grant funding support from the SIF PFS program.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this Notice.

**DATES:** Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 9, 2016.

**ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Office of Research and Evaluation; Attention Lily Zandniapour, Ph.D., Evaluation Program Manager, Room 10911, 1201 New York Avenue NW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through [www.regulations.gov](http://www.regulations.gov) or through the Corporation's email system to [LZandniapour@cns.gov](mailto:LZandniapour@cns.gov).

Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Lily Zandniapour, 202-606-6939 or by email at [LZandniapour@cns.gov](mailto:LZandniapour@cns.gov).

**SUPPLEMENTARY INFORMATION:** CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including 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).

#### Background

CNCS has contracted with Abt Associates to support CNCS's Office of Research and Evaluation to implement a process evaluation of the Social Innovation Fund (SIF) Pay for Success (PFS) Grant Program. The major data collection activities to be undertaken subject to this notice will include two surveys: (1) Grantee Survey, and (2) Subgrantee/Subrecipient Survey. Survey information will be collected from current and future SIF PFS grantees and their subgrantees/subrecipients through an online survey program. The purpose of the Grantee Survey is to better understand grantees' program structure, practices in providing technical assistance and deal structuring activities. The Subgrantee/Subrecipient Survey will collect data on activities, capacity, and perspectives and experiences of subgrantees/subrecipients receiving technical assistance from the grantees.

#### Current Action

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Process Evaluation of the Social Innovation Fund (SIF) Pay for Success (PFS) Grant Program.

*OMB Number:* None.

*Agency Number:* 3045.

*Affected Public:* Current and future CNCS-funded SIF PFS grantees (mostly nonprofit organizations) and current and future community organizations and state or local government agencies (referred to as subgrantees/subrecipients).

*Total Respondents:* Approximately 260. This includes approximately 18 respondents to the Grantee Survey and approximately 242 respondents to the Subgrantee/Subrecipient Survey. The exact number of respondents will depend on the number of new grantees funded by the SIF PFS program in 2015 and 2016 and the number of subrecipients/subgrantees that each

grantee selects to work with each year of their grant.

*Frequency:* Once per year. Each respondent will complete the survey annually for one to three years depending upon the timing and duration of their funding.

*Average Time per Response:* 20 minutes per year.

*Estimated Total Burden Hours:* 151 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 7, 2015.

**Mary Hyde,**

*Director, Research and Evaluation.*

[FR Doc. 2015-31260 Filed 12-10-15; 8:45 am]

**BILLING CODE 6050-28-P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 15-77]

#### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604-1546/(703) 607-5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15-77 with attached Policy Justification and Sensitivity of Technology.

Dated: December 8, 2015.

**Aaron Siegel,**

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

**BILLING CODE 5001-06-P**



DEFENSE SECURITY COOPERATION AGENCY

201 12TH STREET SOUTH, STE 203  
ARLINGTON, VA 22202-5408


The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

NOV 17 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-77, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$110 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

  
J. W. Rixey  
Vice Admiral, USN  
Director

Enclosures:

- 1. Transmittal
- 2. Policy Justification
- 3. Sensitivity of Technology



Transmittal No. 15-77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 100 million
Other .....	\$ 10 million
<b>TOTAL .....</b>	<b>\$ 110 million</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*

Nineteen (19) UGM-84L Harpoon Block II All-Up-Round Missiles  
Thirteen (13) Block II upgrade kits

Also included are containers; Guidance Control Units (GCU) spares; recertification and reconfiguration support; spare and repair parts; tools and tool sets; support equipment; personnel training and training equipment; publication and technical data; U.S. Government and contractor engineering and logistical support

services; and other related elements of logistics support.

- (iv) *Military Department:* Navy (ALQ)
  - (v) *Prior Related Cases, if any:* FMS case AKV-\$75M-01 Nov 12
  - (vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None
  - (vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex
  - (viii) *Date Report Delivered to Congress:* 17 NOV 2015
- \* as defined in Section 47(6) of the Arms Export Control Act.

**POLICY JUSTIFICATION***Republic of Korea—UGM–84L Block II Harpoon Missiles*

The Republic of Korea (ROK) has requested a possible sale of:

*Major Defense Equipment (MDE):*

Nineteen (19) UGM–84L Harpoon Block II All-Up-Round Missiles

Thirteen (13) Block II upgrade kits

Also included are containers; Guidance Control Units (GCU) spares; recertification and reconfiguration support; spare and repair parts; tools and tool sets; support equipment; personnel training and training equipment; publication and technical data; U.S. Government and contractor engineering and logistical support services; and other related elements of logistics support. The estimated value of MDE is \$100 million. The total estimated value is \$110 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by meeting the legitimate security and defense needs of an ally and partner nation. The ROK is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in that region. It is vital to the U.S. interest to assist our South Korean ally in developing and maintaining a strong and ready self-defense capability.

The ROK intends to use the Harpoon Block II missiles to supplement its existing Harpoon missile capability. The acquisition of the Harpoon Block II missiles and support will supplement current weapon inventories and bring the ROK Navy's Anti-Surface Warfare performance up to existing regional baselines. The proposed sale will provide a defensive capability while enhancing interoperability with the United States and other allied forces. Sub-launched Harpoon missiles have been used by the ROK since the 1990s. The ROK will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the Boeing Company in St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposal sale will not require any additional U.S. government or U.S. contractor personnel in Korea. However, U.S. Government or contractor personnel in-country visits will be required on a temporary basis in conjunction with program technical oversight and support requirements.

There will be no adverse impact on United States defense readiness as a result of this proposed sale.

Transmittal No. 15–77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

*(vii) Sensitivity of Technology:*

1. The UGM–84L Block II Harpoon missile is a submarine launched Anti-Surface Warfare (ASUW) missile that provides naval forces with a capability to engage targets in both the “blue water” regions and the littorals of the world. The Harpoon Block II missile, including publications, documentation, operations, supply, maintenance, and training to be conveyed with this proposed sale have the highest classification level of SECRET. The Harpoon Block II missile components being conveyed by the proposed sale that are considered sensitive and are classified include:

- a. The Radar seeker
- b. The GPS/INS System
- c. Operational Flight Program (OFP) Software
- d. Missile operational characteristics and performance data

2. These elements are essential to the ability of the Harpoon Block II missile to selectively engage hostile targets under a wide range of operational, tactical and environmental conditions.

3. If a technologically advanced adversary were to obtain knowledge of

the specific hardware and software elements, the information could be used to develop countermeasures which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2015–31245 Filed 12–10–15; 8:45 am]

**BILLING CODE 5001–06–C**

**DEPARTMENT OF DEFENSE****Office of the Secretary**

[Transmittal No. 15–57]

**36(b)(1) Arms Sales Notification**

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–57 with attached Policy Justification and Sensitivity of Technology.

Dated: December 8, 2015.

**Aaron Siegel,**

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

**BILLING CODE 5001–06–P**





DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, STE 203  
ARLINGTON, VA 22202-5408

NOV 13 2015

The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-57, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost \$1.29 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey  
Vice Admiral, USN  
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)



BILLING CODE 5001-06-C

Transmittal No. 15-57

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	\$1.10 billion
Other .....	\$19 billion
Total .....	\$1.29 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE) includes:*

- One thousand (1000) GBU-10 Paveway II Laser Guided Bombs (LGBs)
- Two thousand, three hundred (2,300) BLU-117/MK-84 2000lb General Purpose (GP) Bombs
- Four thousand twenty (4,020) GBU-12 Paveway II LGBs

- Eight thousand twenty (8,020) BLU-111/MK-82 500lb GP Bombs
- One thousand, one hundred (1,100) GBU-24 Paveway III LGBs
- One thousand, five hundred (1,500) BLU-109 2000lb Penetrator Warheads
- Four hundred (400) GBU-31(V1) KMU-556 Joint Direct Attack Munitions (JDAM) tail kits
- One thousand (1,000) GBU-31(V3) KMU-557 JDAM tail kits
- Three thousand (3,000) GBU-38 KMU-572 JDAM tail kits

Two thousand (2,000) GBU-48 Enhanced Paveway II, dual mode Global Positioning System (GPS)/LGB with the MXU-667 Airfoil and the MAU-169L/B Computer Control Group (CCG) Dual mode  
 Two thousand (2,000) BLU-110/MK-83 1000lb GP Bombs  
 Five hundred (500) GBU-54 KMU-572 Laser JDAM tail kits, dual mode GPS/LGB with the MXU-667 Airfoil and the MAU-169L/B CCG Dual mode  
 Three hundred (300) GBU-56 KMU 556 Laser JDAM tail kits, dual mode GPS/LGB with the MXU-667 Airfoil and the MAU-169L/B CCG Dual mode  
 Ten thousand two hundred (10,200) FMU-152 Fuzes

This request also includes the following Non-MDE items and services: procurement of bomb equipment components such as adaptors, nose plugs, fusing mechanisms, swivels, support links and connections; associated support equipment; publications, such as technical orders, and system manuals; training; engineering and technical support; transportation (to include special airlift support); program management; and other administrative support and related services.

(iv) *Military Department*: USAF (X7-D-ACI, X7-D-ACJ, X7-D-ACQ)

(v) *Prior Related Cases*, if any:

FMS Case AAI  
 FMS Case AAM  
 FMS Case AJX  
 FMS Case AAP  
 FMS Case AJO  
 FMS Case SAO \$3.85-billion, CN 10-43  
 FMS Case SAP \$8.31-billion, CN 10-43  
 FMS Case SRC \$8.05-billion, CN 92-42, 98-36, 00-63  
 FMS Case YPW \$57.2-million, CN 84-23, 92-42

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress*: 13 NOV 2015

\*As defined in Section 47(6) of the Arms Export Control Act.

#### POLICY JUSTIFICATION

*The Government of Saudi Arabia—Air-to-Ground Munitions*

The Government of Saudi Arabia requested approval to procure the following:

*Major Defense Equipment (MDE) includes:*

One thousand (1000) GBU-10 Paveway II Laser Guided Bombs (LGBs)

Two thousand, three hundred (2,300) BLU-117/MK-84 2000lb General Purpose (GP) Bombs  
 Four thousand twenty (4,020) GBU-12 Paveway II LGBs  
 Eight thousand twenty (8,020) BLU-111/MK-82 500lb GP Bombs  
 One thousand, one hundred (1,100) GBU-24 Paveway III LGBs  
 One thousand, five hundred (1,500) BLU-109 2000lb Penetrator Warheads  
 Four hundred (400) GBU-31(V1) KMU-556 Joint Direct Attack Munitions (JDAM) tail kits  
 One thousand (1,000) GBU-31(V3) KMU-557 JDAM tail kits  
 Three thousand (3,000) GBU-38 KMU-572 JDAM tail kits  
 Two thousand (2,000) GBU-48 Enhanced Paveway II, dual mode Global Positioning System (GPS)/LGB with the MXU-667 Airfoil and the MAU-169L/B Computer Control Group (CCG) Dual mode  
 Two thousand (2,000) BLU-110/MK-83 1000lb GP Bombs  
 Five hundred (500) GBU-54 KMU-572 Laser JDAM tail kits, dual mode GPS/LGB with the MXU-667 Airfoil and the MAU-169L/B CCG Dual mode  
 Three hundred (300) GBU-56 KMU 556 Laser JDAM tail kits, dual mode GPS/LGB with the MXU-667 Airfoil and the MAU-169L/B CCG Dual mode  
 Ten thousand two hundred (10,200) FMU-152 Fuzes

This request also includes the following Non-MDE items and services: procurement of bomb equipment components such as adaptors, nose plugs, fusing mechanisms, swivels, support links and connections; associated support equipment; publications, such as technical orders, and system manuals; training; engineering and technical support; transportation (to include special airlift support); program management; and other administrative support and related services. The total estimated MDE value is \$1.10 billion, and the estimated total overall value is \$1.29 billion.

The purchase replenishes the Royal Saudi Air Force's (RSAF) current weapons supplies, which are becoming depleted due to the high operational tempo in multiple counter-terrorism operations. The purchase of these munitions rebuilds war reserves and provides options for future contingencies.

The RSAF will have no issues fielding, supporting, and employing these munitions.

The proposed sale augments Saudi Arabia's capability to meet current and future threats from potential adversaries during combat operations. Providing

these defense articles supports Saudi Arabian defense missions and promotes stability in the region.

This acquisition will help sustain strong military-to-military relations between the United States and Saudi Arabia, improve operational interoperability with the United States, and enable Saudi Arabia to meet regional threats and safeguard the world's largest oil reserves.

This acquisition contributes to the foreign policy and national security of the United States by increasing the security of an important partner that continues to be a significant force for political stability and economic progress in the Middle East. Sustaining Saudi military capabilities deters hostile actors, increases U.S.-Saudi military interoperability, and has a positive impact on the stability of the global economy. This acquisition also directly conveys U.S. commitment to the RSAF's current and future ability to sustain combat operations.

The prime contractor will be determined by competition. There are no known offset agreements proposed in connection with this potential sale.

There is no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15-57

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. GBU-10 Paveway II Laser Guided 2000-lb bombs and Paveway II Laser Guided GBU-12 500-lb munitions use general purpose (GP) bombs bodies that are fitted with the MXU-651/650 airfoil and the MAU-169 L/B Computer Control Group (CCG) to convert them to Laser Guided Bombs (LGBs). The LGB is a maneuverable, free-fall weapon that guides to a spot of laser energy reflected off of the target. The LGB is delivered like a normal GP warhead and the semi-active guidance corrects for many of the normal errors inherent in any delivery system. The hardware is UNCLASSIFIED. Information revealing the probability of destroying common/unspecified targets, the number of simultaneous lasers the laser seeker head can discriminate, and data on the radar/infrared frequency is classified CONFIDENTIAL.

2. GBU-31(VI) 2000-lb/GBU-38 500-lb Joint Direct Attack Munitions (JDAMs) are general purpose bombs fitted with an FMU-152A/B fuze and a KMU-556B/B (KMU-572B/B) guidance

tail kit that converts unguided free-fall bombs into accurate, all weather, Global Positioning System (GPS) guided "smart" munitions. Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET. Information revealing the probability of destroying common/unspecified targets is classified CONFIDENTIAL.

3. GBU-31(V3) Joint Direct Attack Munitions (JDAMs) are 2000-lb JDAM equipped with the BLU-109 C/B forged steel penetrator warhead. The bomb body is approximately twice as thick as a typical 2000-lb warhead. This hardened case, along with a solid nose, allows it to penetrate hardened targets. All other technical details and risks are identical to the GBU-31(V1) above.

4. The GBU-24 Paveway III (PWIII) is a 2000-lb laser-guided munition that can be employed at high, medium and low altitudes. It utilizes the FMU-139A/B Fuze, BSU-84 airfoil and WGU-43C/B guidance control unit (GCU). Both the MK-84 conventional warhead and the BLU-109 penetrating warhead can be utilized, similar to GBU-31(V1) and GBU-31(V3). Design improvements over versions include proportional navigation, increased terminal accuracy, off-axis release envelopes, trajectory shaping, and target reacquisition capability. Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET. Information revealing test boundaries, operational envelop and release points, the probability of destroying common/unspecified targets, the number of simultaneous lasers the laser seeker head can discriminate, the terminal impact conditions, the operational flight programming, laser seeker sensitivity and range, laser seeker field of view and field of regard, laser seeker tracking gate widths, laser pulse stability requirements, laser pulse width discrimination details, and data on the

radar/infra-red frequency is classified CONFIDENTIAL.

5. The GBU-48 is a 1000-lb (MK-83 or BLU-110) Enhanced Paveway II, dual mode GPS/LGB with the MXU-667 Airfoil and the MAU-169L/B CCG. The laser sensor enhances standard GPS guidance by allowing rapid prosecution of moving targets or fixed targets with large initial target location errors (TLE). Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET. Information revealing the probability of destroying common/unspecified targets, the number of simultaneous lasers the laser seeker head can discriminate, and data on the radar/infra-red frequency is classified CONFIDENTIAL.

6. The GBU-54/56s are the dual-mode laser JDAM variants of the GBU-38/GBU-31 JDAM. The nose fuzes are replaced with DSU-38/DSU-40s, which give the weapons both GPS and laser guidance capability. The laser sensor enhances the standard JDAM's reactive target capability by allowing rapid prosecution of fixed targets with large initial target location errors (TLE). The addition of the laser sensor combined with additional cabling and mounting hardware turns a standard JDAM into a Laser JDAM. Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET. Information revealing the probability of destroying common/unspecified targets, the number of simultaneous lasers the laser seeker head can discriminate, and data on the radar/infra-red frequency is classified CONFIDENTIAL.

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

8. A determination has been made that the Government of Saudi Arabia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. All defense articles and services listed in this transmittal have been authorized for release and export to Saudi Arabia.

9. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

[FR Doc. 2015-31272 Filed 12-10-15; 8:45 am]

BILLING CODE 5001-06-P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 15-62]

#### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

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**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604-1546/(703) 607-5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15-62 with attached Policy Justification and Sensitivity of Technology.

Dated: December 8, 2015.

**Aaron Siegel,**

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

BILLING CODE 5001-06-P



DEFENSE SECURITY COOPERATION AGENCY  
201 12TH STREET SOUTH, STE 203  
ARLINGTON, VA 22202-5408


The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

NOV 19 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-62, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost \$1.2 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

  
J. W. Rixey  
Vice Admiral, USN  
Director

Enclosures:

- 1. Transmittal
- 2. Policy Justification
- 3. Sensitivity of Technology



Transmittal No. 15-62

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Japan

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ .689 billion
Other .....	\$ .511 billion
<b>TOTAL .....</b>	<b>\$1.20 billion</b>

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE):*  
Three (3) RQ-4 Block 30 (1) Global Hawk Remotely Piloted Aircraft with Enhanced Integrated Sensor Suite (EISS)  
Eight (8) Kearfott Inertial Navigation System/Global Positioning System (INS/GPS) units (2 per aircraft with 2 spares)  
Eight (8) LN-251 INS/GPS units (2 per aircraft with 2 spares)

Also included with this request are operational-level sensor and aircraft test equipment, ground support equipment, operational flight test support, communications equipment, spare and repair parts, personnel training, publications and technical data, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Air Force (X7-D-SAI)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* 19 NOV 2015

\* As defined in Section 47(6) of the Arms Export Control Act

#### POLICY JUSTIFICATION

##### *Government of Japan—RQ-4 Block 30 (I) Global Hawk Remotely Piloted Aircraft*

The Government of Japan has requested a possible sale of:

##### *Major Defense Equipment (MDE):*

Three (3) RQ-4 Block 30 (I) Global

Hawk Remotely Piloted Aircraft with Enhanced Integrated Sensor Suite (EISS)

Eight (8) Kearfott Inertial Navigation System/Global Positioning System (INS/GPS) units (2 per aircraft with 2 spares)

Eight (8) LN-251 INS/GPS units (2 per aircraft with 2 spares)

Also included with this request are operational-level sensor and aircraft test equipment, ground support equipment, operational flight test support, communications equipment, spare and repair parts, personnel training, publications and technical data, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support. The estimated value of MDE is \$.689 billion. The total estimated value is \$1.2 billion.

This proposed sale will contribute to the foreign policy and national security of the United States. Japan is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring regional peace and stability. This transaction is consistent with U.S. foreign policy and national security objectives and the 1960 Treaty of Mutual Cooperation and Security.

The proposed sale of the RQ-4 will significantly enhance Japan's intelligence, surveillance, and reconnaissance (ISR) capabilities and help ensure that Japan is able to continue to monitor and deter regional threats. The Japan Air Self Defense Force (JASDF) will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Northrop Grumman Corporation in Rancho Bernardo, California. The purchaser requested offsets but at this

time agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will require the assignment of contractor representatives to Japan to perform contractor logistics support and to support establishment of required security infrastructure.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15-62

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

##### *(vii) Sensitivity of Technology:*

1. The RQ-4 Block 30 Global Hawk hardware and software are UNCLASSIFIED. The highest level of classified information required for operation may be SECRET depending on the classification of the imagery or Signals Intelligence (SIGINT) utilized on a specific operation. The RQ-4 is optimized for long range and prolonged flight endurance. It is used for military intelligence, surveillance, and reconnaissance. Aircraft system, sensor, and navigational status are provided continuously to the ground operators through a health and status downlink for mission monitoring. Navigation is via inertial navigation with integrated global positioning system (GPS) updates. The vehicle is capable of operating from a standard paved runway. Real time missions are flown under the control of a pilot in a Ground Control Element (GCE). It is designed to carry a non-weapons internal payload of 3,000 lbs consisting primarily of sensors and avionics. The following payloads are integrated into the RQ-4: Enhanced Imagery Sensor Suite that includes multi-use infrared, electro-optical, ground moving target indicator, and synthetic aperture radar and a space to accommodate other sensors such as SIGINT. The RQ-4 will include the GCE, which consists of the following components:

a. The Mission Control Element (MCE) is the RQ-4 Global Hawk ground control station for mission planning, communication management, aircraft and mission control, and image processing and dissemination. It can be either fixed or mobile. In addition to the shelter housing the operator workstations, the MCE includes an optional 6.25 meter Ku-Band antenna assembly, a Tactical Modular Interoperable Surface Terminal, a 12-ton Environmental Control Unit (heating

and air conditioning), and two 100 kilowatt electrical generators. The MCE, technical data, and documentation are UNCLASSIFIED. The MCE may operate at the classified level depending on the classification of the data feeds.

b. The Launch and Recovery Element (LRE) is a subset of the MCE and can be either fixed or mobile. It provides identical functionality for mission planning and air vehicle command and control (C2). The launch element contains a mission planning workstation and a C2 workstation. The primary difference between the LRE and MCE is the lack of any wide-band data links or image processing capability within the LRE and navigation equipment at the LRE to provide the precision required for ground operations, take-off, and landing. The LRE, technical data, and documentation are UNCLASSIFIED. The EISS includes infrared/electro-optical, synthetic aperture radar imagery, ground moving target indicator and space to accommodate optional SIGINT, Maritime, datalink, and automatic identification system capabilities. The ground control element includes a mission control function and a launch and recovery capability.

c. The RQ-4 employs a quad-redundant Inertial Navigation System/Global Positioning System (INS/GPS) configuration. The system utilizes two different INS/GPS systems for greater redundancy. The system consists of two LN-251 units and two Kearfott KN-4074E INS/GPS Units. The LN-251 is a fully integrated, non-dithered navigation system with an embedded Selective Availability/Anti-Spoofing Module (SAASM), P(Y) code or Standard Positioning Service (SPS) GPS. It utilizes a Fiber-Optic Gyro (FOG) and includes three independent navigation solutions: blended INS/GPS, INS-only, and GPS-only. The Kearfott KN-4074E features a Monolithic Ring Laser Gyro (MRLG) and accelerometer. The inertial sensors are tightly coupled with an embedded SAASM P(Y) code GPS. Both systems employ cryptographic technology that can be classified up to SECRET.

2. If a technology advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. All defense articles and services listed in this transmittal have been

authorized for release and export to the Government of Japan.

[FR Doc. 2015-31264 Filed 12-10-15; 8:45 am]

BILLING CODE 5001-06-C

## DEPARTMENT OF EDUCATION

[Docket No. ED-2015-ICCD-0117]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Readmission for Servicemembers

**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 an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before January 11, 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-0117. 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:* Student Assistance General Provisions—Readmission for Servicemembers.

*OMB Control Number:* 1845-0095.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or Households, Private Sector, State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 5,460.

*Total Estimated Number of Annual Burden Hours:* 1,829.

*Abstract:* The Department of Education is requesting an extension of the current information collection. These regulations identify the requirements under which an institution must readmit servicemembers with the same academic status they held at the institutions when they last attended or where accepted for attendance. The regulations require institutions to charge readmitted servicemembers, for the first academic year of their return, the same institutions charges they were charged for the academic year during which they left the institution to fulfill a service requirement in the uniformed services.

Dated: December 7, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015-31190 Filed 12-10-15; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF EDUCATION

### Application for New Awards; National Professional Development Program

**AGENCY:** Office of English Language Acquisition, Department of Education.

**ACTION:** Notice.

*Overview Information:*  
National Professional Development Program.

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.365Z.

**DATES:** Applications Available: December 11, 2015.

*Deadline for Notice of Intent to Apply:* December 31, 2015.

*Deadline for Transmittal of Applications:* February 19, 2016.

*Deadline for Intergovernmental Review:* April 19, 2016.

### Full Text of Announcement

#### I. Funding Opportunity Description

*Purpose of Program:* The National Professional Development (NPD) program, authorized by section 3131 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), awards grants on a competitive basis, for a period of not more than five years, to institutions of higher education (IHEs), in consortia with State educational agencies (SEAs) or local educational agencies (LEAs). The purpose of these grants is to support professional development activities that will improve classroom instruction for English Learners (ELs) and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure for teachers who work in language instruction educational programs to serve ELs.

Grants awarded under this program may be used for one or more of the following—

(1) Pre-service professional development programs that will assist schools and IHEs to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

(2) The development of program curricula appropriate to the needs of the consortia participants involved; and

(3) In conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language

instruction educational programs or serve ELs.

*Background:*

Educator effectiveness is the most important in-school factor affecting student achievement and success.<sup>1</sup> The NPD program is a Federal grant program that offers professional development specifically for educators of ELs. Through its competitions, the NPD program intends to improve the academic achievement of ELs by supporting pre-service and in-service practices for teachers and other staff, including school leaders working with ELs.

Through previous competitions, the NPD program has funded a range of grantees that are currently implementing 115 projects across the country. As the EL population continues to grow, it has become increasingly important to identify and support practices implemented by educators of ELs that effectively improve student learning outcomes.

However, there are limited studies that provide evidence about how to best prepare and support educators of ELs in ways that will ultimately improve student learning and outcomes. The existing studies that the Department has identified typically do not meet the highest standards for rigor, and largely focus on professional development for in-service teachers; few focused on preparation for pre-service teachers.

Nonetheless, the body of evidence on effective language, literacy, and content instruction for ELs, including specific instructional practices for English language acquisition, is growing steadily, as documented by the 2014 What Works Clearinghouse (WWC) Practice Guide for teaching ELs, available at: <http://ies.ed.gov/ncee/wwc/PracticeGuide.aspx?sid=19>. To encourage the use of evidence to increase the effectiveness of projects funded by NPD, the Department has included a competitive preference priority for projects designed to improve academic outcomes for ELs using strategies supported by moderate evidence of effectiveness (as defined in this notice).

In addition, in order to grow the evidence available to inform the future activities of IHEs, SEAs, and LEAs to support ELs, NPD-funded projects are encouraged to use a portion of their budgets to conduct a rigorous evaluation of their projects that meets the WWC Standards with reservations. Such evaluations would help ensure that

projects funded under the NPD program are part of a learning agenda that expands the knowledge base on effective EL practices to ultimately enable all ELs to achieve postsecondary and career success.

For the FY 2016 NPD competition, the Department is particularly interested in supporting projects that improve parental, family, and community engagement. Literature suggests that educators who involve families in their children's education can strengthen their instructional effectiveness with ELs.<sup>2 3</sup> Providing professional development that enhances educators' abilities to build meaningful relationships with students' families may also support students' learning at home. Accordingly, this notice includes a competitive preference priority related to improving parent, family, and community engagement.

The Department is also interested in supporting dual language acquisition approaches that are effective in developing biliteracy skills. Evidence suggests that students who are biliterate have certain cognitive and social benefits compared to their monolingual peers. Further, recent research<sup>4</sup> suggests that despite initial lags, students in well-implemented dual language programs eventually perform equal to or better than their counterparts in English-only programs.

In addition, we recognize that linguistic and cultural diversity is an asset, and that dual language approaches may also enhance the preservation of heritage language and culture. These approaches may be particularly impactful for diverse populations of ELs, such as immigrant children and youth and Native American students.

Finally, we are interested in the development of the early learning workforce. In this competition, we encourage pre-service preparation for early learning educators so that they can successfully support ELs. And, because the foundational knowledge of developmental learning and language acquisition skills applies across all

levels of teaching ELs, including at the secondary level, we also encourage projects that will include this knowledge building for educators at all levels.

*Priorities:* This notice includes one absolute priority, two competitive preference priorities, and two invitational priorities. The absolute priority is from section 3131 of ESEA (20 U.S.C. 7801). Competitive Preference Priority 1 is from section 75.226 of EDGAR. Competitive Preference Priority 2 is from the Department's notice of final supplemental priorities and definitions (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425).

*Absolute Priority:* For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

*Providing Professional Development to Improve Instruction for English Learners.*

Under this priority we provide funding to projects that provide professional development activities that will improve classroom instruction for ELs and assist educational personnel working with ELs to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

*Competitive Preference Priorities:* For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award five additional points to applications that meet Competitive Preference Priority 1. We award up to an additional five points to applications that meet Competitive Preference Priority 2, depending on how well the application meets this priority. Applicants may address none, one, or both of the competitive preference priorities. An applicant must clearly identify in the project abstract and the project narrative section of its application the competitive preference priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points.

These priorities are:

*Competitive Preference Priority 1—Moderate Evidence of Effectiveness (0 or 5 points).*

<sup>1</sup> Calderón, M., Slavin, R., and Sánchez, M. (2011). Effective instruction for English learners. *Future of Children*, 21(1), 103–127.

<sup>2</sup> Chen, C., Kyle, D.W., and McIntyre, M. (2008). Helping teachers work effectively with English language learners and their families. *The School Community Journal*, 18 (1), 7–20.

<sup>3</sup> Waterman, R. and Harry, B. (2008). *Building Collaboration Between Schools and Parents of English Language Learners: Transcending Barriers, Creating Opportunities*. Tempe, AZ: National Center for Culturally Responsive Educational Systems.

<sup>4</sup> Valentino, R.A., and Reardon, S.F. (2015). Effectiveness of four instructional programs designed to serve English language learners: Variation by ethnicity and initial English proficiency. *Educational Evaluation and Policy Analysis*, doi: 10.3102/0162373715573310.

Projects that are supported by moderate evidence of effectiveness.

*Competitive Preference Priority 2—Improving Parent, Family, and Community Engagement (up to 5 points).*

Projects that are designed to improve student outcomes through one or more of the following:

(a) Developing and implementing Systemic Initiatives to improve Parent and Family Engagement by expanding and enhancing the skills, strategies, and knowledge (including techniques or use of technological tools needed to effectively communicate, advocate, support, and make informed decisions about the student's education) of parents and families.

(b) Providing professional development that enhances the skills and competencies of school or program leaders, principals, teachers, practitioners, or other administrative and support staff to build meaningful relationships with students' parents or families through Systemic Initiatives that may also support students' learning at home.

(c) Implementing initiatives that improve Community Engagement, the relationships between parents or families and school or program staff by cultivating Sustained Partnerships.

*Invitational Priorities:* For FY 2016 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

*Invitational Priority 1—Dual Language Approaches.*

We encourage applicants to propose projects to improve educator preparation and professional learning for dual language implementation models to support effective instruction for ELs. In particular, we encourage such approaches to take into account the unique needs of recently arrived limited English proficient students, immigrant children and youth, and Native American students, who are members of federally recognized Indian tribes.

*Invitational Priority 2—Supporting the Early Learning Workforce To Serve ELs.*

We encourage applicants to propose projects that improve the quality and effectiveness of the early learning workforce, including administrators, so that they have the necessary knowledge, skills, and abilities to improve ELs' cognitive, health, social-emotional, and

dual language development. Early learning programs are designed to improve early learning and development outcomes across one or more of the Essential Domains of School Readiness for children from birth through third grade (or for any age group within this range). Further, we encourage applicants to include in such projects these foundational professional learning domains for educators at all levels of teaching including secondary preparation.

*Definitions:* The following definitions are from 34 CFR 77.1, 34 CFR 200.6, the Supplemental Priorities, and sections 3301 and 9101 of the ESEA (20 U.S.C. 7801), and apply to the priorities and selection criteria in this notice. The source of each definition is noted in parentheses following the text of the definition.

*Ambitious* means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure. (34 CFR 77.1)

*Baseline* means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

*Community engagement* means the systematic inclusion of community organizations as partners with State educational agencies, local educational agencies, or other educational institutions, or their school or program staff to accomplish activities that may include developing a shared community vision, establishing a shared accountability agreement, participating in shared data-collection and analysis, or establishing community networks that are focused on shared community-level outcomes. These organizations may include faith- and community-based organizations, institutions of higher education (including minority-serving institutions eligible to receive aid under Title III or Title V of the Higher Education Act of 1965), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department. (Supplemental Priorities)

*English learner* means an individual who is limited English proficient (LEP), which, by statute, means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a Native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the State's proficient level of achievement on State assessments described in section 111(b)(3);

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society. (Section 9101 of the ESEA)

*Essential Domains of School Readiness* means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development. (Supplemental Priorities)

*Immigrant children and youth* means individuals who

(A) Are aged 3 through 21;

(B) Were not born in any State; and

(C) Have not been attending one or more schools in any one or more States for more than 3 full academic years. (Section 3301 of the ESEA)

*Language instruction educational program* means an instruction course—

(A) In which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards, as required by section 1111(b)(1); and

(B) That may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is



designed to enable all participating children to become proficient in English and a second language. (Section 3301 of the ESEA)

*Large sample* means an analytic sample of 350 or more students (or other single analysis units), or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units). (34 CFR 77.1)

*Logic model* (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally. (34 CFR 77.1.)

*Moderate evidence of effectiveness* means one of the following conditions is met:

(A) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(B) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample. (34 CFR 77.1)

*Multi-site sample* means more than one site, where site can be defined as an LEA, locality, or State. (34 CFR 77.1)

*Parent and family engagement* means the systematic inclusion of parents and families, working in partnership with SEAs, State lead agencies (under Part C of the Individuals with Disabilities Education Act (IDEA) or the State’s Race

to the Top-Early Learning Challenge grant), LEAs, or other educational institutions, or their staff, in their child’s education, which may include strengthening the ability of (A) parents and families to support their child’s education; and (B) school or program staff to work with parents and families. (Supplemental Priorities)

*Recently arrived limited English proficient student* is a student with limited English proficiency who has attended schools in the United States for less than twelve months. The phrase “schools in the United States” includes only schools in the 50 States and the District of Columbia. (34 CFR 200.6(b)(4)(iv))

*Relevant outcome* means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program. (34 CFR 77.1)

*Strong theory* means a rationale for the proposed process, product, strategy, or practice that includes a logic model (as defined in this notice). (34 CFR 77.1)

*Note:* Applicants may use resources such as the Pacific Education Laboratory’s Education Logic Model Application (<http://relpacific.mcrel.org/resources/elm-app>) to help design their logic models.

*Student achievement* means—  
For grades and subjects in which assessments are required under section 1111(b)(3) of the ESEA: (1) A student’s score on such assessments; and, as appropriate (2) other measures of student learning, such as those described in the subsequent paragraph, provided that they are rigorous and comparable across schools within an LEA.

For grades and subjects in which assessments are not required under section 1111(b)(3) of the ESEA: (1) Alternative measures of student learning and performance, such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; (2) student learning objectives; (3) student performance on English language proficiency assessments; and (4) other measures of student achievement that are rigorous and comparable across schools within an LEA. (Supplemental Priorities)

*Sustained partnership* means a relationship that has demonstrably adequate resources and other support to continue beyond the funding period and that consist of community organizations as partners with an LEA and one or more of its schools. These organizations may include faith- and community-based organizations, IHEs (including

minority-serving institutions eligible to receive aid under title III or title V of the Higher Education Act of 1965), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department. (Supplemental Priorities)

*Systemic initiative* means a policy, program, or activity that includes Parent and Family Engagement as a core component and is designed to meet critical educational goals, such as school readiness, Student Achievement, and school turnaround. (Supplemental Priorities)

*What Works Clearinghouse Evidence Standards* means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>. (34 CFR 77.1)

*Applicable Regulations:* (a) EDGAR in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The Supplemental Priorities.

*Note:* The regulations in 34 CFR part 86 apply to IHEs only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* \$23,850,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 or later years from the list of unfunded applicants from this competition.

*Estimated Range of Awards:* \$350,000–550,000.

*Estimated Average Size of Awards:* \$450,000.

*Estimated Number of Awards:* 53.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* 60 months.

## III. Eligibility Information

1. *Eligible Applicants:* Entities eligible to apply for NPD grants are IHEs in consortia with LEAs or SEAs.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

#### IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: [www.ed.gov/fund/grant/apply/grantapps/index.html](http://www.ed.gov/fund/grant/apply/grantapps/index.html). To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1-877-433-7827. FAX: (703) 605-6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1-877-576-7734.

You can contact ED Pubs at its Web site, also: [www.EDPubs.gov](http://www.EDPubs.gov) or at its email address: [edpubs@inet.ed.gov](mailto:edpubs@inet.ed.gov).

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA 84.365Z.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person listed under *Accessible Format* in section VIII of this notice.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Deadline for Notice of Intent to Apply: December 31, 2015.

We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit an application by emailing [NPD2016@ed.gov](mailto:NPD2016@ed.gov) with the subject line "Intent to Apply" and include in the content of the email the following information: (1) The applicant organization's name and address, and (2) any competitive preference priority or priorities and invitational priority or priorities the applicant is addressing in the application. Applicants that do not provide notice of their intent to apply may still submit an application.

*Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants must limit

the application narrative to no more than 35 pages. Applicants are also strongly encouraged not to include lengthy appendices that contain information that they were unable to include within the page limits for the narrative.

Applicants must use the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit for the application does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the bibliography, or the letters of support of the application. However, the page limit does apply to all of the application narrative section [Part III] of the application.

We will reject your application if you exceed the page limit or if you apply other standards and exceed the equivalent of the page limit.

#### b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the NPD program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Consistent with the process followed in the prior NPD competitions, we may post the project narrative section of funded NPD applications on the Department's Web site so you may wish to request confidentiality of business information. Identifying proprietary information in the submitted application will help facilitate this public disclosure process.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers

on which we can find this information. For additional information please see 34 CFR 5.11(c).

#### 3. *Submission Dates and Times:*

Deadline for Notice of Intent to Apply: December 31, 2015. Informational Meetings: The NPD program intends to hold Webinars designed to provide technical assistance to interested applicants. Detailed information regarding these meetings will be provided on the NPD Web site at <http://www2.ed.gov/programs/nfndp/applicant.html>. Deadline for Transmittal of Applications: February 19, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov application site. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: April 19, 2016.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

#### 6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:*

To do business with the Department of Education, you must—

- a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);
- b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the

Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: <http://fedgov.dnb.com/webform>. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you entered into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

**Note:** Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at [www.SAM.gov](http://www.SAM.gov). To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: [www2.ed.gov/fund/grant/apply/sam-faqs.html](http://www2.ed.gov/fund/grant/apply/sam-faqs.html).

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: [www.grants.gov/web/grants/register.html](http://www.grants.gov/web/grants/register.html).

#### 7. Other Submission Requirements:

Applications for grants for the NPD program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

#### a. *Electronic Submission of Applications.*

Applications for grants under the NPD program, CFDA number 84.365Z, must be submitted electronically using the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the NPD program at [www.Grants.gov](http://www.Grants.gov). You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.365, not 84.365Z).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at [www.G5.gov](http://www.G5.gov). In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: [www.grants.gov/web/grants/applicants/apply-for-grants.html](http://www.grants.gov/web/grants/applicants/apply-for-grants.html).

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file (e.g., Word, Excel, WordPerfect, etc.). If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.

- Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1-800-518-4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

*Note:* The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
  - You do not have the capacity to upload large documents to the Grants.gov system;
- and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Patrice Swann, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C144, Washington, DC 20202-6510. FAX: (202) 260-5496.

Your paper application must be submitted in accordance with the mail

or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,  
Application Control Center,  
Attention: (CFDA Number 84.365Z)  
LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,  
Application Control Center,  
Attention: (CFDA Number 84.365Z)  
550 12th Street SW., Room 7039,  
Potomac Center Plaza, Washington,  
DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from section 75.210 of EDGAR. The maximum score for all of these criteria is 100 points (not including competitive preference priority points). The maximum score for each criterion is indicated in parentheses.

(a) *Quality of the project design.* (up to 45 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replications of project activities or strategies including information about the effectiveness of the approach or strategies employed by the project.

(3) The extent to which the proposed project is supported by strong theory (as defined in this notice).

(b) *Quality of project personnel.* (up to 10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

The qualifications, including relevant training and experience, of the project director or principal investigator.

(c) *Quality of the management plan.* (up to 25 points)

The Secretary considers the quality of the management plan for the proposed

project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitment of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(d) *Quality of the project evaluation.* (up to 20 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards with reservations.

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

**Note:** The following are technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: <http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1>; and (2) IES/NCEE Technical Methods papers: [http://ies.ed.gov/ncee/tech\\_methods](http://ies.ed.gov/ncee/tech_methods).

In addition, we invite applicants to view two Webinar recordings that were hosted by the Institute of Education Sciences. The first Webinar addresses strategies for designing and executing well-designed quasi-experimental design studies. This Webinar is available at: <http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=23>. The second Webinar focuses on more rigorous evaluation designees, including strategies for designing and executing randomized controlled trials. This Webinar is available at: <http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=18>.

2. *Review and Selection Process:* The Department will screen applications that are submitted for NPD grants in accordance with the requirements in this notice and determine which applications meet the eligibility and other requirements. Peer reviewers will review all eligible applications for NPD

grants that are submitted by the established deadline.

Applicants should note, however, that we may screen for eligibility at multiple points during the competition process, including before and after peer review; applicants that are determined to be ineligible will not receive a grant award regardless of peer reviewer scores or comments. If we determine that an NPD grant application does not meet an NPD requirement, the application will not be considered for funding.

For NPD grant applications, the Department intends to conduct a two-part review process to review and score all eligible applications. Content reviewers will review and score all eligible applications on the following three selection criteria: (a) Quality of the project design; (b) Quality of project personnel; and (c) Quality of the management plan. These reviewers will also review and score the second competitive preference priority. Peer reviewers with evaluation expertise will review and score the selection criteria under (d) Quality of the project evaluation.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Transparency and Open Government Policy:* After awards are made under this competition, all of the submitted successful applications, together with reviewer scores and comments, will be posted on the Department's Web site.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/appforms.html>.

(c) The Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance and Results Act (GPRA), Federal departments and agencies must clearly describe the goals and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress

made, and regularly report on achievement. One important source of program information on successes and lessons learned is the project evaluation conducted under individual grants.

(a) *Measures.* The Department has developed the following GPRA performance measures for evaluating the overall effectiveness of the NPD program:

Measure 1: The number and percentage of program participants who complete the preservice program. Completion is defined by the applicant in the submitted application.

Measure 2: The number and percentage of program participants who complete the inservice program. Completion is defined by the applicant in the submitted application.

Measure 3: The number and percentage of program completers, as defined by the applicant under measures 1 and 2, who are State certified, licensed, or endorsed in EL instruction.

Measure 4: The percentage of program completers who rate the program as effective in preparing them to serve EL students.

Measure 5: The percentage of school leaders, other educators, and employers of program completers who rated the program as effective in preparing their teachers, or other educators, to serve ELs or improve their abilities to serve ELs effectively.

Measure 6: For projects that received competitive preference points for Competitive Priority 2, the percentage of program completers who rated the program as effective, as defined by the grantees, in increasing their knowledge and skills related to parent, family, and community engagement.

(b) *Baseline data.* Applicants must provide baseline data (as defined in this notice) for each of the project performance measures listed in (a) and explain how each proposed baseline data is related to program outcomes; or, if the applicant has determined that there are no established baseline data for a particular performance measure, explain why there is no established baseline and explain how and when, during the project period, the applicant will establish a baseline for the performance measure.

(c) *Performance measure targets.* In addition, the applicant must propose in its application annual targets for the measures listed in paragraph (a). Applications must also include the following information as directed under 34 CFR 75.110(b):

(1) Why each proposed performance target is ambitious (as defined in this

notice) yet achievable compared to the baseline for the performance measure.

(2) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(3) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

**Note:** If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

(d) *Performance Reports.* All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures. The Department will consider this data in making annual continuation awards.

(e) *Department Evaluations.* Consistent with 34 CFR 75.591, grantees funded under this program shall comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Samuel Lopez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C152, Washington, DC 20202. Telephone: (202) 401-4300. FAX: (202) 205-1229 or by email at [NPD2016@ed.gov](mailto:NPD2016@ed.gov).

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1-800-877-8339.

### VIII. Other Information

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

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

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

Dated: December 8, 2015.

**Libia S. Gil,**

*Assistant Deputy Secretary and Director for the Office of English Language Acquisition.*

[FR Doc. 2015-31290 Filed 12-10-15; 8:45 am]

**BILLING CODE 4000-01-P**

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Proposed Agency Information Collection

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Office of Vehicle Technologies, U.S. Department of Energy (DOE).

**ACTION:** Submission for Office of Management and Budget (OMB) review; comment request.

**SUMMARY:** The Department of Energy has submitted to the OMB for clearance, a proposal to extend for three years a collection of information pursuant to the Paperwork Reduction Act of 1995. The approved collection is being used for two Clean Cities programmatic efforts. The first is related to a scorecard that assists DOE's Clean Cities coalitions and stakeholders in assessing the level of readiness of their communities for plug-in electric vehicles (PEV). The second effort is intended to develop

information that enables DOE to measure the impact and progress of DOE's National Clean Fleets Partnership (Partnership). DOE is not proposing to expand the scope of these information collection efforts.

**DATES:** Comments regarding this proposed information collection must be received on or before January 11, 2016. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

**ADDRESSES:** Written comments should be sent to:

Desk Officer for the Department of Energy, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503. And to Mr. Dennis Smith, Office of Energy Efficiency and Renewable Energy (EE-3V), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0121, or by fax at 202-586-1600, or by email at [Dennis.Smith@ee.doe.gov](mailto:Dennis.Smith@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Dennis Smith at the address listed above in **ADDRESSES**.

**SUPPLEMENTARY INFORMATION:** The approved collection is being used for two Clean Cities programmatic efforts. The first is related to a scorecard that assists DOE's Clean Cities coalitions and stakeholders in assessing the level of readiness of their communities for plug-in electric vehicles (PEV). The second effort is intended to develop information that enables DOE to measure the impact and progress of DOE's National Clean Fleets Partnership (Partnership). DOE is not proposing to expand the scope of these information collection efforts.

This information collection request contains: (1) *OMB No.:* 1910-5171; (2) *Information Collection Request Title:* Clean Cities Vehicle Programs; (3) *Type of Review:* renewal; (4) *Purpose:* DOE's Clean Cities initiative has developed two voluntary mechanisms by which communities and certain fleets can get a better understanding of their readiness to deploy alternative fuel vehicles and their progress in doing so. The voluntary PEV Scorecard is intended to assist its coalitions and stakeholders in assessing the level of readiness of their communities for plug-in electric vehicles. The principal objective of the scorecard is to provide respondents with an objective assessment and estimate of their respective community's readiness for PEV deployment as well as understand the respective community's commitment to deploying these vehicles

successfully. DOE intends the scorecard to be completed by a city/county/regional sustainability or energy coordinator. As the intended respondent may not be aware of every aspect of local or regional PEV readiness, coordination among local stakeholders to gather appropriate information may be necessary.

DOE expects a total respondent population of approximately 1,250 respondents. Selecting the multiple choice answers in completing a scorecard questionnaire is expected to take under 30 minutes, although additional time of no more than 20 hours may be needed to assemble information necessary to be able to answer the questions, leading to a total burden of approximately 25,625 hours. Assembling information to update questionnaire answers in the future on a voluntary basis would be expected to take less time, on the order of 10 hours, as much of any necessary time and effort needed to research information would have been completed previously.

For the Clean Fleets Partnership information collection, the Partnership is targeted at large, private-sector fleets that own or have contractual control over at least 50 percent of their vehicles and have vehicles operating in multiple States. DOE expects approximately 50 fleets to participate in the Partnership and, as a result, DOE expects a total respondent population of approximately 50 respondents. Providing initial baseline information for each participating fleet, which occurs only once, is expected to take 60 minutes. Follow-up questions and clarifications for the purpose of ensuring accurate analyses are expected to take up to 90 minutes. The total burden is expected to be 125 hours.

The combined burden for the two information collections is 25,750 hours.

(5) *Type of Respondents:* Public; (6) *Annual Estimated Number of Respondents for both information collections:* 1,300; (7) *Annual Estimated Number of Total Responses:* 1,300; (7) *Annual Estimated Number of Burden Hours:* 25,750 (25,625 for PEV Scorecard, and 125 for Clean Fleets Partnership); and (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* There is no cost associated with reporting and recordkeeping.

**Statutory Authority:** 42 U.S.C. 13233; 42 U.S.C. 13252 (a)-(b); 42 U.S.C. 13255.

Issued in Washington, DC on: December 4, 2015.

**David Howell,**

*Acting Director, Vehicle Technologies Office, Energy Efficiency and Renewable Energy.*

[FR Doc. 2015-31257 Filed 12-10-15; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Proposed Agency Information Collection

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The proposed collection in support of the DOE's Small Business Vouchers (SBV) pilot will gather quantitative estimates of the pilot's impacts as well as capture implementation lessons learned. The information is needed to assess the impacts of the SBV Pilot, documenting that the investment is producing the expected results, and to determine ways to improve the pilot should it be expanded in scope.

The SBV Pilot is a funding mechanism structured to allow small businesses engaged in the renewable energy and energy efficiency sectors to collaborate with researchers at the DOE National Laboratories and to take advantage of the resources at the Labs that assist small businesses in proceeding through commercialization challenges. Respondents will include small businesses participating in the pilot as well a comparison group of businesses with Cooperative Research and Development Agreements (CRADA) outside of the SBV Pilot.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments regarding this proposed information collection must be received on or before February 9, 2016. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

**ADDRESSES:** Written comments may be emailed to: *Jeff.Dowd@ee.doe.gov* or mailed to Jeff Dowd, U.S. Department of Energy, EE-61P, 1000 Independence Ave. SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be emailed to: *Jeff.Dowd@ee.doe.gov*. Requests may also be mailed to Jeff Dowd, U.S. Department of Energy, EE-61P, 1000 Independence Ave. SW., Washington, DC 20585. Calls may be directed to Jeff Dowd at (202) 586-7258.

**SUPPLEMENTARY INFORMATION:** This information collection request contains: (1) OMB No. "New"; (2) Information Collection Request Title: Web-survey of Participating and Nonparticipating Small Businesses for DOE's Small Business Vouchers Pilot (3) Type of Request: New; (4) Purpose: To evaluate the effectiveness and impacts of DOE's Small Business Vouchers (SBV) pilot program, to capture lessons learned, and make recommendations; the information collection will be through a web based survey, allowing participating SBV firms and the comparison firms to answer questions at a time most convenient for them. The web survey will consist of two full-length surveys, conducted once after the first year of vouchers has been completed and once five years after the pilot began, and three abbreviated surveys in the interim years (years two, three and four). The first full-length survey (30 minutes in length for about 70 SBV participants and about 70 comparison firms) will stress questions about the application, selection, work agreement and completion processes and also ask about commercialization progress and other outcomes. The survey in year five (30 minutes in length) will ask about 300 firms participating in SBV from Years 1-4 and about 100 comparison firms about interest in continuing to engage with the national Laboratories, but concentrate on commercialization and other outcomes and how much the DOE program contributed to the outcomes. The abbreviated, interim-year surveys will be 15 minutes in length and will provide status updates on SBV pilot

impacts such as commercialization and other outcomes. The purpose of also surveying small business firms that have completed similar work through the existing CRADA process is to investigate similarities and differences in the two small business engagement programs. The data collected in the year five survey will also be used to perform a benefit-cost calculation and benchmark comparison of voucher firms to firms in the DOE Small Business Innovation Research (SBIR) program, based on existing SBIR data. (5) Annual Estimated Number of Respondents Year 1 Survey: 140; Year 5 Survey: 400; Year 2, 3 and 4 Survey: 300. (6) Annual Estimated Number of Total Responses: Year 1 Survey: 140; Year 5 Survey: 400; Year 2, 3 and 4 Survey: 300 (7) Annual Estimated Number of Burden Hours (Total): Year 1 Survey: 70; Year 5 Survey: 200; Year 2, 3 and 4 Survey: 75 (8) Annual Estimated Reporting and Recordkeeping Cost Burden: Year 1 Survey: \$0; Year 5 Survey: \$0; Year 2, 3 and 4 Survey: \$0.

**Statutory Authority:** DOE Org Act (42 U.S.C. 7101, *et seq.*) and 42 U.S.C. 16191 (AMO authority).

Issued in Washington, DC.

**Joyce Yang,**

*EERE National Laboratory Impact Director, Office of Energy Efficiency and Renewable Energy, Department of Energy.*

[FR Doc. 2015-31259 Filed 12-10-15; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL00-95-288]

#### San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchanges; Notice of Compliance Filing

Take notice that on December 4, 2015, Exelon Generation Company, LLC, submitted its Opinion No. 536 Fuel Cost Allowance Compliance Filing.<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

<sup>1</sup> See *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange*, Docket No. EL00-95-280 *et al.*, 153 FERC ¶ 61,144 (2015).



Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](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 28, 2015.

Dated: December 7, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31215 Filed 12-10-15; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC16-31-000.

*Applicants:* Slate Creek Wind Project, LLC.

*Description:* Clarification to November 9, 2015 Application for Authorization under Section 203 of the FPA of Slate Creek Wind Project, LLC.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5287.

*Comments Due:* 5 p.m. ET 12/14/15.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG16-28-000.

*Applicants:* Javelina Interconnection, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Javelina Interconnection, LLC.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5121.

*Comments Due:* 5 p.m. ET 12/28/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15-2423-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Report Filing: 1890R4 Westar Energy, Inc. Refund Report to be effective N/A.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5095.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER15-2433-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Report Filing: 1897R4 Westar Energy, Inc. Refund Report to be effective N/A.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5101.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER15-2498-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Report Filing: 2491R3 Westar Energy, Inc. Refund Report to be effective N/A.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5093.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER15-2507-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Report Filing: 1976R4 Kaw Valley Electric Cooperative Inc. Refund Report to be effective N/A.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5099.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER15-2520-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Report Filing: 2041R4 Kansas City Board of Public Utilities Refund Report to be effective N/A.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5097.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER15-2679-000.

*Applicants:* Latigo Wind Park, LLC.  
*Description:* Amendment to September 21, 2015 and October 22, 2015 Latigo Wind Park, LLC tariff filings.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5301.

*Comments Due:* 5 p.m. ET 12/14/15.

*Docket Numbers:* ER16-81-001.

*Applicants:* Huntley Power LLC.

*Description:* Tariff Amendment: Amendment to the Application for Reliability Must Run Service to be effective 3/1/2016.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5183.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-454-000.

*Applicants:* Seward Generation, LLC.  
*Description:* Errata to December 3, 2015 Seward Generation, LLC tariff filing.

*Filed Date:* 12/3/15.

*Accession Number:* 20151203-5220.

*Comments Due:* 5 p.m. ET 12/24/15.

*Docket Numbers:* ER16-472-000.

*Applicants:* Midcontinent

Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2015-12-07\_SA 2866 Northern States Power Company-NWEC T-TIA to be effective 1/1/2016.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5098.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-473-000.

*Applicants:* Midcontinent Independent System Operator, Inc., Great River Energy.

*Description:* § 205(d) Rate Filing: 2015-12-07\_GRE-Amended JPZ RS 28 to be effective 1/1/2016.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5132.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-474-000.

*Applicants:* Central Antelope Dry Ranch C LLC.

*Description:* Baseline eTariff Filing: Central Antelope Dry Ranch C LLC MBR Tariff to be effective 2/1/2016.

*Filed Date:* 12/7/15.

*Accession Number:* 20151207-5167.

*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 7, 2015.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2015-31212 Filed 12-10-15; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP16-21-000; Docket No. PF14-22-000]

#### Tennessee Gas Pipeline Company, L.L.C.; Notice of Application

Take notice that on November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission (Commission) seeking authority to (i) construct, install, modify, and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut, and (ii) to abandon certain facilities, as part of the Northeast Energy Direct Project (NED Project), as described in more detail below.

Tennessee proposes to provide up to 1.3 billion cubic feet per day (Bcf/d) of firm capacity at a cost of approximately \$5.2 billion dollars, all as more fully set forth in the application. The filing 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. 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, please 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.

Specifically, the NED Project includes two components: (1) The Supply Path Component, which is comprised of facilities from Troy, Pennsylvania, to Wright, New York (Supply Path Component), and (2) the Market Path Component, which is comprised of facilities from Wright, New York, to Dracut, Massachusetts (Market Path Component). The Supply Path Component facilities include: (i) Approximately 174 miles of pipeline facilities in Pennsylvania and New York of which approximately 41 miles will be

looped, (ii) three new compressor stations totaling 153,500 horsepower (hp), (iii) modifications to one existing compressor station, (iv) two new meter stations, and (v) various appurtenant facilities. The Market Path Component facilities include: (i) Approximately 188 miles of mainline pipeline facilities in New York, Massachusetts, and New Hampshire, (ii) approximately 58 miles of lateral and pipeline looping, including a total of five delivery laterals in Massachusetts and New Hampshire, one pipeline loop in Connecticut, (iii) six new compressor stations totaling 207,600 hp, (iv) construction of 13 new meter stations, (v) modification of 14 existing meter stations, and (vi) various appurtenant facilities.

Any questions regarding the proposed project should be directed to Jacquelyne M. Rocan, Assistant General Counsel, at Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002 or at (713) 420-4544 (phone), or (713) 420-1601 (facsimile), or email: [Jacquelyne\\_Rocan@kindermorgan.com](mailto:Jacquelyne_Rocan@kindermorgan.com), or Shannon M. Miller, Regulatory Affairs, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, or at (713) 420-4038 (phone), or (713) 420-1605 (facsimile), or email: [shannon\\_miller@kindermorgan.com](mailto:shannon_miller@kindermorgan.com).

On October 2, 2014, Commission staff granted Tennessee's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF14-22-000 to staff activities involving the project. Now, as of the filing of this application on November 20, 2015, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP16-21-000 as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) for this proposal. The issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS.

There are two ways to become involved in the Commission's review of

this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at

<http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

*Comment Date:* January 6, 2016.

Dated: December 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015-31213 Filed 12-10-15; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP16-22-000; PF15-10-000; CP16-23-000; PF15-11-000; CP16-24-000]

#### **NEXUS Gas Transmission, LLC; Texas Eastern Transmission, LP; DTE Gas Company; Notice of Applications**

Take notice that on November 20, 2015, NEXUS Gas Transmission, LLC (NEXUS), 5400 Westheimer Court, Houston, Texas 77056, filed in Docket No. CP16-22-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization: (i) To construct approximately 255.9 miles of new, 36-inch-diameter interstate pipeline in Ohio and Michigan; (ii) to construct four compressor stations, totaling 130,000 horsepower (HP); (iii) to construct various appurtenances (collectively, the NEXUS Project); (iv) of its proposed *pro forma* tariff; (v) for a Part 157, Subpart F construction certificate; (vi) for a Part 284, Subpart G blanket certificate; and (vii) for any waivers the Commission deems necessary for the NEXUS Project. NEXUS states that the proposed pipeline will have a capacity of 1.5 million dekatherms per day (Dth/d) and estimates the cost of the NEXUS Project to be approximately \$2,095,267,444.

Additionally, on November 20, 2015, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056, filed in Docket No. CP16-23-000 an application pursuant to sections 7(b) and 7(c) of the NGA for authorization: (i) To construct approximately 4.4 miles of 36-inch-diameter pipeline loop in Monroe County, Ohio; (ii) to construct 1,790 feet of connecting pipeline to the NEXUS Project in Columbiana County, Ohio; (iii) to construct a new 18,800 HP compressor station in Columbiana County, Ohio; (iv) to construct a new 9,400 HP compressor unit at its existing Colerain Compressor Station in Belmont County, Ohio; (v) to modify Line 73 to

allow for bi-directional flow; (vi) to construct various appurtenances (collectively, the TEAL Project); (vii) to abandon by lease to NEXUS 950,155 Dth/d; and (viii) for any waivers the Commission deems necessary for the TEAL Project. Texas Eastern estimates the cost of the TEAL Project to be approximately \$183,519,668.

These applications will be reviewed contemporaneously with the application for an operating lease filed by DTE Gas Company in Docket No. CP16-24-000 on November 24, 2015.

All of the applications are on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (888) 208-3676 or TYY, (202) 502-8659.

Any questions concerning the application in Docket No. CP16-22-000 may be directed to Berk Donaldson or Leanne Sidorkewicz, NEXUS Gas Transmission LLC, 5400 Westheimer Court, Houston, Texas 77056, by telephone at (713) 627-4488, or by email at [bdonaldson@spectraenergy.com](mailto:bdonaldson@spectraenergy.com) or [lsidorkewicz@spectraenergy.com](mailto:lsidorkewicz@spectraenergy.com).

Any questions concerning the application in Docket No. CP16-23-000 may be directed to Berk Donaldson, General Manager, Rates and Certificates, Texas Eastern Transmission, LP, PO Box 1642, Houston, Texas 77251-1642, by telephone at (713) 624-4488, or by facsimile at (713) 627-5947.

On December 30, 2014, the Commission staff granted NEXUS' request to utilize the Pre-Filing Process and assigned Docket No. PF15-10-000 to staff's activities involved in the NEXUS Project. Now, as of the November 20, 2015 application, the Pre-Filing Process for the NEXUS Project has ended. From this time forward, this proceeding will be conducted in Docket No. CP16-22-000, as noted in the caption of this Notice.

On January 16, 2015, the Commission staff granted Texas Eastern's request to utilize the Pre-Filing Process and assigned Docket No. PF15-11-000 to staff's activities involved in the TEAL Project. Now, as of the November 20, 2015 application, the Pre-Filing Process for the TEAL Project has ended. From this time forward, this proceeding will be conducted in Docket No. CP16-23-

000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) for this proposal. The issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and

two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

*Comment Date:* 5:00 p.m. Eastern Time on December 28, 2015.

Dated: December 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015-31214 Filed 12-10-15; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC15-210-000.  
*Applicants:* Dominion Solar Projects A, Inc., Dominion Solar Projects I, Inc.  
*Description:* Second Clarification to September 24, 2015 Application for Authorization Under Section 203 of the Federal Power Act of Dominion Solar Projects A, Inc., *et al.*  
*Filed Date:* 12/4/15.  
*Accession Number:* 20151204-5299.  
*Comments Due:* 5 p.m. ET 12/14/15.  
*Docket Numbers:* EC16-21-000.  
*Applicants:* Sandstone Solar LLC.  
*Description:* Clarification to October 29, 2015 Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of Sandstone Solar LLC.  
*Filed Date:* 12/3/15.

*Accession Number:* 20151203-5147.  
*Comments Due:* 5 p.m. ET 12/14/15.

*Docket Numbers:* EC16-46-000.

*Applicants:* Bicent (California)

Malburg LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Bicent (California) Malburg LLC.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5293.

*Comments Due:* 5 p.m. ET 12/28/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16-468-000.

*Applicants:* FTS Master Tenant 1, LLC.

*Description:* Baseline eTariff Filing; FTS Master Tenant 1 LLC MBR Tariff to be effective 2/1/2016.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5249.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-469-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing; 2015-12-04 Order 1000 CTDS Variance Analysis Filing to be effective 2/2/2016.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5257.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-470-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing; 2015-12-04 Order 1000 (TOA) CTDS Variance Analysis Filing to be effective 2/2/2016.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5259.

*Comments Due:* 5 p.m. ET 12/28/15.

*Docket Numbers:* ER16-471-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Notice of Termination of the Generator Interconnection Agreement designated as Project No. G359 of Midcontinent Independent System Operator, Inc.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5286.

*Comments Due:* 5 p.m. ET 12/28/15.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA08-14-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance Filing of Midcontinent Independent System Operator, Inc.

*Filed Date:* 12/4/15.

*Accession Number:* 20151204-5292.

*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 7, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015-31211 Filed 12-10-15; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2014-0535; FRL 9939-94-OAR]

### California State Nonroad Engine Pollution Control Standards; Small Off-Road Engines Regulations; Tier 4 Off-Road Compression-Ignition Regulations; Exhaust Emission Certification Test Fuel for Off-Road Spark-Ignition Engines, Equipment, and Vehicles Regulations; Notice of Decision

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Decision.

**SUMMARY:** The Environmental Protection Agency (EPA) is confirming that the California Air Resources Board's (CARB's) 2011 amendments to its Small Off-Road Engines (SORE) regulations (2011 SORE amendments), Tier 4 Off-Road Compression-Ignition (CI) regulations (2011 Tier 4 amendments), and Exhaust Emission Certification Test Fuel for Off-Road Spark-Ignition (SI) Engines, Equipment, and Vehicles regulations (2011 Certification Test Fuel amendments) are within the scope of previous EPA authorizations. The 2011 SORE amendments modify California's existing SORE test procedures by aligning California procedures to be consistent with recent amendments by EPA to the federal certification and exhaust emission testing requirements.

The 2011 Tier 4 amendments enhance the harmonization of CARB's exhaust emission requirements for new off-road CI engines with the corresponding federal emissions requirements for nonroad CI engines. The 2011 Certification Test Fuel amendments modify the certification test fuel requirements for off-road spark ignition, gasoline-fueled engines to allow the use of 10-percent ethanol-blend gasoline (E10) as a certification fuel. This decision is issued under the authority of the Clean Air Act ("CAA" or "Act").

**DATES:** Petitions for review must be filed by February 9, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID EPA-HQ-OAR-2014-0535. 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-2014-0535 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:** Brenton Williams, Attorney-Advisor, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214-4341. Fax: (734) 214-4053. Email: [williams.brent@epa.gov](mailto:williams.brent@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. 2011 SORE Amendments*

CARB includes within its SORE regulations small off-road engines and equipment<sup>1</sup> rated at or below 19 kilowatts (kW) (25 horsepower (hp)). The vast majority of engines covered by the SORE regulations are SI engines that are used to power a broad range of equipment, including lawn mowers, leaf blowers, generators, and small industrial equipment. Exhaust and evaporative emissions from these engines are a significant source of hydrocarbons and oxides of nitrogen, pollutants that contribute to smog problems in California.

CARB first adopted standards and test procedures applicable to SORE in 1992. In 1993, CARB amended these regulations to delay their implementation until 1995. EPA authorized these initial SORE regulations in 1995.<sup>2</sup> California subsequently amended its regulations in 1994, 1995, and 1996 to clarify certification and implementation procedures, exempt military tactical equipment, and relax emissions standards for certain engines. EPA confirmed these three amendment packages as within the scope of previous authorizations in 2000.<sup>3</sup>

In 1998, CARB amended the SORE regulation to apply to all engines rated less than 19 kW used in off-road applications. The 1998 amendments also revised the regulations to be based on engine displacement instead of whether the engine is used in a handheld or non-handheld application, delayed implementation of certain portions of the standards, and adopted new emission standards for new engines under 19 kW. EPA confirmed these amendments to be within the scope of previous authorizations in 2000.<sup>4</sup>

In 2004, CARB amended its off-road CI regulations to match federal

standards and exhaust emissions standards, and adopted evaporative emissions standards for small off-road SI engines rated at or below 19 kW. EPA granted a full authorization for these amendments in 2006.<sup>5</sup> CARB adopted additional SORE amendments in 2008 which modified the emission credits program to provide manufacturers with additional flexibility and permitted the use of certification fuels with up to ten volume percent ethanol content, provided that the same fuel is used for certification with the EPA. EPA found these amendments to be within the scope of previous authorizations in 2015.<sup>6</sup>

*B. 2011 Tier 4 Amendments*

The second element of CARB's request is amendments to its nonroad regulations that include CI engines used in tractors, excavators, dozers, scrapers, portable generators, transport refrigeration units, irrigation pumps, welders, compressors, scrubbers, and sweepers.<sup>7</sup> In 1992, CARB approved a regulation to control exhaust emissions from heavy-duty off-road CI engines 175 hp and above.<sup>8</sup> EPA granted authorization in 1995.<sup>9</sup> In 2000 CARB harmonized California's emission standards and test procedures to federal standards that EPA promulgated in 1998 for the same nonroad CI engine categories (Tier 1 through Tier 3).<sup>10</sup> In 2004-2005 CARB generally harmonized California's Tier 4 standards to the federal Tier 4 standards for these same off-road CI engines that EPA adopted in 2004.<sup>11</sup> EPA confirmed that the 2000 amendments to the smallest category of engines (less than 19 kW) were within the scope of previous authorizations.<sup>12</sup> EPA granted full authorizations for the 2004-2005 amendments as they affected new off-road CI engines less than 19 kW, and for the 2000 and 2004-2005 amendments as they affected new off-road CI engines for the other two power categories (19 kW-130 kW and greater than 130 kW).<sup>13</sup>

*C. 2011 Certification Test Fuel Amendments*

The third element of CARB's request is amendments to its Exhaust Emission Certification Test Fuel for Off-Road SI

<sup>5</sup> 71 FR 75536 (December 15, 2006).

<sup>6</sup> 80 FR 26041 (May 6, 2015).

<sup>7</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 4.

<sup>8</sup> *Id.*

<sup>9</sup> 60 FR 37440 (July 5, 1995).

<sup>10</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 5.

<sup>11</sup> *Id.*

<sup>12</sup> 75 FR 8056 (February 23, 2010).

<sup>13</sup> *Id.*

<sup>1</sup> The federal term "nonroad" and the California term "off-road" are used interchangeably.

<sup>2</sup> 60 FR 37440 (July 20, 1995).

<sup>3</sup> 65 FR 69763 (November 20, 2000).

<sup>4</sup> *Id.* at 69767.

Engines, Equipment, and Vehicles regulations. Prior to these amendments, California's SORE and Large Spark Ignition (LSI) test procedures allowed gasoline-fueled, SI engines to be tested for compliance with certification exhaust standards using either Indolene or Phase 2 California Reformulated Gasoline (CaRFG2)<sup>14</sup> as an option to federally specified test fuels. Recreational Marine engines were permitted to use CaRFG2, federal Indolene, or the fuel specified in Table 3 of Appendix A to 40 CFR part 91, subpart D. Off Highway Recreational Vehicles (OHRV) that were categorized as off-road motorcycles were required to certify using Indolene. OHRVs that were categorized as go-karts and specialty vehicles were allowed to certify using either Indolene or CaRFG2, and OHRVs that were categorized as all-terrain vehicles (ATVs) were primarily required to use Indolene, but under certain circumstances were allowed to certify using CaRFG2.<sup>15</sup>

The initial SORE regulation and the 1993 amendments to the SORE regulation allowed manufacturers to utilize either Indolene or California Phase 1 fuel as test fuel for certification.<sup>16</sup> EPA granted California a full authorization for the initial SORE regulation and the 1993 amendments.<sup>17</sup> In 1994 CARB amended the SORE regulation to provide manufacturers the option to certify SORE engines using CaRFG2 that was consistent with the certification test fuel specified for on-road motor vehicles. EPA confirmed that the 1994 amendment was within the scope of the previous authorizations.<sup>18</sup> In 2008, EPA confirmed that allowing the use of 10-percent ethanol-blend of gasoline (E10) as a certification fuel for SORE was within the scope of previous authorizations.<sup>19</sup>

The initial LSI regulation specified that the certified gasoline test fuels for LSI engines were either Indolene or CaRFG2. EPA granted California a new

authorization for the initial LSI regulation on May 15, 2006.<sup>20</sup>

The initial CARB Marine SI Engine regulation applicable to 2001 and later model year outboard SI marine engines and personal watercraft engines established test procedures that were virtually identical to those in the federal SI Marine Engine regulations. In 2002 CARB adopted regulations establishing exhaust emission standards and related certification and test procedures for 2003 and later model year SI inboard and sterndrive marine engines that specified the same certification test fuels as those applicable to outboard engines and personal water craft.<sup>21</sup> EPA granted California an authorization for these regulations in 2007.<sup>22</sup>

EPA granted California a new authorization for the initial OHRV regulation, which included initial test fuel certification requirements, in 1996,<sup>23</sup> and confirmed that 1996 amendments to the OHRV regulation were within the scope of the initial authorization in 2000.<sup>24</sup>

#### D. California's Authorization Request

By letter dated June 13, 2014, CARB submitted a request to EPA pursuant to section 209(e) of the Act for authorization of its 2011 SORE amendments, 2011 Tier 4 amendments, and 2011 Certification Test Fuel amendments (with all three sets of amendments collectively known as the "2011 Amendments"). CARB sought EPA's confirmation that the 2011 Amendments fell within the scope of EPA's previous authorizations, or, in the alternate, a full authorization for those amendments.

##### 1. 2011 SORE Amendments

CARB approved the 2011 SORE amendments at issue on December 16, 2011, and adopted them on October 25, 2012.<sup>25</sup> The 2011 SORE amendments became operative on January 10, 2013.<sup>26</sup> The 2011 SORE amendments modify California's existing SORE test procedures by aligning California procedures to be consistent with recent amendments by EPA to the federal certification and exhaust emission testing requirements at 40 CFR parts

1054 and 1065.<sup>27</sup> Part 1054 contains certification protocols, production-line testing requirements, credit-generation allowances, and other related provisions applicable to federally certified engines. Since CARB had previously promulgated California-specific versions of these provisions for SORE engines, the 2011 SORE amendments adopted the language of CFR part 1054, but with modifications that substitute California's specific emission standards, production-line testing requirements and credit-allowances for the corresponding federal provisions.<sup>28</sup> Part 1065 specifies the "state-of-the-art" testing equipment, systems, and processes that must be utilized in conducting emissions testing of applicable engines. The 2011 SORE amendments align California test procedures for 2013 and later model year engines with the requirements specified in Part 1065.<sup>29</sup>

##### 2. 2011 Tier 4 Amendments

CARB approved the Tier 4 amendments at issue on December 16, 2011, and adopted them on October 25, 2012.<sup>30</sup> The 2011 Tier 4 amendments became operative on January 10, 2013.<sup>31</sup> The 2011 Tier 4 amendments enhance the harmonization of CARB's exhaust emission requirements for new off-road CI engines with the corresponding federal emissions requirements for nonroad CI engines set forth in CFR parts 1039, 1065, and 1068.<sup>32</sup> EPA most recently amended these Parts in 2011.<sup>33</sup> The 2011 Tier 4 amendments correct clerical errors, standardize measurement specifications, calibrations, and instrumentation, remove unnecessarily burdensome reporting requirements, and provide additional compliance flexibility options.<sup>34</sup> The 2011 Tier 4 amendments also incorporate EPA's anti-stockpiling provisions, which help ensure the realization of projected emission benefits, and also establish a new interim Tier 4 combined hydrocarbon plus oxides of nitrogen emission standard that has the potential

<sup>14</sup> Phase 1 CaRFG, which was implemented in 1992, eliminated lead from gasoline and set regulations for deposit control additives and Reid vapor pressure (RVP). Phase 2 CaRFG (CaRFG2), which was implemented in 1996, set specifications for sulfur, aromatics, oxygen, benzene, T50, T90, Olefins, and RVP and established a Predictive Model. Phase 3 CaRFG (CaRFG3), which was implemented in 1999, eliminated methyl-tertiary-butyl-ether from California gasoline.

<sup>15</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 9.

<sup>16</sup> *Id.* at 8.

<sup>17</sup> 60 FR 37440 (July 20, 1995).

<sup>18</sup> 65 FR 69763 (November 20, 2000).

<sup>19</sup> 80 FR 26041 (May 6, 2015).

<sup>20</sup> 71 FR 29623 (May 23, 2006).

<sup>21</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 9.

<sup>22</sup> 72 FR 14546 (March 28, 2007).

<sup>23</sup> 61 FR 69093 (December 31, 1996).

<sup>24</sup> 65 FR 69763 (November 20, 2000).

<sup>25</sup> See EPA-HQ-OAR-2014-0535-0008, "Enclosure 5 CARB Resolution 11-41", and EPA-HQ-OAR-2014-0535-0009, "Enclosure 6 Executive Order R-12-005".

<sup>26</sup> *Id.*

<sup>27</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011".

<sup>28</sup> *Id.* at 11.

<sup>29</sup> *Id.* at 11.

<sup>30</sup> See EPA-HQ-OAR-2014-0535-0008, "Enclosure 5 CARB Resolution 11-41", and EPA-HQ-OAR-2014-0535-0009, "Enclosure 6 Executive Order R-12-005".

<sup>31</sup> *Id.*

<sup>32</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 12.

<sup>33</sup> 76 FR 37977 (June 28, 2011).

<sup>34</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 13-18.

to provide additional emission benefits.<sup>35</sup>

### 3. 2011 Certification Test Fuel Amendments

The 2011 Certification Test Fuel amendments modify the certification test fuel requirements for off-road spark ignition, gasoline-fueled engines to allow the use of 10-percent ethanol-blend of gasoline (E10) as a certification fuel. The use of the E10 certification fuel is allowed as an option for certification exhaust emission testing of new gasoline-fueled SORE, LSI, Recreational Marine, and OHRV off-road categories from the 2013 through 2019 model years, and is mandatory for certification exhaust emission testing of these categories beginning with the 2020 model year.<sup>36</sup>

#### E. 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>37</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>38</sup> EPA revised these regulations in 1997.<sup>39</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>40</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 under section 209(b).<sup>41</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>42</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>43</sup>

This principle of narrow EPA review has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit.<sup>44</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).

#### F. Within-the-Scope Determinations

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

<sup>41</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>42</sup> See *supra* note 12, at 36983.

<sup>43</sup> “Waiver of Application of Clean Air Act to California State Standards,” 36 FR 17458 (August 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>44</sup> See, e.g., *Motor and Equip. Mfrs. Assoc. v. EPA*, 627 F.2d 1095 (D.C. Cir. 1979) (“*MEMA I*”).

<sup>38</sup> See “Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards,” 59 FR 36969 (July 20, 1994).

<sup>39</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>40</sup> See *supra* note 12. EPA has interpreted 209(b)(1)(C) in the context of section 209(b) motor vehicle waivers.

<sup>35</sup> *Id.* at 2.

<sup>36</sup> See EPA-HQ-OAR-2014-0535-0003, “2013–13–14 Auth Support Document SORE 2011” at 18.

<sup>37</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.

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>45</sup>

### G. Deference to California

In previous waiver 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. This has led EPA to state:

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>46</sup>

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>47</sup>

The House Committee Report explained as part of the 1977 amendments to the Clean Air Act, where Congress had the opportunity to restrict the waiver provision, it elected instead to explain California's flexibility to adopt a complete program of motor

vehicle emission controls. The amendment is intended to ratify and strengthen the California waiver provision and to affirm the underlying intent of that provision, *i.e.*, to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare.<sup>48</sup>

### H. 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>49</sup> 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>50</sup> Therefore, the Administrator's burden is to act "reasonably."<sup>51</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>52</sup>

In that decision, the court considered the standards of proof under section 209 for the two findings related to granting a waiver for an "accompanying enforcement procedure." Those findings involve: (1) Whether the enforcement

procedures impact California's prior protectiveness determination for the associated standards, and (2) whether the procedures are consistent with section 202(a). The principles set forth by the court, however, are similarly applicable to an EPA review of a request for a waiver of preemption for a standard. The court instructed that "the standard of proof must take account of the nature of the risk of error involved in any given decision, and it therefore varies with the finding involved. We need not decide how this standard operates in every waiver decision."<sup>53</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 proposed enforcement procedures undermine the protectiveness of California's standards.<sup>54</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>55</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. Although *MEMA I* did not explicitly consider the standards of proof under section 209 concerning a waiver request for "standards," as compared to a waiver request for accompanying enforcement procedures, there is nothing in the opinion to suggest that the court's analysis would not apply with equal force to such determinations. 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>56</sup>

### I. EPA's Administrative Process in Consideration of California's Amendment Requests for Authorization

On November 21, 2014, EPA published a **Federal Register** notice announcing its receipt of California's

<sup>45</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>46</sup> 40 FR 23103–23104 (May 28, 1975); see also LEV I Decision Document at 64 (58 FR 4166 (January 13, 1993)).

<sup>47</sup> 40 FR 23104; 58 FR 4166.

<sup>48</sup> *MEMA I*, 627 F.2d at 1110 (citing H.R.Rep. No. 294, 95 Cong., 1st Sess. 301–02 (1977)).

<sup>49</sup> *MEMA I*, *supra* note 19, at 1121.

<sup>50</sup> *Id.* at 1126.

<sup>51</sup> *Id.* at 1126.

<sup>52</sup> *Id.* at 1122.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> See, e.g., "California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption," 40 FR 23102 (May 28, 1975), at 23103.



authorization request. In that notice, EPA invited public comment on the 2011 SORE amendments, the 2011 Tier 4 amendments, and 2011 Certification Test Fuel amendments (collectively known as the 2011 Amendments) and an opportunity to request a public hearing.<sup>57</sup>

EPA requested comment on the 2011 Amendments, as follows: (1) Should California's amendments be considered under the within-the-scope analysis, or should they be considered under the full authorization criteria?; (2) If those amendments should be considered as a within-the-scope request, do they meet the criteria for EPA to grant a within-the-scope confirmation?; and (3) If the amendments should not be considered under the within-the-scope analysis, or in the event that EPA determines they are not within the scope of the previous authorization, do they meet the criteria for making a full authorization determination?

EPA received no written comments. Additionally, EPA received no requests for a public hearing. Consequently, EPA did not hold a public hearing.

## II. Discussion

### A. California's 2011 SORE Amendments

The 2011 SORE amendments incorporate provisions of 40 Code of Federal Regulations (CFR) Parts 1054 and 1065 into the test procedures applicable to 2013 and later model year engines, and incorporate citations to the newly modified test procedures. The 2011 SORE amendments dealt with three specific topics: (1) Improved alignment with 40 CFR part 1054; (2) improved alignment with 40 CFR part 1065; and (3) amendments to CA-Part 1065 that maintain differences between California and EPA test procedures. CARB asserts that the 2011 SORE amendments do not affect the stringency of the exhaust emission standards and associated test procedures for SORE engines.

#### 1. Improved Alignment With Part 1054

Part 1054 contains certification protocols, production-line testing requirements, credit-generation allowances, and other related provisions applicable to federally certified engines. Since CARB had already promulgated California-specific versions of these

provisions for SORE engines, the 2011 SORE amendments adopted language similar to Part 1054, but with modifications that substitute California's specific emission standards, production-line testing requirements and credit-generations allowances for the corresponding federal provisions.<sup>58</sup>

#### 2. Improved Alignment With Part 1065

Part 1065 specifies the "state-of-the-art" testing equipment, systems, and processes that must be utilized in conducting emissions testing of applicable engines. The 2011 SORE amendments largely align the test procedures applicable to 2013 and later model year engines with the requirements specified in Part 1065, and will therefore prevent the need for manufacturers to conduct separate emissions tests for certifying engines with EPA and CARB.<sup>59</sup> Additionally, CARB states that a majority of engine manufacturers had already upgraded their test equipment in order to be compliant with Part 1065, and not aligning California and federal test procedures would mean that the use of the existing California test procedures would become increasingly impractical for manufacturers, independent testing facilities, and CARB.<sup>60</sup> CARB adopted Part 1065 into the SORE test procedures except for the modifications discussed below.

#### 3. Amendments to CA-Part 1065 that Maintain Differences between California and EPA Test Procedures

The 2011 SORE amendments maintain California-specific requirements applicable to new 2013 and later model year SORE engines in the following areas: Allowance for supplemental engine cooling, measurement of particulate matter (PM) emissions from two-stroke engines, and exhaust emission certification test fuel requirements (discussed later in the decision).<sup>61</sup> CARB believes that the existing California provisions in the SORE test procedures regarding supplemental cooling are more representative of in-use conditions than the corresponding federal provision, and are needed to maintain the stringency of California's existing test procedures. The California provisions require that manufacturers justify the need for and the use of any auxiliary fans used to provide supplemental cooling, and further require that

manufacturers demonstrate that the supplemental cooling is representative of in-use engine operation. CARB's SORE emission standards include a PM emissions standard for two-stroke engines while EPA's small nonroad engine standards do not.<sup>62</sup> California's existing regulations provide manufacturers the option of demonstrating compliance with the PM standard for two-stroke engines by using measured hydrocarbon emissions as a surrogate in lieu of determining actual PM emission levels.<sup>63</sup> CARB determined that extending this option was warranted as it provides manufacturers flexibility in conducting the testing required for demonstrating emissions compliance, without affecting the stringency of the current PM emission standards.

### B. California's 2011 Tier 4 Amendments

The 2011 Tier 4 amendments enhance the harmonization of CARB's exhaust emission requirements for new off-road CI engines with the corresponding federal emissions requirements for nonroad CI engines in 40 CFR parts 1039, 1065, and 1068, as most recently amended by EPA in 2011.<sup>64</sup> CARB states that the amendments correct clerical errors, standardize measurement specifications, calibrations, and instrumentation, remove unnecessarily burdensome reporting requirements, and provide additional compliance flexibility options without sacrificing air quality benefits.<sup>65</sup> The 2011 Tier 4 amendments dealt with three specific areas: (1) Modifications to Tier 4 off-road CI exhaust emission standards; (2) updated test procedures; and (3) amendments that maintain needed differences between California and EPA Nonroad CI programs.

#### 1. Modifications to Tier 4 Off-Road CI Exhaust Emission Standards

The 2011 Tier 4 amendments aligned with the federal alternate combined oxides of nitrogen and non-methane hydrocarbons (ALT NO<sub>x</sub> + NMHC) standards and the corresponding family emission limit (FEL) caps for Tier 4 engines ranging from 56 kW through 560 kW.<sup>66</sup> The amendments corrected clerical errors that unintentionally limited the years of applicability for several alternative FEL caps erroneously identified in the regulations and test procedures. The California Tier 4 Off-Road CI regulation and the federal Tier

<sup>57</sup> See "California State Nonroad Engine Pollution Control Standards; Small Off-Road Engines Regulations; Tier 4 Off-Road Compression-Ignition Regulations; Exhaust Emission Certification Test Fuel for Off-Road Spark-Ignition Engines, Equipment, and Vehicles Regulations; Request for Within-the-Scope and Full Authorization; Opportunity for Public Hearing and Comment," 79 FR 69465 (November 21, 2014).

<sup>58</sup> See EPA-HQ-OAR-2014-0535-0003, "2013-13-14 Auth Support Document SORE 2011" at 11.

<sup>59</sup> *Id.* at 11.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 12.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 13.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

4 nonroad CI regulation allowed engine manufacturers to continue producing a small number of Tier 3 off-road CI engines using emission credits after the Tier 4 standards began.<sup>67</sup> However, both the original EPA and California regulations inadvertently hindered manufacturers from using these certification allowances because the Tier 4 averaging programs did not allow manufacturers to show compliance with the existing 0.19 g/kW-hr NMHC standard using credits. To correct this, the 2011 Tier 4 amendments establish new Tier 4 alternative combined NO<sub>x</sub> + NMHC standards for off-road CI engines that align with the amendments to EPA's nonroad CI regulation in 2007, which similarly provides manufacturers the option to use credits to show compliance with the new alternative NO<sub>x</sub> + NMHC standards for engines ranging from 56 kW through 560 kW.<sup>68</sup> The 2011 Tier 4 amendments also revise the start dates for the ALT 20% NO<sub>x</sub> FEL caps to correct an inconsistency in a regulatory table regarding the period of applicability for certifying engines to the ALT 20% NO<sub>x</sub> FEL caps that stated the period was only one or two years to the correct four-year period.<sup>69</sup>

## 2. Updated Test Procedures

The 2011 Tier 4 amendments primarily revise California's Tier 4 off-road CI engine test procedures to align them with the modifications to the corresponding federal nonroad CI engine test procedures that have been enacted by EPA since 2005 to improve the accuracy and precision of the measurement and reporting of emissions data. The new California off-road CI engine test procedures are comprised of three separate documents that largely incorporate provisions of the federal test procedures contained in 40 CFR parts 1039, 1065, and 1068, but that also incorporate several California-specific modifications.<sup>70</sup>

The 2011 Tier 4 amendments incorporate EPA's June 28, 2011 modifications to Part 1039 into the new test procedure entitled "California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression Ignition Engines, Part I-D". Included among the alignments are modification of the criterion for selecting engine families regarding engine cylinder arrangement (§ 1039.230(b)(7)), removal of unnecessary and/or redundant labeling and notification instructions regarding

the equipment manufacturer flexibility program (§ 1039.625), correction of clerical errors that inadvertently elevated the minimum standard for equipment flexibility engines beyond that originally intended (§ 1039.625(e)(3)), and clarification regarding the rounding of Averaging, Banking, and Trading credits (§ 1039.705(b)).<sup>71</sup>

The 2011 Tier 4 amendments deleted CARB's existing CA-Part 1065-based test procedures and created a brand-new version in Part I-E based solely on CARB's modifications to EPA's 40 CFR 1065 as it existed on June 28, 2011.<sup>72</sup> The California alignments with 40 CFR 1065 included in the 2011 Tier 4 amendments are provisions for using and calculating an optional declared speed value (§ 1065.510(f)(3)(i)), and provisions regarding the standardization of calculating exhaust restriction set points (§ 1065.130(h)).<sup>73</sup>

The 2011 Tier 4 amendments incorporate EPA's modifications to 40 CFR part 1068 into the new test procedure entitled "California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression Ignition Engines, Part I-F". The 2011 Tier 4 amendments included alignments regarding allowance for distributors to replace incorrect labels prior to sale of the engine to an ultimate purchaser (§ 1068.101(b)(7)(i)(D)), incorporation of provisions related to the duration and applicability of Executive Orders (§ 1068.103(c)), incorporation and clarification of anti-stockpiling provisions (§ 1068.103 and 105), revisions to the label content for replacement engines (§ 1068.240), clarification of the provisions for shipping engines independently of required after treatment and for delegated final assembly (§ 1068.260 and 261), clarification that defect reporting applies only to regulated pollutants and revision of thresholds for filing reports (§ 1068.501), and incorporation of the federal definition for "Date of Manufacture" (§ 1068.801).<sup>74</sup>

The 2011 Tier 4 amendments also included a new section that establishes an anti-stockpiling provision that is consistent with recently added federal provisions in 40 CFR 1068.103 and 1068.105 which address intentional over-production of engines prior to a year in which a change in the emissions

standards occur.<sup>75</sup> The new section makes clear that manufacturers cannot deviate from normal production and inventory practices to circumvent the regulations.<sup>76</sup>

## 3. Amendments That Maintain Needed Differences Between California and EPA Nonroad CI Programs

The 2011 Tier 4 amendments also maintain differences from the federal provisions that are needed to support California's unique air quality programs. These differences primarily consist of documentation requirements. CARB states that none of the differences present any technical obstacles for off-road engine manufacturers.<sup>77</sup> The differences include: enhanced emissions control labeling beyond that required on federal labels to include information such as the certification power category or an explicit designation of the emissions tier to which the engine conforms; removing the prior assurance to manufacturers that preliminary approvals of certification will not usually be reversed absent the discovery of new information contrary to the findings that resulted in the preliminary approval; not exempting a small number of replacement engines from engine labeling requirements; and not incorporating EPA's amended definitions of "engine," which define an engine to be an engine block with an installed crankshaft and "partially complete engine" as defined in 40 CFR 1068.30 and 1068.240.<sup>78</sup>

### C. California's 2011 Certification Test Fuel Amendments

The 2011 Certification Test Fuel amendments modify the certification test fuel requirements for off-road SI, gasoline-fueled engines to allow the use of 10-percent ethanol-blend of gasoline (E10) as a certification fuel.<sup>79</sup> The use of the E10 certification test fuel is allowed as an option for certification exhaust emission testing of new gasoline-fueled LSI, SORE, OHRV, and Recreational Marine off-road categories from the 2013 through the 2019 model years, and is mandatory for certification exhaust emission testing of these categories beginning with the 2020 model year.<sup>80</sup> The 2011 Certification Test Fuel amendments also provide manufacturers the option of using other renewable fuel blends that have been certified by CARB as yielding test

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 17.

<sup>78</sup> *Id.* at 17, 18.

<sup>79</sup> *Id.* at 18.

<sup>80</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 14.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 15.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 16.

results equivalent to, or more stringent than those resulting from E10, and which are appropriate for the certification of small off-road engines beginning with the 2013 model year.<sup>81</sup> The amendments maintain test fuel consistency between on-road motor vehicles and most of the off-road categories and establish complete consistency between the off-road categories' certification test fuels and commercially available fuels.<sup>82</sup>

#### D. Within-the-Scope Analysis

California requested that the Administrator confirm that the 2011 Amendments detailed above are within the scope of previously granted authorizations.<sup>83</sup> California asserted that all three sets of 2011 amendments met all three within-the-scope criteria, *i.e.* that the amendments: (1) Do not undermine the original protectiveness determination underlying California's regulations; (2) do not affect the consistency of the regulations with section 202(a); and (3) do not raise any new issues affecting the prior authorizations.<sup>84</sup> We received no adverse comments or evidence suggesting a within-the-scope analysis is inappropriate, or that any of the three sets of 2011 amendments fail to meet any of the three criteria for within-the-scope confirmation.

In regard to the first within-the-scope criterion, CARB found that the 2011 Amendments did not cause the California emissions standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards. California asserts their protectiveness determination is not arbitrary or capricious, and that the elements of the 2011 Amendments do not affect the stringency of the previously authorized SORE or Tier 4 Off-Road CI emission standards and associated test procedures, or the other regulations and test procedures affected by these amendments (LSI, Recreational Marine, and OHRV).<sup>85</sup> CARB asserts

that, therefore, the subject regulations and test procedures continue to be at least as protective of public health and welfare as the federal nonroad emissions standards and test procedures.

Based on the record before us and in the absence of any evidence to the contrary, we cannot find that California's protectiveness determination regarding the implementation of 2011 Amendments is arbitrary or capricious.

In regard to the second within-the-scope criterion, the 2011 Amendments do not attempt to regulate new motor vehicles or motor vehicles engines and so are consistent with section 209(a). They likewise did not attempt to regulate any of the permanently preempted engines or vehicles, and so are consistent with section 209(e)(1). Finally, they did not cause any technological feasibility issues for manufacturers or cause inconsistency between state and federal test procedures, per section 209(b)(1)(C). No manufacturer raised technical feasibility or lead time concerns regarding the 2011 Amendments.<sup>86</sup> Additionally, the 2011 Amendments are later than EPA's corresponding amendments to the federal nonroad regulations and associated test procedures. Given these facts, EPA cannot find that the 2011 Amendments are not technically feasible or do not provide sufficient lead time.<sup>87</sup> CARB enacted the 2011 Amendments at the behest of manufacturers who had already implemented modifications to their emissions facilities that are required by EPA's corresponding amendments to the federal nonroad regulations. No technical feasibility or lead time concerns were raised regarding the elements of the 2011 Certification Test Fuel amendments either.<sup>88</sup> These amendments establish complete consistency between the certification and the commercially available fuels for off-road engines subject to California's SORE, LSI, Recreational Marine, and OHRV regulations.<sup>89</sup> Manufacturers of off-road spark-ignition, gasoline-fueled engines have needed to account for the usage of E10 in their engines since December 31, 2009, and those engines have been capable of being emissions tested using E10 by that date, which precedes the 2020 model-year requirement to use E10 by ten years.<sup>90</sup>

The 2011 Amendments present no issue of incompatibility between California and federal test procedures, as they essentially harmonize California's test procedures associated with the SORE, Off-Road CI Engine, LSI, Recreational Marine, and OHRV regulations with the corresponding federal test procedures. The corresponding federal regulations for such engines have already designated E10 as a test fuel for exhaust emissions testing, so the amendments do not impose inconsistent certification requirements so as to make manufacturers unable to meet both California and federal requirements with one test vehicle or engine.<sup>91</sup>

In regard to the third within-the-scope criterion, California stated that it is not aware of any new issues presented by the 2011 Amendments that affect the previously granted authorizations for the SORE, Off-Road CI Engine, LSI, Recreational Marine, or OHRV regulations, and EPA has received no evidence to the contrary.<sup>92</sup> We therefore do not find any new issues raised by the amendments.

Having received no contrary evidence regarding these amendments, we find that California has met the three criteria for a within-the-scope authorization approval, and the 2011 Amendments are confirmed as within the scope of previous EPA authorizations of California's SORE, Off-Road CI Engine, LSI, Recreational Marine, or OHRV regulations.

### 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 the 2011 amendments to CARB's SORE regulations, Tier 4 Off-Road CI regulations, and Exhaust Emission Certification Test Fuel for Off-Road Spark-Ignition Engines, Equipment, and Vehicles regulations described above and CARB's submissions for EPA review, EPA is taking the following actions.

First, EPA confirms that California's 2011 amendments modifying its SORE regulations is within the scope of prior authorizations. Second, EPA confirms that California's amendment modifying its Tier 4 Off-Road CI regulations is within the scope of prior authorizations. Third, EPA confirms that California's amendment modifying its Exhaust Emission Certification Test Fuel for Off-Road Spark-Ignition Engines,

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> This request excluded the amendment that establishes the Tier 4 alternative NOx + NMHC standards for off-road CI engines because this amendment will only be utilized by manufacturers that have accumulated emission credits. Such standards do not constitute mandatory compliance requirements, but instead provide a compliance alternative and do not require authorization. See *Motor and Equipment Mfrs. Ass'n, Inc. v. Environmental Protection Agency (MEMA II)*, 627 F.2d 1128, 1132 (D.C. Cir. 1979) (a regulatory compliance option is only a mandate that can result in a denial of a waiver if the regulation does not specify another technically feasible compliance option.)

<sup>84</sup> *Id.* at 21.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at 22.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 23.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

Equipment, and Vehicles regulations is within the scope of prior authorizations.

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 9, 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. 2015-31189 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9939-86-OARM]

### Request for Nominations to the National Advisory Council for Environmental Policy and Technology (NACEPT)

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

**ACTION:** Notice; request for nominations.

**SUMMARY:** The Environmental Protection Agency (EPA) invites nominations to fill vacancies on its National Advisory Council for Environmental Policy and Technology (NACEPT). The Agency seeks nominees from a diverse range of qualified candidates representing the following sectors: Academia; state, local, and tribal governments; business and industry; and, non-governmental organizations. Potential vacancies are anticipated to be filled in April, 2016. Sources in addition to this **Federal Register** notice may be utilized in the solicitation of nominees.

**DATES:** Nomination packages must be emailed or postmarked no later than January 15, 2016.

**ADDRESSES:** Nomination packages may be mailed to: Eugene Green, Designated Federal Officer, Office of Diversity, Advisory Committee Management, and Outreach, U.S. Environmental Protection Agency (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Eugene Green, Designated Federal Officer, U.S. EPA; telephone (202) 564-2432; fax (202) 564-8129; email [green.eugene@epa.gov](mailto:green.eugene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The National Advisory Council for Environmental Policy and Technology (NACEPT) is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463. EPA established NACEPT in 1988 to provide advice to the EPA Administrator on a broad range of environmental policy, management and technology issues.

Members serve as representatives from academia, industry, non-governmental organizations, and state, local, and tribal governments. Members are appointed by the EPA Administrator for two year terms. The Council usually meets 2-3 times annually face-to-face or via video/teleconference and the average workload for the members is approximately 10 to 15 hours per month. Members serve on the Council in a voluntary capacity. However, EPA provides reimbursement for travel and

incidental expenses associated with official government business. EPA is seeking nominations from candidates representing all sectors noted above. Within these sectors, EPA is seeking nominees with a strong background in citizen science, crowd source monitoring and technologies, community sustainability, environmental justice and economic initiatives, ecology and biodiversity, public health, social science, and environmental policy and management.

Nominees will be considered according to the mandates of the Federal Advisory Committee Act (FACA), which requires committees to maintain diversity across a broad range of constituencies, sectors, groups, and geographical locations. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations from women and men of all racial and ethnic groups, as well as persons with disabilities. Please note that interested candidates may self-nominate.

The following criteria will be used to evaluate nominees:

- Professional knowledge of environmental policy, management, and technology issues, particularly issues dealing with all facets of citizen science.
- Demonstrated ability to assess and analyze environmental challenges with objectivity and integrity.
- Middle/Senior-level leadership experience that fills a current need on the Council.
- Excellent interpersonal, oral and written communication skills, and consensus-building skills.
- Ability to volunteer approximately 10 to 15 hours per month to the Council's activities, including participation in face-to-face meetings, video/teleconference meetings and preparation of documents for the Council's reports and advice letters.

EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to two year terms.

Prospective candidates interested in being considered for an appointment to serve on the Council, should submit the following items to process your nomination package: Nomination packages must include a brief statement of interest, resume, or curriculum vitae, and a short biography (no more than two paragraphs) describing your professional and educational qualifications, including a list of relevant activities and any current or previous service on advisory

committees. The statement of interest, resume, curriculum vitae, and short biography should include the candidate's full name, name and address of current organization, position title, email address, and daytime telephone number(s).

In preparing your statement of interest, please describe how your background, knowledge, and experience will bring value to the work of the committee, and how these qualifications would contribute to the overall diversity of the Council. Also, be sure to describe any previous involvement with the Agency through employment, grant funding and/or contracting sources.

To help the Agency in evaluating the effectiveness of its outreach efforts, also tell us how you learned of this opportunity in your statement of interest (cover letter). Please be aware that EPA's policy is that candidates representing academia and tribal governments/communities must also provide a letter from the entity, authorizing the nominee to represent the points of view as demonstrated by that specific entity or group (such as a college/university or tribal government/community) that has an interest in the subject matter under the committee's charge.

Anyone interested in being considered for nomination is encouraged to submit a nomination (application) package by the submission deadline on January 15, 2016. Nomination packages may be mailed to: Eugene Green, Designated Federal Officer, Office of Diversity, Advisory Committee Management, and Outreach, U.S. Environmental Protection Agency (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

To expedite the process, it is preferable to submit the nomination package with the required information/documents electronically to [green.eugene@epa.gov](mailto:green.eugene@epa.gov). Please reference: "NACEPT 2016 Membership Nomination Package for (candidate's name)" in the subject line.

Dated: December 1, 2015.

**Eugene Green,**

*Designated Federal Officer.*

[FR Doc. 2015-31184 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[ER-FRL-9024-4]

**Environmental Impact Statements; Notice of Availability**

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-7146 or <http://www2.epa.gov/nepa>  
Weekly receipt of Environmental Impact Statements (EISs)  
Filed 11/30/2015 Through 12/04/2015  
Pursuant to 40 CFR 1506.9.

**Notice**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <http://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search>.

*EIS No. 20150343, Draft, NPS, AZ,* Backcountry Management Plan Grand Canyon National Park, Comment Period Ends: 02/29/2016, Contact: Rachel Bennett 928-638-7326.

*EIS No. 20150344, Final, USFS, CA,* Green-Horse Habitat Restoration and Maintenance Project, Review Period Ends: 01/25/2016, Contact: Jason Fallon 530-275-1587.

*EIS No. 20150345, Final, FHWA, NC, US* 70 Havelock Bypass, Review Period Ends: 01/11/2016, Contact: Clarence Coleman 919-747-7014.

*EIS No. 20150346, Draft, OSM, TN,* North Cumberland Wildlife Management Area, Tennessee Lands Unsuitable for Mining, Comment Period Ends: 01/25/2016, Contact: Earl Bandy 865-545-4103 ext. 130.

*EIS No. 20150347, Final, FERC, CA,* Merced River and Merced Falls Hydroelectric Projects, Review Period Ends: 01/11/2016, Contact: Matt Buhyoff 202-502-6824.

*EIS No. 20150348, Final, Caltrans, CA,* Centennial Corridor Project, Review Period Ends: 01/11/2016, Contact: Jennifer Taylor 888-404-6375.

*EIS No. 20150349, Draft, USFWS, REG,* National Wildlife Refuge System Revision of Regulations Governing Non-Federal Oil and Gas Activities, Comment Period Ends: 02/09/2016, Contact: Scott Covington 703-358-2427.

**Amended Notices**

*EIS No. 20150207, Draft, DOE, NH,* Northern Pass Transmission Line Project, Comment Period Ends: 04/04/2016, Contact: Brian Mills 202-586-8267; Revision to FR Notice Published 10/09/2015; Extending Comment Period from 12/31/2015 to 04/04/

2016; Revision to the FR Notice published 11/27/2015; EIS No. 20150327 is hereby attached as an addendum to this Draft EIS.  
*EIS No. 20150277, Draft, USFS, WA,* LeClerc Creek Grazing Allotment Management Planning, Comment Period Ends: 11/16/2015, Contact: Gayne Sears 509-447-7300; Revision to the FR Notice Published 10/30/2015; Extending Comment Period from 11/16/2015 to 12/16/2015.  
*EIS No. 20150302, Draft, NPS, WY,* Moose-Wilson Corridor Draft Comprehensive Management Plan, Comment Period Ends: 01/30/2016, Contact: Chris Church 303-969-2276; Revision to the FR Notice Published 11/27/2015; Extending Comment Period from 01/15/2016 to 01/30/2016.  
*EIS No. 20150327, Draft Supplement, DOE, NH,* Northern Pass Transmission Line Project, Contact: Brian Mills 202-586-8267; Revision to FR Notice Published 11/27/2015; This document was erroneously filed as a supplement and should be an addendum to the Draft EIS. Therefore, this addendum will be combined with Draft EIS No. 20150207 to become one document.

Dated: December 8, 2015.

**Dawn Roberts,**

*Management Analyst, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2015-31312 Filed 12-10-15; 8:45 am]

**BILLING CODE 6560-50-P**

**EXPORT-IMPORT BANK OF THE UNITED STATES**

[Public Notice 2015-3012]

**Agency Information Collection Activities: Final Collection; Comment Request; Form Title: EIB 09-01 Payment Default Report OMB 3048-0028**

**AGENCY:** Export-Import Bank of the U.S.  
**ACTION:** Submission for OMB review and comments request.

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection allows insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor. Ex-Im Bank customers will submit this form electronically through

Ex-Im Online, replacing paper reporting. Ex-Im Bank has simplified reporting of payment defaults in this form by including checkboxes and providing for many fields to be self-populated. Ex-Im Bank provides insurance, loans, and guarantees for the financing of exports of goods and services.

The form can be viewed at: [http://www.exim.gov/sites/default/files/tools/credit\\_admin/EIB-09-01.pdf](http://www.exim.gov/sites/default/files/tools/credit_admin/EIB-09-01.pdf).

**DATES:** Comments should be received on or before January 11, 2016 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on [WWW.REGULATIONS.GOV](http://WWW.REGULATIONS.GOV) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048-0028.

**FOR FURTHER INFORMATION CONTACT:** Stacy Lee, Export Import Bank, 811 Vermont Avenue NW., Washington, DC 20571.

**SUPPLEMENTARY INFORMATION:**

*Titles and Form Number:* EIB 09-01, Payment Default Report.

*OMB Number:* 3048-0028.

*Type of Review:* Regular.

*Need and Use:* The information requested enables insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor.

*Affected Public:* Insured/guaranteed parties and brokers.

*Annual Number of Respondents:* 200.

*Estimated Time per Respondent:* 15 minutes.

*Government Review Time:* 50 hours.

*Cost to the Government:* \$2,000.

**Bonita Jones-McNeil,**

*Program Analyst, Agency Clearance Officer.*

[FR Doc. 2015-31170 Filed 12-10-15; 8:45 am]

**BILLING CODE 6690-01-P**

**EXPORT-IMPORT BANK OF THE UNITED STATES**

[Public Notice: 2015-3011]

**Agency Information Collection Activities: Comment Request**

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Submission for OMB review and comments request.

*Form Title:* EIB 05-01 Marketing Fax Back Response Form.

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other

Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Marketing Fax Back Response Form is used to collect basic information on United States companies. This information will be provided to the Export Import Bank's financial consultants nationwide and will be used to provide assistance to exporters.

The form may be viewed at [www.exim.gov/pub/pending/eib05-01.pdf](http://www.exim.gov/pub/pending/eib05-01.pdf) Marketing Fax Back Response Forms.

**DATES:** Comments should be received on or before January 11, 2016 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on [WWW.REGULATIONS.GOV](http://WWW.REGULATIONS.GOV) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048-0029.

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* EIB 05-01 Marketing Fax Back Response Form.

*OMB Number:* 3048-0029.

*Type of Review:* Regular.

*Need and Use:* The Marketing Fax Back Response Form is used to collect basic information on United States companies. This information will be provided to the Export-Import Bank's financial consultants nationwide to assist in providing counsel to exporters.

*Affected Public:*

This form affects entities involved in the export of U.S. goods and services.

*Annual Number of Respondents:* 500.

*Estimated Time per Respondent:* 5 minutes.

*Annual Burden Hours:* 42 hours.

*Frequency of Reporting of Use:* Once per year.

*Government Expenses:*

*Reviewing time per year:* 25 hours.

*Average Wages per Hour:* \$42.50.

*Average Cost per Year:* \$1,062.5. (time\*wages)

*Benefits and Overhead:* 20%.

*Total Government Cost:* \$ 1,275.

**Bonita Jones-McNeil,**

*Program Analyst, Agency Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2015-31175 Filed 12-10-15; 8:45 am]

**BILLING CODE 6690-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[OMB 3060-1042]

**Information Collection Being Reviewed by the Federal Communications Commission**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before February 9, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-1042.

*Title:* Request for Technical Support—Help Request Form.

*Form No.:* N/A—Electronic only.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Individuals or household; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

*Number of Respondents and Responses:* 36,300 respondents and 36,300 responses.

*Estimated Time per Response:* 8 minutes (0.14 hours).

*Frequency of Response:* On occasion reporting requirement and recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits.

*Total Annual Burden:* 5,082 hours.

*Total Annual Cost:* \$609,840.

*Privacy Act Impact Assessment:* Possible Impacts.

*Nature and Extent of Confidentiality:* In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

*Needs and Uses:* The Commission will submit this collection as an extension (no change in frequency of recordkeeping or reporting requirements) to the OMB after this 60 day comment period to obtain the full three-year clearance from them.

The FCC's maintains Internet software used by the public to apply for licenses, participate in auctions for spectrum, and maintain license information. In this mission, FCC has a 'help desk' that answers questions related to these systems as well as resetting and/or issuing user passwords for access to these systems. The form currently is available on the Web site <https://esupport.fcc.gov/request.htm> under OMB Control Number 3060-1042. This form will continue to substantially decrease public and staff burden since all the information needed to facilitate a support request will be submitted in a standard format but be available to a wider audience. This eliminates or at least minimizes the need to follow-up with the customers to obtain all the information necessary to respond to their request. This form also helps presort requests into previously defined categories to all staff to respond more quickly.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015-31291 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1209]

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before January 11, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email

*Nicholas A. Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

#### SUPPLEMENTARY INFORMATION:

*OMB Control Number:* 3060-1209.

*Title:* Section 73.1216, Licensee-Conducted Contests.

*Form Number:* None. (Complaints alleging violations of the Contest Rule generally are filed on via the Commission's Consumer Complaint Portal entitled General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, Requests for Dispute Assistance and Communications Accessibility Complaints which is approved under OMB control number 3060-0874).

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions.

*Number of Respondents and Responses:* 20,732 respondents; 20,732 responses.

*Estimated Time per Response:* 0.1-9 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement and recordkeeping requirement.

*Total Annual Burden:* 122,854 hours.

*Total Annual Costs:* \$6,219,300.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1,

4 and 303 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* The Commission adopted the Contest Rule in 1976 to address concerns about the manner in which broadcast stations were conducting contests over the air. The Contest Rule generally requires stations to broadcast material contest terms fully and accurately the first time the audience is told how to participate in a contest, and periodically thereafter. In addition, stations must conduct contests substantially as announced. These information collection requirements are necessary to ensure that broadcast licensees conduct contests with due regard for the public interest.

On September 17, 2015, by Report and Order, FCC 15–118, the Commission amended the Contest Rule to permit broadcasters to meet their obligation to disclose contest material terms on an Internet Web site in lieu of making broadcast announcements. Under the amended Contest Rule, broadcasters are required to (i) announce the relevant Internet Web site address on air the first time the audience is told about the contest and periodically thereafter; (ii) disclose the material contest terms fully and accurately on a publicly accessible Internet Web site, establishing a link or tab to such terms through a link or tab on the announced Web site's home page, and ensure that any material terms disclosed on such a Web site conform in all substantive respects to those mentioned over the air; (iii) maintain contest material terms online for at least thirty days after the contest has ended; and (v) announce on air that the material terms of a contest have changed (where that is the case) within 24 hours of the change in terms on a Web site, and periodically thereafter, and to direct consumers to the Web site to review the changes.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015–31292 Filed 12–10–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0010]

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before February 9, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0010.

*Title:* Ownership Report for Commercial Broadcast Stations, FCC Form 323.

*Form Number:* FCC Form 323.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit entities; not-for-profit institutions; State, Local or Tribal Governments.

*Number of Respondents/Responses:* 9,250 respondents; 9,250 responses.

*Estimated Time per Response:* 2.5 hours to 4.5 hours.

*Frequency of Response:*

Recordkeeping requirement; on occasion reporting requirement; biennially reporting requirement.

*Total Annual Burden:* 38,125 hours.

*Total Annual Costs:* \$26,940,000.

*Nature of Response:* Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303, 310 and 533 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* Form 323 collects two types of information from respondents: Personal information in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The system of records notice (SORN), FCC/MB–1, "Ownership Report for Commercial Broadcast Stations," which was approved on December 21, 2009 (74 FR 59978) covers the collection, purposes(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 323. FCC Form 323 is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060–0917). Form 160 requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic CORES Registration System then provides each registrant with a FCC Registration Number (FRN), which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. The Commission maintains a SORN, FCC/OMD–9, "Commission Registration System (CORES)" to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 160. FCC Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need



to obtain the information and the protections that the FCC has in place to protect the PII.

*Privacy Act Impact Assessment:* The Commission is drafting a Privacy Impact Assessment for the PII that is covered by FCC/MB-1 SORN. Upon completion of the PIA, it will be posted on the FCC Web page, as required by the Office of Management and Budget (OMB) Memorandum, M-03-22 (September 22, 2003).

*Needs and Uses:* Licensees of commercial AM, FM, and full power television broadcast stations, as well as licensees of Class A and Low Power Television stations must file FCC Form 323 every two years. Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed. Thereafter, the Form shall be filed biennially beginning November 1, 2011, and every two years thereafter.

Also, Licensees and Permittees of commercial AM, FM, or full power television stations must file Form 323 following the consummation of a transfer of control or an assignment of a commercial AM, FM, or full power television station license or construction permit; a Permittee of a new commercial AM, FM or full power television broadcast station must file Form 323 within 30 days after the grant of the construction permit; and a Permittee of a new commercial AM, FM, or full power television broadcast station must file Form 323 to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate FCC Form 323 must be filed for each entity in the organizational structure that has an attributable interest in the Licensee if the filing is a nonbiennial filing or a reportable interest in the Licensee if the filing is a biennial filing.

We are requesting the three year extension of this information collection.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015-31295 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0170, 3060-0171 and 3060-0688]

### Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before February 9, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0170.  
*Title:* Section 73.1030, Notifications Concerning Interference to Radio Astronomy, Research and Receiving Installations.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Businesses or other for-profit entities.

*Number of Respondents and Responses:* 57 respondents; 57 responses.

*Estimated Hours per Response:* 0.5 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Total Annual Cost:* \$14,250.

*Total Annual Burden:* 29 hours.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is need for confidentiality required with this collection of information.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* 47 CFR 73.1030 states in order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24, and any applicant for authority to construct a new broadcast station, or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15' N. on the north, 78°30' W. on the east, 37°30' N. on the south, and 80°30' W. on the west, shall notify the Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944. Telephone: (304) 456-2011. The notification shall be in writing and set forth the particulars of the proposed station, including the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission and power. The notification shall be made prior to, or simultaneously with, the filing of the application with the Commission. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received

during the 20-day period from the National Radio Astronomy Observatory for itself, or on behalf of the Naval Radio Research Observatory, the FCC will consider all aspects of the problem and take whatever action is deemed appropriate.

(2) Any applicant for a new permanent base or fixed station authorization to be located on the islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location of a station on these islands and would increase the likelihood of the authorized facility causing interference, shall notify the Interference Office, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612, in writing or electronically, of the technical parameters of the proposal. Applicants may wish to consult interference guidelines, which will be provided by Cornell University. Applicants who choose to transmit information electronically should email to: *prcz@naic.edu*.

(i) The notification to the Interference Office, Arecibo Observatory shall be made prior to, or simultaneously with, the filing of the application with the Commission. The notification shall state the geographical coordinates of the antenna (NAD-83 datum), antenna height above ground, ground elevation at the antenna, antenna directivity and gain, proposed frequency and FCC Rule Part, type of emission, and effective radiated power.

(ii) After receipt of such applications, the Commission will allow the Arecibo Observatory a period of 20 days for comments or objections in response to the notification indicated. The applicant will be required to make reasonable efforts to resolve or mitigate any potential interference problem with the Arecibo Observatory and to file either an amendment to the application or a modification application, as appropriate. The Commission shall determine whether an applicant has satisfied its responsibility to make reasonable efforts to protect the Observatory from interference.

*OMB Number:* 3060-0171.

*Title:* Section 73.1125, Station Main Studio Location.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 72 respondents; 72 responses.

*Estimated Hours per Response:* 0.5 to 2 hours.

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 135 hours.

*Annual Burden Cost:* \$111,870.

*Privacy Impact Assessment:* No impact(s).

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information 154(i) and 307(b) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Needs and Uses:* 47 CFR 73.1125(d)(1) requires AM, FM or TV licensees to notify the Commission when the main studio is relocated and from a point outside the locations specified in Section 73.1125(a) or (c) to one within those locations.

47 CFR 73.1125(d)(2) requires licensees to receive written authority to locate a main studio outside the locations specified in paragraph (a) or (c) of this section for the first time must be obtained from the Audio Division, Media Bureau for AM and FM stations, or the Video Division for TV and Class A television stations before the studio may be moved to that location. Where the main studio is already authorized at a location outside those specified in paragraph (a) or (c) of this section, and the licensee or permittee desires to specify a new location also located outside those locations, written authority must also be received from the Commission prior to the relocation of the main studio. Authority for these changes may be requested by filing a letter with an explanation of the proposed changes with the appropriate division. Licensees or permittees should also be aware that the filing of such a letter request does not imply approval of the relocation request, because each request is addressed on a case-by-case basis. A filing fee is required for commercial AM, FM, TV or Class A TV licensees or permittees filing a letter request under the section (see Sec. 1.1104 of this chapter).

*OMB Control Number:* 3060-0688.

*Title:* Abbreviated Cost-of-Service Filing for Cable Network Upgrades, FCC Form 1235.

*Form Number:* FCC Form 1235.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit entities; State, local or tribal governments.

*Number of Respondents and Responses:* 50 respondents; 25 responses.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Estimated Hours per Response:* 10-20 hours.

*Total Annual Burden:* 750 hours.

*Total Annual Costs:* None.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Assessment:* No impact(s).

*Needs and Uses:* FCC Form 1235 is an abbreviated cost of service filing for significant network upgrades that allows cable operators to justify rate increases related to capital expenditures used to improve rate-regulated cable services. FCC Form 1235 is filed following the end of the month in which upgraded cable services become available and are providing benefits to subscribers. In addition, FCC Form 1235 can be filed for pre-approval any time prior to the upgrade services becoming available to subscribers using projected upgrade costs. If the pre-approval option is exercised, the operator must file the form again following the end of the month in which upgraded cable services become available and are providing benefits to customers of regulated services, using actual costs where applicable.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer,*

*Office of the Secretary.*

[FR Doc. 2015-31294 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0188]

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other

Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before February 9, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0188.

*Title:* Call Sign Reservation and Authorization System, FCC Form 380.

*Form Number:* FCC Form 380.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit, Not-for-profit institutions; and State, local, or tribal government.

*Number of Respondents and Responses:* 1,600 respondents; 1,600 responses.

*Estimated Hours per Response:* 0.166-0.25 hours.

*Frequency of Response:* On occasion reporting requirements.

*Total Annual Burden:* 333 hours.

*Total Annual Cost:* \$162,000.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 303 of the

Communications Act of 1934, as amended.

*Nature and Extend of Confidentiality:* There is need for confidentiality with this collection of information.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* 47 CFR 73.3550 provides that all requests for new or modified call signs be made via the on-line call sign reservation and authorization. The Commission uses an on-line system, FCC Form 380, for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Access to the call sign reservation and authorization system is made by broadcast licensees and permittees, or by persons acting on their behalf, via the Internet's World Wide Web. This on-line, electronic call sign system enables users to determine the availability and licensing status of call signs; to request an initial, or change an existing, call sign; and to determine and submit more easily the appropriate fee, if any. Because all elements necessary to make a valid call sign reservation are encompassed within the on-line system, this system prevents users from filing defective or incomplete call sign requests. The electronic system also provides greater certitude, as a selected call sign is effectively reserved as soon as the user has submitted its call sign request. This electronic call sign reservation and authorization system has significantly improved service to all radio and television broadcast station licensees and permittees.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015-31296 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**[OMB 3060-0625]**

**Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications

Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before February 9, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-0625.

*Title:* Section 24.103, Construction requirements.

*Form No.:* N/A.

*Type of Review:* Extension of a currently-approved collection.

*Respondents:* Business or other for-profit, individuals or household, not-for-profit institutions, and state, local or tribal government.

*Number of Respondents and Responses:* 9 respondents and 17 responses.

*Estimated Time per Response:* 3 hours.

*Frequency of Response:*

Recordkeeping requirement, On occasion reporting requirement, 5 and 10 year reporting requirements.

*Obligation to Respond:* To ensure that licensees timely construct systems that either provide coverage to minimum geographic portions of their licensed areas, that provide service to minimum percentages of the population of those areas, or that, in the alternative, provide service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.

*Total Annual Burden:* 19 hours.

*Annual Cost Burden:* \$10,725.

*Privacy Act Impact Assessment:* Yes.

*Nature and Extent of Confidentiality:*

There are no requests of a sensitive nature considered, or those considered a private matter, being sought from the applicants on this collection.

*Needs and Uses:* Section 24.103 requires that certain narrowband PCS licensees notify Commission at specific benchmarks that they are in compliance with applicable construction requirements in order to ensure that these licensees quickly construct their systems and that, with those systems, they provide, within their respective licensed areas: coverage to minimum geographic areas, service to minimum percentages of the population, or "substantial service" within ten years after license grant. The Commission is not currently collecting information from narrowband PCS licensees under Section 24.103 and does not expect to do so during the three year period for which it seeks extension of its current collection authority under that section. However, following the future auction of new narrowband PCS licenses, the reporting and recordkeeping requirements under this section will be used to satisfy the Commission's rule that such licensees demonstrate compliance with these construction requirements by the 5 and 10 year benchmarks established upon the grant date of each license. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

**Gloria J. Miles,**

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

[FR Doc. 2015-31293 Filed 12-10-15; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination; 10420 BankEast; Knoxville, Tennessee

The Federal Deposit Insurance Corporation (FDIC), as Receiver for

10420 BankEast, Knoxville, Tennessee (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of BankEast (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015-31286 Filed 12-10-15; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination, 10357 Rosemount National Bank, Rosemount, Minnesota

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10357 Rosemount National Bank, Rosemount, Minnesota (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Rosemount National Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 8, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015-31285 Filed 12-10-15; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10169 St. Stephen State Bank, St. Stephen, Minnesota

*Notice is hereby given* that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for St. Stephen State Bank, St. Stephen, Minnesota ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of St. Stephen State Bank on January 15, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: December 8, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015-31284 Filed 12-10-15; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination; 10479 Central Arizona Bank; Scottsdale, Arizona

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10479 Central Arizona Bank, Scottsdale, Arizona (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Central Arizona Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-

Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 8, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015-31287 Filed 12-10-15; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice To All Interested Parties of the Termination of the Receivership of 10494 Syringa Bank, Boise, Idaho

*Notice is hereby given* that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Syringa Bank, Boise, Idaho ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Syringa Bank on January 31, 2014. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: December 8, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015-31288 Filed 12-10-15; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL MARITIME COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Federal Maritime Commission.

**TIME AND DATE:** December 16, 2015; 10:00 a.m.

**PLACE:** 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

**STATUS:** The first portion of the meeting will be held in Open Session; the second in Closed Session.

**MATTERS TO BE CONSIDERED:**

#### Open Session

1. Briefing by the Port of New York and New Jersey on the Port's Terminal Information Portal System (TIPS)
2. Briefing on U.S.-China Bilateral Discussions
3. Briefing on 2015 World Shipping Summit, Guangzhou, China
4. Alternative Dispute Resolution, Arbitration—Regulatory Review
5. Staff Briefing on the West Coast Marine Terminal Operator Agreement, FMC Agreement No. 201143

#### Closed Session

1. Staff Briefing on the West Coast Marine Terminal Operator Agreement, FMC Agreement No. 201143

**CONTACT PERSON FOR MORE INFORMATION:** Karen V. Gregory, Secretary, (202) 523-5725.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. 2015-31414 Filed 12-9-15; 4:15 pm]

**BILLING CODE 6731-AA-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 28, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Brooks F. Burgum, Fargo, North Dakota, individually, and as a trustee of the Frederick W. Burgum-Katherine J. Burgum 2008 FFC GRAT, Fargo, North Dakota, and with Frederick W. Burgum, Arthur, North Dakota; and Katherine B. Itterman, Fargo, North Dakota, as members of the Burgum family control group; to retain voting shares of First Financial Corporation, and thereby indirectly retain voting shares of First State Bank of North Dakota, both in Arthur, North Dakota.*

Board of Governors of the Federal Reserve System, December 8, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015-31271 Filed 12-10-15; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2015-30856) published on page 76287 of the issue for Tuesday, December 8, 2015.

Under the Federal Reserve Bank of Atlanta heading, the entry for Seacoast Banking Corporation of Florida, Stuart, Florida, is revised to read as follows:

1. *CapGen Capital Group III LP, CapGen Capital Group III LLC, both in New York, New York, and Seacoast Banking Corporation of Florida, Stuart, Florida; to merge with Floridian Financial Group, Inc., Lake Mary, Florida, and thereby indirectly acquire Floridian Bank, Daytona Beach, Florida.*

Comments on this application must be received by January 4, 2016.

Board of Governors of the Federal Reserve System, December 8, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015-31270 Filed 12-10-15; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project:

*“Developing a Registry of Registries.”* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on September 21st, 2015 and allowed 60 days for public comment. AHRQ received no substantive comments from the public. The purpose of this notice is to allow an additional 30 days for public comment.

**DATES:** Comments on this notice must be received by January 11, 2016.

**ADDRESSES:** Written comments should be submitted to: AHRQ’s OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ’s desk officer) or by email at [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) (attention: AHRQ’s desk officer).

**FOR FURTHER INFORMATION CONTACT:** Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at [doris.lefkowitz@AHRQ.hhs.gov](mailto:doris.lefkowitz@AHRQ.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Proposed Renewal of an Existing Project: OMB Control Number 0935–0203.

The Registry of Patient Registries (RoPR) is a web-based application, and does not require users to submit any type of paper form.

The RoPR collects patient registry data in two (2) ways: Users are able to enter information into the web-based system manually, or use an automated upload feature.

Information being collected in the RoPR Record is visible to the public and patient registries visiting the RoPR Web site, and is available for public use in this capacity.

The RoPR system provides email notification to registry holders informing them on an annual basis of the need to update basic statistics and contact information, but it is the

responsibility of the registry holder to update the information.

If a Registry Profile has not been reviewed and updated to the RoPR search site within four (4) years, it is archived.

As of August 8, 2015, the RoPR has 138 patient registries listed.

#### “Developing a Registry of Registries”

Patient registries have received significant attention and funding in recent years. Similar to controlled studies, patient registries represent some burden to patients (*e.g.*, time to complete patient reported outcome measures, risk of loss of privacy), who often participate voluntarily in hopes of improving knowledge about a disease or condition. Patient registries also represent a substantial investment of health research resources. Despite these factors, patient registries are not required to be registered in ClinicalTrials.gov, presenting the potential for duplication of efforts and insufficient dissemination of findings that are not published in the peer-reviewed literature. To fulfill the obligation of advancing the quality and specificity of patient health care, and to ensure that resources are used in the most efficient manner, patient registries need to be listed in a manner similar to that of trials in ClinicalTrials.gov.

By creating a central point of collection for information about all patient registries in the United States, the RoPR furthers AHRQ’s goals by making information regarding quality, appropriateness, and effectiveness of health services (and patient registries in particular) more readily available in a central location.

This research has the following goals:

(1) Maintaining and updating the RoPR database system to be compatible with ClinicalTrials.gov; meeting the following objectives:

a. Providing a searchable database of patient registries in the United States (to promote collaboration, reduce redundancy, and improve transparency);

b. Facilitating the use of common data fields and definitions in similar health conditions (to improve opportunities for sharing, comparing, and linkage) and free-text search field for highlighting information specific to an individual registry;

c. Providing a public repository of searchable summary results (including results from registries that have not yet been published in the peer-reviewed literature);

d. Offering a search tool to locate existing data that researchers can request for use in new studies; and

e. Serving as a recruitment tool for researchers and patients interested in participating in patient registries.

This study is being conducted by AHRQ through its contractor L&M Policy Research and Quintiles, a sub-contractor to L&M, pursuant to AHRQ’s statutory authority to conduct and support research and disseminate information on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to database development. 42 U.S.C. 299a(a)(1) and (8).

#### Method of Collection

To achieve the goals of this project, the following data collections will be implemented:

(1) Collect information from users who populate the RoPR database system, which will achieve all of the above goals.

(2) There are tentative plans for a user satisfaction survey to be enabled within the RoPR system, in the second quarter of 2016. The purpose of this survey is to obtain user/stakeholder feedback to evaluate priorities for future enhancements. Its full nature and design is in the concept stage still and so is not part of the Estimated Annual Respondent Burden. However, for the purpose of full disclosure, plans for the survey are being disclosed in this notice.

The purpose and the use of the RoPR is to provide a readily available public resource strictly for patient registries, following the model of ClinicalTrials.gov, allowing for the increased availability and efficacy of patient registries. The information being collected in the RoPR Record is visible to the public visiting the RoPR Web site, and is readily available for public use. The RoPR is an ongoing data collection initiative.

#### Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent’s time to participate in the RoPR. Between July 2014 and June 2015, 59 new respondents had entered their RoPR record, utilizing either a manual or electronic upload data entry method.

Each respondent need enter his or her new RoPR record only once, and this process is estimated to take 45 minutes. The RoPR system sends an automated reminder to any registry owner who has not updated his or her RoPR record in the past year. An estimated 57.25% (79 records) of all RoPR records were

eligible for updates between July 2014 and June 2015, either by the registry owner's initiative, or when prompted by the automated RoPR reminder. This update process takes about 15 minutes. As the RoPR continues to grow and more patient registry records are added

over time, this percentage represents a growing, cumulative number.

In February 2015, Quintiles conducted a knowledge transfer webinar for registry contacts learn how to enter new records into the RoPR. As a result of the knowledge gained during these processes, it is estimated that it takes users 45 minutes to manually enter a

new RoPR record; 15 minutes to upload a new RoPR record (an average of 30 minutes using either method). It takes 15 minutes for a person to review and make updates to an existing RoPR record. The total respondent burden is estimated to be a maximum of 64 hours annually.

#### EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Minutes per response	Total burden hours
New RoPR Record (manually—entered or uploaded electronically method)	59	1	45/60	44.25
Review/update existing RoPR Record .....	79	1	15/60	19.75
Total .....	138	.....	.....	64.0

Exhibit 2 shows the estimated cost burden associated with the respondent's

time to participate in the RoPR. The total cost burden to respondents is

estimated at an average of \$1,799.60 annually.

#### EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate †	Total cost burden
New RoPR Record (manually—entered or uploaded electronically method)	59	44.25	\$36.54	\$1,617
Review/update existing RoPR Record .....	79	19.75	36.54	721.67
Total .....	138	64	.....	2,339

\* Based on the mean wages for Healthcare Practitioners and Technical Occupations, 29-0000. National Compensation Survey: Occupational wages in the United States May 2014, "U.S. Department of Labor, Bureau of Labor Statistics." Available at: [http://www.bls.gov/oes/current/oes\\_nat.htm#b29-0000](http://www.bls.gov/oes/current/oes_nat.htm#b29-0000).

In order to highlight patient registry concerns about using the RoPR system and turning user feedback into future system maintenance and upgrade initiatives (increasing the usability of the RoPR and lowering the burden of entering patient registry information), plans for a voluntary user satisfaction survey are being considered for 2Q 2016. Its full nature and design is in the concept stage. Therefore, this survey is not part of the Estimated Annualized Respondent Hourly/Cost Burden noted in Exhibits 1 and 2.

#### Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

**Sharon Arnold,**  
Deputy Director.

[FR Doc. 2015-31158 Filed 12-10-15; 8:45 am]

**BILLING CODE 4160-90-P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Online Submission Form for Supplemental Evidence and Data for Systematic reviews for the Evidence-based Practice Center Program." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501-3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on September 21st, 2015 and allowed 60 days for public comment. AHRQ did not receive any substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

**DATES:** Comments on this notice must be received by January 11, 2016.

**ADDRESSES:** Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395-6974 (attention: AHRQ's desk officer) or by email at [OIRA\\_submission@omb](mailto:OIRA_submission@omb).

*eop.gov* (attention: AHRQ's desk officer).

**FOR FURTHER INFORMATION CONTACT:**

Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by email at [doris.lefkowitz@AHRQ.hhs.gov](mailto:doris.lefkowitz@AHRQ.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Proposed Project**

This is a new activity of AHRQ's Evidence-based Practice Center Program.

*Evidence-Based Practice Center Program*

AHRQ's Evidence-based Practice Center (EPC) Program develops evidence reports and technology assessments on topics relevant to clinical and other health care organization and delivery issues—specifically those that are common, expensive, and/or significant for the Medicare and Medicaid populations. For example recent reviews have focused on clinical conditions, such as “Treatment of Nonmetastatic Muscle-Invasive Bladder Cancer”; health delivery topics such as “Management Strategies to Reduce Psychiatric Admissions”; and specific technologies such as “Imaging Techniques for Treatment Evaluation for Metastatic Breast Cancer.” These evidence reports include systematic reviews and technical briefs, and provide an essential foundation from which to understand what we know from existing research and what critical research gaps remain. These reports, reviews, and technology assessments are based on rigorous, comprehensive syntheses and analyses of the scientific literature on topics. EPC reports and assessments emphasize explicit and detailed documentation of methods, rationale, and assumptions. EPC reports are conducted in accordance with an established policy on financial and nonfinancial interests. These scientific syntheses may include meta-analyses and cost analyses.

The EPC Program supports AHRQ's mission by synthesizing and disseminating the available research as a “science partner” with private and public organizations in their efforts to improve the quality, effectiveness, and appropriateness of health care. The EPC Program is a trusted source of rigorous, comprehensive, and unbiased evidence reviews for stakeholders. The resulting evidence reports and technology assessments are used by Federal and State agencies, private-sector professional societies, health delivery systems, providers, payers, and others committed to evidence-based health

care. These end users may use EPC Program evidence reports to inform policy decisions, clinical practice guidelines, and other health care decisions.

EPC research has the following goals:

- Use research methods to gather knowledge on the effectiveness of certain treatments for specific medical conditions, both published and unpublished, to evaluate the quality of research studies and the evidence from these studies.
- Promote the use of evidence in health care decision making to improve health care and health.
- Identify research gaps to inform future research investments.

The Institute of Medicine standards for quality systematic reviews include an assessment of publication bias through the identification of unpublished studies. This is an important source for bias which could affect the nature and direction of research findings. Identifying and including the results of these additional unpublished studies may provide a more complete and accurate assessment of an intervention's effect on outcomes. An important way to identify unpublished studies is through requests to medical device manufacturers, pharmaceutical companies, and other intervention developers.

The proposed project involves sending a request letter to relevant medical device manufacturers, pharmaceutical companies and other intervention developers to invite them to submit unpublished studies or other scientific information to the EPC Program Web site, with one request per systematic review topic. Because research on each topic must be completed in a timely manner in order for it to be useful, the collections are never ongoing—there is one request and collection per topic. Investigators in the EPC Program will review the information and assess potential risk of bias from both published and unpublished studies and its impact on the EPC Program's findings. AHRQ believes the display of these assessments in the systematic review's evidence tables will improve the response and submission rates of industry stakeholders by informing the health care community of the impact of potential bias on the research conclusions, and for health care decision making.

This activity is being conducted by AHRQ's EPC Program through its contractor, the Scientific Resource Center (SRC), pursuant to AHRQ's statutory authority to conduct and support research on health care and on

systems for the delivery of such care and to disseminate government-funded research relevant to comparative clinical effectiveness research. 42 U.S.C. 299a(a); 42 U.S.C. 299b-37(a).

**Method of Collection**

To achieve the goals of this project the following data collections will be implemented:

- Online Submission Form Instrument. This information is collected for the purposes of providing supplemental evidence and data for systematic reviews (SEADS). The online submission form (OSF) collects data from respondents on their organization name, their product's name, and whether they are providing all information on requested studies characteristic of the review in progress. This happens following receipt of a request letter from the SRC. These requests will be sent to relevant sponsors of preventive and treatment interventions (e.g., medical device manufacturers, pharmaceuticals, and other intervention and health care system developers), with one request per topic. For the purposes of meta-analyses, trial summary data from missing and unidentified studies are sought. For the purposes of constructing evidence tables and quality ratings (e.g. on public reporting of cost measures or health information exchange), data can vary (e.g., URLs, study designs, and consumer-mediated exchange forms). Information on both completed and ongoing studies are requested.

The EPC Program, through the SRC, currently uses a **Federal Register** notice and broad-based email announcement to stakeholders to allow the public to know about each topic, and the opportunity to submit scientific information. In 2014, the Program sent 517 notifications to 336 industry stakeholders. Of those 517 announcements sent, 14.1% received a response; 56.2% of the responses (or 7.9% of all requests) contained submissions of information on the results of interventions. This experience has prompted this proposed project.

The additional use of direct requests to relevant organizations would improve the Program's ability to obtain this information. Contacting intervention sponsors for missing and potentially unidentified studies could improve the impact of research efforts and downstream dissemination efforts and could positively impact the health of individuals, burdened by poor health along with their supporting communities. Including information about response data to these requests to more accurately characterize the



completeness of the evidence in the systematic reviews may also address this issue.

The proposed project does not duplicate other available sources of this information. Available study registries and databases may not be complete to sufficiently inform the Program’s research.

The purpose of SEADS requests is not to collect generalizable data, but to supplement the published and grey literature searches EPC investigators are conducting. Furthermore, considering the evidence and data included in responses collected from industry stakeholders, an assessment pertaining to the completeness of the evidence-base will be produced. This, AHRQ

believes, will increase the value of AHRQ’s research reviews to end users and potentially provide stakeholders a better understanding of how their submissions are used.

**Estimated Annual Respondent Burden**

Exhibit 1 presents estimates of the reporting burden hours for the data collection efforts. Time estimates are based on pilot testing of materials and what can reasonably be requested of respondents. The number of respondents listed in “Number of respondents per SEADS request” of Exhibit 1 reflects a projected 80% response rate.

Online Submission Form: A form for submitting scientific evidence and data

related to medical interventions sponsored by organizations and individuals such as pharmaceutical companies and independent researchers. The form has three required fields: The organization’s name, the intervention in question, and whether the information they provide is all the information they know to exist. They may upload documents and they are also provided a data entry form if they wish to offer greater details on their studies.

An Optional Data Entry Form is available as an alternative to the Online Submission form. The time requirements for response would be same as the Online Submission Form.

**EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS**

Form name	Number of respondents per SEADS request	Number of responses per respondent	Hours per response	Total burden hours per SEADS
Online Submission Form (OSF) .....	70	1	15/60	17.5
Total .....	70	1	15/60	17.5

**EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN**

Form name	Number of SEADS requests	Total burden hours per SEADS	Average hourly wage rate*	Total cost burden
OSF .....	70	17.5	<sup>a</sup> \$55.48	\$970.90
Total .....	70	17.5	55.48	970.90

\* Occupational Employment Statistics, May 2014 National Occupational Employment and Wage Estimates United States, U.S. Department of Labor, Bureau of Labor Statistics. [http://www.bls.gov/oes/current/oes\\_nat.htm#b29-0000](http://www.bls.gov/oes/current/oes_nat.htm#b29-0000).

<sup>a</sup>Based on the mean wages for *Public Relations and Fundraising Managers, 11–2031*, the occupational group most likely tasked with completing the OSF.

**Request for Comments**

In accordance with the Paperwork Reduction Act, comments on AHRQ’s information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ’s estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and

included in the Agency’s subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

**Sharon Arnold,**  
*Deputy Director.*

[FR Doc. 2015–31159 Filed 12–10–15; 8:45 am]

**BILLING CODE 4160–90–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[30Day–16–0950]

**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*. Direct written comments and/or suggestions regarding the items contained in this notice 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 National Health and Nutrition Examination Survey (NHANES), (OMB No. 0920-0950, expires 11/30/2016)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States.

The National Health and Nutrition Examination Surveys (NHANES) have been conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC. Annually, approximately 14,410 respondents participate in some aspect of the full survey. Up to 3,500 additional persons might participate in tests of procedures, special studies, or methodological studies (Table 1). Participation in NHANES is completely voluntary and confidential. A three-year approval is requested.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the

general population. Through the use of physical examinations, laboratory tests, and interviews NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors. NHANES data are used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in the health of the U.S. population over time. NCHS collects personal identification information. Participant level data items will include basic demographic information, name, address, social security number, Medicare number and participant health information to allow for linkages to other data sources such as the National Death Index and data from the Centers for Medicare and Medicaid Services (CMS).

A variety of agencies sponsor data collection components on NHANES. To keep burden down, NCHS cycles in and out various components. The 2015-2016 NHANES physical examination includes the following components: Oral glucose tolerance test (ages 12 and older), anthropometry (all ages), 24-hour dietary recall (all ages), physician's examination (all ages, blood pressure is collected here), oral health examination (ages 1 and older), hearing (ages 20-59), dual X-ray absorptiometry (total body composition ages 6-59 and osteoporosis, vertebral fractures and aortic calcification ages 40 and older).

While at the examination center additional interview questions are asked (6 and older), a second 24-hour dietary recall (all ages) is scheduled to be conducted by phone 3-10 days later, and an appointment is made to return to the MEC to begin a 24-hour urine collection (one-half sample of ages 20-69). In 2014, a 24-hour urine collection was added to the NHANES protocol to better understand sodium intake and provide a population baseline for use in monitoring trends in sodium intake in the future. In 2015, FDA is scheduled to implement a plan to promote broad, gradual reduction of added sodium in the food supply. One half of those successfully completing the initial

collection will be asked to complete a second 24-hour urine. After completing the 24-hour urine participants are asked to provide 2 home urine collections (first morning and an evening) and mail them back. The urines collected in the morning and evening will be compared to the 24-hour urine collection.

NHANES also plans to conduct a waist circumference methodology study. The study population will be NHANES participants aged 20 and over who participate in the body measurements component in the Mobile Examination Center (MEC).

The bio-specimens collected for laboratory tests include urine, blood, vaginal and penile swabs, oral rinses and household water collection. Serum, plasma and urine specimens are stored for future testing if the participant consents.

The following major examination or laboratory items, that had been included in the 2013-2014 NHANES, were cycled out for NHANES 2015-2016: Physical activity monitor, taste and smell component and upper body muscle strength (grip test).

Most sections of the NHANES interviews provide self-reported information to be used either in concert with specific examination or laboratory content, as independent prevalence estimates, or as covariates in statistical analysis (e.g., socio-demographic characteristics). Some examples include alcohol, drug, and tobacco use, sexual behavior, prescription and aspirin use, and indicators of oral, bone, reproductive, and mental health. Several interview components support the nutrition monitoring objective of NHANES, including questions about food security and nutrition program participation, dietary supplement use, and weight history/self-image/related behavior.

NHANES data users include the U.S. Congress; numerous Federal agencies such as other branches of the Centers for Disease Control and Prevention, the National Institutes of Health, and the United States Department of Agriculture; private groups such as the American Heart Association; schools of public health; and private businesses. There is no cost to respondents other than their time.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Individuals in households .....	NHANES Questionnaire .....	14,410	1	2.5
Individuals in households .....	Waist Circumference Methodology Study .....	3,000	1	8/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Individuals in households .....	Special Studies .....	3,500	1	3

**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. 2015-31226 Filed 12-10-15; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND  
 HUMAN SERVICES**

**Centers for Medicare & Medicaid  
 Services**

[Document Identifier: CMS-8550, CMS-  
 10438 and CMS-10439]

**Agency Information Collection  
 Activities: Proposed Collection;  
 Comment Request**

**AGENCY:** Centers for Medicare &  
 Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare &  
 Medicaid Services (CMS) is announcing  
 an opportunity for the public to  
 comment on CMS' intention to collect  
 information from the public. Under the  
 Paperwork Reduction Act of 1995 (the  
 PRA), federal agencies are required to  
 publish notice in the **Federal Register**  
 concerning each proposed collection of  
 information (including each proposed  
 extension or reinstatement of an existing  
 collection of information) and to allow  
 60 days for public comment on the  
 proposed action. Interested persons are  
 invited to send comments regarding our  
 burden estimates or any other aspect of  
 this collection of information, including  
 any of the following subjects: the  
 necessity and utility of the proposed  
 information collection for the proper  
 performance of the agency's functions;  
 the accuracy of the estimated burden;  
 ways to enhance the quality, utility, and  
 clarity of the information to be  
 collected; and the use of automated  
 collection techniques or other forms of  
 information technology to minimize the  
 information collection burden.

**DATES:** Comments must be received by  
 February 9, 2016.

**ADDRESSES:** When commenting, please  
 reference the document identifier or  
 OMB control number. To be assured  
 consideration, comments and

recommendations must be submitted in  
 any one of the following ways:

1. *Electronically.* You may send your  
 comments electronically to [http://  
 www.regulations.gov](http://www.regulations.gov). Follow the  
 instructions for "Comment or  
 Submission" or "More Search Options"  
 to find the information collection  
 document(s) that are accepting  
 comments.

2. *By regular mail.* You may mail  
 written comments to the following  
 address: CMS, Office of Strategic  
 Operations and Regulatory Affairs,  
 Division of Regulations Development,  
 Attention: Document Identifier/OMB  
 Control Number \_\_\_\_\_, Room C4-26-05,  
 7500 Security Boulevard, Baltimore,  
 Maryland 21244-1850.

To obtain copies of a supporting  
 statement and any related forms for the  
 proposed collection(s) summarized in  
 this notice, you may make your request  
 using one of following:

1. Access CMS' Web site address at  
[http://www.cms.hhs.gov/  
 PaperworkReductionActof1995](http://www.cms.hhs.gov/PaperworkReductionActof1995).

2. Email your request, including your  
 address, phone number, OMB number,  
 and CMS document identifier, to  
[Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at  
 (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:**  
 Reports Clearance Office at (410) 786-  
 1326.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the  
 use and burden associated with the  
 following information collections. More  
 detailed information can be found in  
 each collection's supporting statement  
 and associated materials (see  
**ADDRESSES**).

**CMS-8550 Medicare Registration  
 Application**

**CMS-10438 Data Collection To  
 Support Eligibility Determinations and  
 Enrollment for Employees in the Small  
 Business Health Options Program**

**CMS-10439 Data Collection To  
 Support Eligibility Determinations and  
 Enrollment for Employers in the Small  
 Business Health Options Program**

Under the PRA (44 U.S.C. 3501-  
 3520), federal agencies must obtain  
 approval from the Office of Management  
 and Budget (OMB) for each collection of  
 information they conduct or sponsor.  
 The term "collection of information" is  
 defined in 44 U.S.C. 3502(3) and 5 CFR  
 1320.3(c) and includes agency requests  
 or requirements that members of the  
 public submit reports, keep records, or  
 provide information to a third party.  
 Section 3506(c)(2)(A) of the PRA  
 requires federal agencies to publish a  
 60-day notice in the **Federal Register**  
 concerning each proposed collection of  
 information, including each proposed  
 extension or reinstatement of an existing  
 collection of information, before  
 submitting the collection to OMB for  
 approval. To comply with this  
 requirement, CMS is publishing this  
 notice.

1. *Type of Information Collection  
 Request:* Revision of a currently  
 approved information collection; *Title  
 of Information Collection:* Medicare  
 Registration Application; *Use:* The  
 primary function of the CMS-8550 is to  
 gather information from a physician or  
 other eligible professional to help CMS  
 determine whether he or she meets  
 certain qualifications to be enrolled in  
 the Medicare program for the sole  
 purpose of ordering or certifying certain  
 Medicare items or services and/or  
 prescribing Medicare Part D drugs for  
 Medicare beneficiaries. The application  
 allows a physician or other eligible  
 professional to enroll in Medicare  
 without being approved for billing  
 privileges. The required information is  
 submitted when the applicant requests  
 enrollment in Medicare for the sole  
 purpose of ordering and certifying  
 certain Medicare items and services or  
 for prescribing Medicare Part D drugs.  
 The application is used by Medicare  
 contractors to collect data to help ensure

that the applicant has the necessary credentials to order and certify certain Medicare items and services or to prescribe Medicare Part D drugs. This includes ensuring that the physician is not excluded debarred from the Medicare program. *Form Number:* CMS-855O (OMB Control Number: 0938-1135); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits), State, Local, or Tribal Governments; *Number of Respondents:* 448,000; *Number of Responses:* 24,000; *Total Annual Hours:* 243,600. (For questions regarding this collection contact Kimberly McPhillips (410) 786-8438.)

#### 2. Type of Information Collection

*Request:* Revision of a currently approved information collection; *Title of Information Collection:* Data Collection to Support Eligibility Determinations and Enrollment for Employees in the Small Business Health Options Program; *Use:* Section 1311(b)(1)(B) of the Affordable Care Act directs that the SHOP assist qualified small employers in facilitating the enrollment of their employees in QHPs offered in the small group market. Section 1311(c)(1)(F) of the Affordable Care Act directs HHS to establish criteria for certification of health plans as QHPs and plans to utilize a uniform enrollment form for qualified employers. Further, section 1311(c)(5)(B) directs HHS to develop a Web site that assists employers in determining if they are eligible to participate in SHOP. *Form Number:* CMS-10438 (OMB Control Number: 0938-1194); *Frequency:* Annually; *Affected Public:* Private Sector; *Number of Respondents:* 60,000; *Number of Responses:* 60,000; *Total Annual Hours:* 60,000. (For questions regarding this collection contact Christelle Jang at (410) 786-8438.)

#### 3. Type of Information Collection

*Request:* Revision of a currently approved information collection; *Title of Information Collection:* Data Collection to Support Eligibility Determinations and Enrollment for Employers in the Small Business Health Options Program; *Use:* Section 1311(b)(1)(B) of the Affordable Care Act directs that the SHOP assist qualified small employers in facilitating the enrollment of their employees in QHPs offered in the small group market. Section 1311(c)(1)(F) of the Affordable Care Act directs HHS to establish criteria for certification of health plans as QHPs and plans to utilize a uniform enrollment form for qualified employers. Further, section 1311(c)(5)(B) directs HHS to develop a Web site that assists employers in

determining if they are eligible to participate in SHOP. *Form Number:* CMS-10439 (OMB Control Number: 0938-1139); *Frequency:* Annually; *Affected Public:* Private Sector; *Number of Respondents:* 6,000; *Number of Responses:* 6,000; *Total Annual Hours:* 12,000. (For questions regarding this collection contact Christelle Jang at (410) 786-8438.)

Dated: December 8, 2015.

#### William N. Parham, III,

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2015-31302 Filed 12-10-15; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102-3.65(a), notice is hereby given that the Charter for the PUBMED CENTRAL NATIONAL ADVISORY COMMITTEE (PUBMED) was renewed for an additional two-year period on December 8, 2015.

It is determined that the PUBMED is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Code 4875), Telephone (301) 496-2123, or [spaethj@od.nih.gov](mailto:spaethj@od.nih.gov).

Dated: December 8, 2015.

#### Michelle Trout,

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015-31239 Filed 12-10-15; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of the Director, Office of Science Policy, Office of Biotechnology Activities; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is

hereby given of the meeting of the National Science Advisory Board for Biosecurity (NSABB).

*Name of Committee:* National Science Advisory Board for Biosecurity.

*Date:* January 7-8, 2016.

*Time:* January 7, 2016, 8:30 a.m.-5:30 p.m. Eastern; January 8, 2016, 8:30 a.m. to adjournment.

*Agenda:* Presentations and discussions regarding: (1) Preliminary findings of the NSABB Working Group on Evaluating the Risks and Benefits of Gain-of-Function (GOF) Studies; (2) the results of the risk-benefit assessment of GOF studies involving pathogens with pandemic potential; (3) ethical and policy issues relevant to the conduct and oversight of GOF studies; and (4) other business of the Board.

*Place:* National Institutes of Health, Bldg. 31, C Wing, 6th Floor, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Christopher Viggiani, Ph.D., Executive Director, NSABB, NIH Office of Science Policy, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892, (301) 496-9838, [viggianic@od.nih.gov](mailto:viggianic@od.nih.gov).

Under authority 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established the National Science Advisory Board for Biosecurity (NSABB) to provide advice regarding federal oversight of dual use biological research that generates information and technologies that could be misused to pose a biological threat to public health and/or national security. The NSABB is currently charged with providing formal recommendations to the United States Government on a conceptual approach for the evaluation of proposed gain-of-function studies.

The meeting will be open to the public and will also be webcast as space will be limited. Persons planning to attend or view via the webcast may pre-register online using the link provided below or by calling Palladian Partners, Inc. (Contact: Ida Donner at 301-650-8660). Online and telephone registration will close at 12:00 p.m. Eastern on January 4, 2016. After that time, attendees may register onsite on the day of the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should indicate these requirements upon registration on or prior to January 4.

*Meeting materials:* The meeting agenda and links to the online registration and webcast will be available at: <http://osp.od.nih.gov/office-biotechnology-activities/biosecurity/nsabb/nsabb-meetings-and-conferences>. Preliminary findings of the NSABB working group as well as the results of the risk-benefit assessment,

performed by Gryphon Scientific, will be posted prior to the meeting. Please check this Web site for updates.

**Public Comments:** Many presentations and panel discussions at the meeting will be accompanied by question and answer periods that are open to members of the public, time permitting. In addition, there will also be time allotted on the agenda for the presentation of public comments. Members of the public interested in presenting prepared comments relevant to the mission of the NSABB should indicate so upon registration. Sign-up for delivering prepared oral comments will be limited to one per person or organization representative per open comment period. Individual presentations will be time-limited to facilitate broad participation from multiple speakers. Participants viewing the meeting by webcast may submit questions and comments during the meeting via email sent to [nsabb@od.nih.gov](mailto:nsabb@od.nih.gov). While time constraints and the volume of questions may not allow for all questions and comments submitted via email to be aired during the meeting, all relevant correspondence received will be relayed to the Board. Emailed correspondence should include the name, contact information, and when applicable, professional affiliation of the sender.

In addition, interested persons may file written comments at any time with the Board via an email sent to [nsabb@od.nih.gov](mailto:nsabb@od.nih.gov) or by regular mail sent to the Contact Person listed on this notice. Written statements should include the name, contact information, and when applicable, the professional affiliation of the interested person. Written comments received by 5:00 p.m. Eastern on December 31, 2015, will be relayed to the Board prior to the NSABB meeting. Any written comments received after this deadline will be provided to the Board either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies.

**Please Note:** In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Please visit the NIH Visitor Security page for important security and campus access information.

Dated: December 8, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015-31238 Filed 12-10-15; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of The Director, National Institutes of Health; Notice of Meeting

Notice is hereby given of a meeting of the Big Data to Knowledge Multi-Council Working Group.

The teleconference meeting will be open to the public as indicated below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Working Group: Big Data to Knowledge Multi-Council Working Group.

Date: January 11, 2015.

Open: 11:00 a.m. to 12:00 p.m.

Agenda: Discussion will review current Big Data to Knowledge (BD2K) activities and newly proposed BD2K initiatives.

Place: Teleconference. This meeting is open to the public but is being held by teleconference only. No physical meeting location is provided for any interested individuals to listen to committee discussions. Any individual interested in listening to the meeting discussions must call: 1-866-692-3158 and use Passcode: 2956317, for access to the meeting.

Closed: 12:10 p.m.-3:30 p.m.

Agenda: Discussion will focus on review of proposed Funding Plans for BD2K Funding Opportunity Announcements.

Place: Teleconference.

Contact Person: Tonya Scott, email: [tonya.scott@nih.gov](mailto:tonya.scott@nih.gov), phone: 301-402-9817.

Information is also available on the Office of the Associate Director for Data Science's home page: <https://datascience.nih.gov/index> where an agenda and any additional information for the meeting will be posted when available.

Dated: December 7, 2015.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015-31162 Filed 12-10-15; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Clinical, Treatment and Health Services Review Subcommittee (AA-3).

**Date:** March 15, 2016.

**Time:** 8:30 a.m. to 6:00 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** NIAAA, NIH, 5635 Fishers Lane, Terrace Level, Room 508/509, Rockville, MD 20852.

**Contact Person:** Katrina L. Foster, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2019, Rockville, MD 20852, 301-443-4032, [katrina@mail.nih.gov](mailto:katrina@mail.nih.gov).

**Name of Committee:** National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Review Subcommittee (AA-2).

**Date:** March 21, 2016.

**Time:** 8:30 a.m. to 6:00 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** NIAAA, NIH, 5635 Fishers Lane, Terrace Level, Room 508/509, Rockville, MD 20852.

**Contact Person:** Katrina L. Foster, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2019, Rockville, MD 20852, 301-443-3037, [katrina@mail.nih.gov](mailto:katrina@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 7, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015-31240 Filed 12-10-15; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5828-N-50]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:**

Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402-3970; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or

(3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B-17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)-443-2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing

sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720-8873; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP-CR, 441 G Street NW., Washington, DC 20314; (202) 761-5542; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, OECM MA-50, 4B122, 1000 Independence Ave. SW., Washington, DC 20585 (202) 287-1503; INTERIOR: Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 3960 N. 56th Ave. #104, Hollywood, FL 33021; (443) 223-4639; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685-9426; (These are not toll-free numbers).

Dated: December 3, 2015.

**Brian P. Fitzmaurice,**

*Director, Division of Community Assistance, Office of Special Needs Assistance Programs.*

### TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/11/2015

#### Suitable/Available Properties

##### Land

Oklahoma

0.1 Acres of Land

Lake Eufaula

Lake Eufaula OK

Landholding Agency: COE

Property Number: 31201540002

Status: Unutilized

Comments: 100% of property occupied by unauthorized encroachment consisting of a portion of a residence and porch.

#### Unsuitable Properties

##### Building

California

Millerton Storage and Warehouse FRPP-R1785100600B

Friant CA 93626

Landholding Agency: Interior

Property Number: 61201540001

Status: Underutilized

Directions: 5390 Millerton Rd.

Comments: Documented deficiencies:

Cracked foundation; deteriorated roof; structurally unsound; clear threat to personal physical safety.

Reasons: Extensive deterioration

Millerton Storage and Warehouse FRPP R1785100400B  
5390 Millerton Rd.

Friant CA 93626

Landholding Agency: Interior

Property Number: 61201540003

Status: Underutilized  
 Comments: Documented deficiencies:  
 Exterior siding, roofing, entry, and windows all have significant damage; stress cracks on ceiling; structurally unsound.  
 Reasons: Extensive deterioration  
 Millerton Storage and Warehouse Building—Building FRPP–R1785100500B  
 Friant CA 93626  
 Landholding Agency: Interior  
 Property Number: 61201540004  
 Status: Underutilized  
 Directions: 5390 Millerton Rd.  
 Comments: Documented deficiencies:  
 Exterior siding, roofing, entry, windows all have significant damage; inundated by rodents and received significant water damage on exterior walls and the roof.  
 Reasons: Extensive deterioration  
 4 Buildings  
 MCB Camp Pendleton  
 Camp Pendleton CA 92055  
 Landholding Agency: Navy  
 Property Number: 77201540013  
 Status: Excess  
 Directions: 12104; 12105; 12106; 12107  
 Comments: Public access denied and no alternative method to gain access without compromising national security.  
 Reasons: Secured Area  
 Colorado  
 Nelson Ranch House  
 Florissant Fossil Beds National Monument  
 Florissant CO 80316  
 Landholding Agency: Interior  
 Property Number: 61201540002  
 Status: Excess  
 Comments: Documented deficiencies:  
 Structurally unsound; several holes in floors and walls; significant rodent infestation; clear threat to physical safety.  
 Reasons: Extensive deterioration  
 District of Columbia  
 Pot Storage Building  
 #NA24 (1230B00024)  
 US National Arboretum; 3501 New York Ave.  
 Washington DC 20002  
 Landholding Agency: Agriculture  
 Property Number: 15201540003  
 Status: Excess  
 Comments: Documented deficiencies:  
 Structurally unsound; roof is collapsing; clear threat to physical safety.  
 Reasons: Extensive deterioration  
 Florida  
 5 Buildings  
 Naval Station Mayport  
 Jacksonville FL 32228  
 Landholding Agency: Navy  
 Property Number: 77201540012  
 Status: Excess  
 Directions: 50–547276; 161–547280; 163–67386; 437–547349; 1809A–67598  
 Comments: Public access denied and no alternative method to gain access without compromising national security.  
 Reasons: Secured Area  
 Tennessee  
 9949–68, Guard Booth  
 Bear Creek Road at Scarboro Road  
 Oak Ridge TN 37831

Landholding Agency: Energy  
 Property Number: 41201540002  
 Status: Unutilized  
 Comments: Public access denied and no alternative method to gain access without compromising national security.  
 Reasons: Secured Area

#### Land

Alabama  
 220 Acres of Land  
 Naval Air Station Whiting Field  
 Silverhill AL  
 Landholding Agency: Navy  
 Property Number: 77201540011  
 Status: Underutilized  
 Comments: Public access denied and no alternative method to gain access without compromising national security.  
 Reasons: Secured Area  
 [FR Doc. 2015–30911 Filed 12–10–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R6–R–2015–N208; FF06R06000–FXRS12610600000–167]

### San Luis Valley National Wildlife Refuge Complex, CO; Availability of Record of Decision for the Final Comprehensive Conservation Plan and Final Environmental Impact Statement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a record of decision (ROD) for the final comprehensive conservation plan (CCP) and final environmental impact statement (EIS) for the San Luis Valley National Wildlife Refuge Complex (Refuge Complex).

**ADDRESSES:** You may view or obtain copies of the ROD, the final CCP and final EIS, or other project information by any of the following methods:

*Agency Web site:* Download a copy of the documents at [http://www.fws.gov/mountain-prairie/refuges/alm\\_bac\\_mtv.php](http://www.fws.gov/mountain-prairie/refuges/alm_bac_mtv.php)

*Email:* [slvrefugesplanning@fws.gov](mailto:slvrefugesplanning@fws.gov). Include “Request copy of San Luis Valley NWR Complex ROD” in the subject line of the message.

*U.S. mail:* San Luis Valley NWR Complex, 8249 Emperius Road, Alamosa, CO 81101.

*Local Libraries:* The final documents are available for review at the libraries listed under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Sharon Vaughn, Project Leader, at 719–

589–4021 (phone), or Laurie Shannon, Planning Team Leader, 303–236–4317 (phone) or [laurie\\_shannon@fws.gov](mailto:laurie_shannon@fws.gov) (email).

#### SUPPLEMENTARY INFORMATION:

#### Introduction

With this notice, we finalize the CCP process for The San Luis Valley National Wildlife Refuge Complex. We started this process through a notice in the **Federal Register** (76 FR 14042, March 15, 2011). Following a lengthy scoping and alternatives development period, we published a second notice in the **Federal Register** (79 FR 50937, August 26, 2014), announcing the availability of the draft CCP and draft EIS and our intention to hold public meetings, and requesting comments. We then published a third notice in the **Federal Register** (80 FR 48328, August 12, 2015), announcing the publication of the final CCP and final EIS.

The primary planning area for this decision includes Alamosa, Monte Vista, and Baca National Wildlife Refuges (NWRs), which are located in Alamosa, Rio Grande, and Saguache Counties in the San Luis Valley, Colorado.

Wildlife habitat on the three national wildlife refuges includes diverse wetlands and playas, riparian areas, grasslands, and shrublands that provide important resources for many migratory birds, Rocky Mountain elk, deer, and a variety of other resident wildlife. About 18,000 to 20,000 greater sandhill cranes migrate through the valley every spring and fall, where they spend several weeks resting and foraging for food on and around the Monte Vista NWR. The federally endangered southwestern willow flycatcher breeds along the Rio Grande on the Alamosa NWR. Baca NWR has one of two aboriginal (natural) populations of Rio Grande sucker found in the State.

Visitors take part in a variety of wildlife-dependent recreational activities on the Refuge Complex. Every year, the Monte Vista Crane Festival attracts thousands of visitors who come to see sandhill cranes and waterfowl. The Monte Vista and Alamosa NWRs are also open for waterfowl and limited small game hunting, wildlife observation, photography, interpretation, and environmental education. As part of this CCP and EIS process, we have considered opening the Baca NWR for similar opportunities.

Over 12,000 years of prehistory and history have been recorded in the San Luis Valley, and all three national wildlife refuges contain significant cultural resources.

In accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements, this notice announces the availability of the ROD for the final CCP and final EIS for San Luis Valley NWR Complex. We completed a thorough analysis of the environmental, social, and economic considerations associated with our actions. The ROD documents our selection of alternative B, the preferred alternative.

The CCP will guide us in managing and administering the Refuge Complex for the next 15 years. Alternative B, as we described in the final EIS/ROD, is the foundation for the CCP.

**Background**

*The CCP Process*

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. We will review and update the CCP at least

every 15 years in accordance with the Administration Act.

**CCP Alternatives and Selected Alternative**

Our final CCP and final EIS (80 FR 48328; August 12, 2015) addressed several issues. To address these, we developed and evaluated the following alternatives: Alternative A—No Action; Alternative B—Wildlife Populations, Strategic Habitat Restoration, and Enhanced Public Uses; Alternative C—Habitat Restoration and Ecological Processes; and Alternative D—Maximize Public Use Opportunities.

After consideration of the more than 1,000 comments that we received on the draft CCP and draft EIS, we have selected alternative B—Wildlife Populations, Strategic Habitat Restoration, and Enhanced Public Uses. It is the alternative that best meets the purposes of the refuges, the mission of the National Wildlife Refuge System, and the vision and management goals set for the Refuge Complex; and it adheres to Service policies and guidelines. It considers the interests and perspectives of many agencies, organization, tribes, and the public. Additionally, it is the environmentally preferred alternative.

Under alternative B and in cooperation with our partners, we will maintain or restore the composition,

structure, and function of the natural and modified habitats within the Refuge Complex. We will consider the ecological site characteristics and wildlife species needs on our Refuge Complex lands by developing sound and sustainable management strategies that preserve and restore ecological (biological) integrity, productivity, and biological diversity. We will apply strategic habitat conservation principles (a structured, science-driven, and adaptive approach) in determining how to best manage our lands for native fish, wildlife, and plant species, with a particular emphasis on migratory birds, waterfowl, and declining species listed under the Endangered Species Act (listed species). Compatible wildlife-dependent public uses will be enhanced and expanded to include all three refuges. We will facilitate the protection, restoration, and conservation of important water resources through partnerships, public education, and stewardship.

**Public Availability of Documents**

In addition to any one method in **ADDRESSES**, you can view or obtain documents at the following locations:

- Our Web site: [http://www.fws.gov/mountain-prairie/refuges/refugesUpdate/alm\\_bac\\_mtv.php](http://www.fws.gov/mountain-prairie/refuges/refugesUpdate/alm_bac_mtv.php)
- Public libraries:

Library	Address	Phone No.
Alamosa Public Library .....	300 Hunt Avenue, Alamosa, CO 81101 .....	(719) 589–6592
Carnegie Public Library .....	120 Jefferson Street, Monte Vista, CO 81144 .....	(719) 852–3931
Baca Grande Library .....	67487 County Road T, Crestone, CO 81131 .....	(719) 256–4100
Saguache Public Library .....	702 Pitkin Ave., Saguache, CO 81149 .....	(719) 655–2551

Dated: December 4, 2015.

**Matt Hogan,**

*Acting Regional Director, Mountain-Prairie Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–31231 Filed 12–10–15; 8:45 am]

**BILLING CODE 4333–15–P**

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

[16XD4523WS DS10100000 DWSN00000.000000 DP10020]

**Statement of Findings: Bill Williams River Water Rights Settlement Act of 2014**

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** The Secretary of the Interior (Secretary) is publishing this notice in accordance with section 9 of the Bill

Williams River Water Rights Settlement Act of 2014 (P.L. 113–223) (Settlement Act). The publication of this notice causes the waivers and release of certain claims to become effective as required to implement the Settlement.

**DATES:** This notice is effective December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:**

Address all comments and requests for additional information to Ruth Thayer, Chair, Hualapai Tribe Water Rights Settlement Negotiation Team, Department of the Interior, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, NV 89006. (702) 293–8426.

**SUPPLEMENTARY INFORMATION:** The Settlement Act directs the Secretary of the Interior to enter into the Big Sandy River-Planet Ranch Water Rights Settlement Agreement and the Hualapai Tribe Bill Williams River Water Rights

Settlement Agreement, to provide for the lease of certain land located within Planet Ranch on the Bill Williams River in the State of Arizona to benefit the Lower Colorado River Multi-Species Conservation Program, and to provide for the settlement of specific water rights claims in the Bill Williams River watershed in the State of Arizona. The non-federal settling parties submitted a signed settlement agreement to Congress prior to enactment of the Settlement Act (Pub. L. 113–223). The purposes of the Settlement Act are:

(1) To achieve a fair, equitable, and final settlement of certain claims among certain parties to water rights in the Bill Williams River watershed in the State of Arizona for

(A) the Hualapai Tribe (acting on behalf of the Tribe and members of the Tribe); and

(B) the Department of the Interior, acting on behalf of the Department and,



as specified, the United States as trustee for the Hualapai Tribe, the members of the Tribe, and the allottees;

(2) to approve, ratify, and confirm

(A) the Big Sandy River-Planet Ranch Water Rights Settlement Agreement (Big Sandy River-Planet Ranch Agreement) entered into among the Hualapai Tribe, the United States as trustee for the Tribe, the members of the Tribe and allottees, the Secretary of the Interior, the Arizona department of water resources (ADWR), Freeport Minerals Corporation, the Arizona Game and Fish Commission, to the extent the Big Sandy River-Planet Ranch Agreement is consistent with the Settlement Act;

(B) the Hualapai Tribe Bill Williams River Water Rights Settlement Agreement (Hualapai Tribe Agreement) entered into among the Tribe, the United States as trustee for the Tribe, members of the Tribe, the allottees, and the Freeport Minerals Corporation, to the extent the Hualapai Tribe Agreement is consistent with the Settlement Act;

(3) to authorize and direct the Secretary

(A) to execute the duties and obligations of the Secretary under the Big Sandy River-Planet Ranch Agreement, the Hualapai Tribe Agreement, and the Settlement Act;

(B)(i) to remove objections to the applications for the severance and transfer of certain water rights, in partial consideration of the agreement of the parties to impose certain limits on the extent of the use and transferability of the severed and transferred water rights and other water rights; and

(ii) to provide confirmation of those water rights; and

(C) to carry out any other activity necessary to implement the Big Sandy River-Planet Ranch Agreement and the Hualapai Tribe Agreement in accordance with the Settlement Act;

(4) to advance the purposes of the Lower Colorado River Multi-Species Conservation Program (Conservation Program);

(5) to secure a long-term lease for a portion of Planet Ranch, along with appurtenant water rights primarily along the Bill Williams River corridor, for use in the Conservation Program;

(6) to bring the leased portion of Planet Ranch into public ownership for the long-term benefit of the Conservation Program; and

(7) to secure from the Freeport Minerals Corporation non-Federal contributions

(A) to support a tribal water supply study necessary for the advancement of a settlement of the claims of the Tribe for rights to Colorado River water; and

(B) to enable the Tribe to secure Colorado River water rights and appurtenant land, increase security of the water rights of the Tribe, and facilitate a settlement of the claims of the Tribe for rights to Colorado River water.

#### Statement of Findings

In accordance with section 9 of the Settlement Act, section 11.12(i) of the Amended and Restated Big Sandy River-Planet Ranch Water Rights Settlement Agreement, and section 10.13(i) of the Amended and Restated Hualapai Tribe Bill Williams River Water Rights Settlement Agreement, I find as follows:

(1)(A) To the extent that the Big Sandy River-Planet Ranch Agreement or the Hualapai Tribe Agreement conflict with the Settlement Act, the applicable agreement has been revised to eliminate the conflict; and

(B) the Big Sandy River-Planet Ranch Agreement, as revised, and the Hualapai Tribe Agreement, as revised, have been executed by all parties to those agreements;

(2) Freeport Minerals Corporation has submitted to the Arizona Department of Water Resources (ADWR) a conditional amendment of the sever and transfer applications for the Lincoln Ranch water right and amendments to sever and transfer applications for Planet Ranch and Lincoln Ranch water rights consistent with section 4.2.1(ii)(a) of the Big Sandy River-Planet Ranch Agreement;

(3) the Secretary and the Arizona Game and Fish Commission have executed and filed with ADWR a conditional withdrawal of each objection described in section 4(b)(3) of the Settlement Act and as provided in subsections 4.2.1(ii)(b) and 4.2.1(ii)(c) of the Big Sandy River-Planet Ranch Agreement;

(4)(A) ADWR has issued a conditional order approving the sever and transfer applications of Freeport Minerals Corporation; and

(B) all objections to the sever and transfer applications have been (i) conditionally withdrawn; or (ii) resolved in a decision issued by ADWR that is final and nonappealable;

(5) notice has been provided to the parties to the Big Sandy River-Planet Ranch Agreement and the Hualapai Tribe Agreement that the Department has completed the legally required environmental compliance described in section 8;

(6) the steering committee for the Lower Colorado River Multi-Species Conservation Program has approved and authorized the manager of the Conservation Program to execute the

lease in the form as set forth in exhibit 2.33 to the Big Sandy River-Planet Ranch Agreement; and

(7) the waivers and releases authorized by section 6 have been executed by the Tribe and the Secretary.

Dated: December 7, 2015.

**Sally Jewell,**

*Secretary of the Interior.*

[FR Doc. 2015-31301 Filed 12-10-15; 8:45 am]

**BILLING CODE 4334-63-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMTM0000.L11110000.XP0000  
16XL1109AF MO#4500088646]**

#### Notice of Public Meeting; Central Montana Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The Central Montana Resource Advisory Council Meeting will be held January 26–27, 2015 in Great Falls, Montana. The January 26 meeting will begin at 10:00 a.m. with a 30-minute public comment period and will adjourn at 5:00 p.m. The January 27 meeting will begin at 8:00 a.m. with a 30-minute public comment period beginning at 10:00 a.m. and will adjourn at 12:00 p.m.

**ADDRESSES:** The meetings will be in the Lewis and Clark Interpretive Center Conference Room at 4201 Giant Springs Road, Great Falls, Montana.

**FOR FURTHER INFORMATION CONTACT:** Mark Albers, HiLine District Manager, Great Falls Field Office, 1101 15th Street North, Great Falls, MT 59401, (406) 791-7789, [malbers@blm.gov](mailto:malbers@blm.gov).

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-677-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This 15-member council advises the Secretary of the Interior, through the BLM, on a variety of management issues associated

with public land management in Montana. During these meetings the council is scheduled to participate in/discuss/act upon these topics/activities: A roundtable discussion among council members and the BLM; update on BLM efforts to restore access to the Bullwhacker area and District Managers' updates. All RAC meetings are open to the public. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

**Authority:** 43 CFR 1784.4-2.

**Mark K. Albers,**

*HiLine District Manager.*

[FR Doc. 2015-31241 Filed 12-10-15; 8:45 am]

**BILLING CODE 4310-DN-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCO956000 L14400000.BJ0000-16X]

#### Notice of Correction to Filing of Plats, Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of correction, Colorado.

**SUMMARY:** On October 29, 2015, the Bureau of Land Management (BLM) published a Notice of Filing of Plats of Survey by the Colorado State Office, Lakewood, Colorado [80 FR 66566] which included the following 2 surveys. The plat, in 3 sheets, incorporating the field notes of the dependent resurvey and survey in Townships 50 and 51 North, Range 1 East, New Mexico Principal Meridian, Colorado, and the plat, in 6 sheets, incorporating the field notes of the dependent resurvey and survey in Township 48 North, Range 3 West, New Mexico Principal Meridian, Colorado, both accepted September 30, 2015. This Notice of Correction corrects data errors, and both surveys now have a date of acceptance of November 13, 2015. The BLM Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed above and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

**DATES:** Unless there are protests of this action, the filing of the plats described in this notice will happen on January 11, 2016.

**ADDRESSES:** BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215-7093.

**FOR FURTHER INFORMATION CONTACT:** Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239-3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**Randy Bloom,**

*Chief Cadastral Surveyor for Colorado.*

[FR Doc. 2015-31233 Filed 12-10-15; 8:45 am]

**BILLING CODE 4310-JB-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-19754;  
PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Glen Canyon National Recreation Area, Page, AZ

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Interior, National Park Service, Glen Canyon National Recreation Area has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to Glen Canyon National Recreation Area. If no additional requesters come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Glen Canyon National

Recreation Area at the address in this notice by January 11, 2016.

**ADDRESSES:** Lindy Mihata, Acting Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040, telephone (928) 608-6200, email [lindy\\_mihata@nps.gov](mailto:lindy_mihata@nps.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the U.S. Department of the Interior, National Park Service, Glen Canyon National Recreation Area, Page, AZ. The human remains were removed from Kane County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the Superintendent, Glen Canyon National Recreation Area.

#### Consultation

A detailed assessment of the human remains was made by Glen Canyon National Recreation Area professional staff in consultation with representatives of the Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; San Juan Southern Paiute Tribe of Arizona; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as "The Consulted Tribes").

The following tribes were invited to consult but did not respond: the Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation,

California); Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California); Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California); Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California); Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada (hereafter referred to as "The Invited Tribes").

#### History and Description of the Remains

On an unknown date, human remains representing, at minimum, one individual were removed from an unknown site in Kane County, UT. In 1985, the human remains were obtained by National Park Service law enforcement personnel during a drug-related investigation. No known individuals were identified. No associated funerary objects are present.

In 1974, human remains representing, at minimum, one individual were removed from site NA 13255 in Kane County, UT, by a park visitor and subsequently turned over to Glen Canyon National Recreation Area officials. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, one individual were removed from site NA 14081 in San Juan County, UT, by a park visitor and subsequently turned over to Glen Canyon National Recreation Area officials. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, one individual were removed from site NA 13482 in Kane County, UT, during a legally authorized archeological survey project. No known individuals were identified. No associated funerary objects are present.

#### Determinations Made by Glen Canyon National Recreation Area

Officials of Glen Canyon National Recreation Area have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis and archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Navajo Nation, Arizona, New Mexico, & Utah; and San Juan Southern Paiute Tribe of Arizona.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California); Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California); Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California); Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California); Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute

Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada.

- Other credible lines of evidence, including relevant and authoritative governmental determinations and information gathered during government-to-government consultation from subject matter experts, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Hopi Tribe of Arizona.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California); Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California); Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California); Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California); Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute

Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico, & Utah; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada.

#### Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Lindy Mihata, Acting Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040, telephone (928) 608-6200, email [lindy\\_mihata@nps.gov](mailto:lindy_mihata@nps.gov), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California); Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California); Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California); Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-

Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California); Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico, & Utah; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada may proceed.

Glen Canyon National Recreation Area is responsible for notifying The Consulted Tribes and The Invited Tribes that this notice has been published.

Dated: November 6, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31315 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS-WASO-NAGPRA-19755;  
PPWOCRADNO-PCU00RP14.R50000]**

#### Notice of Intent To Repatriate a Cultural Item: Los Angeles County Museum of Natural History, Los Angeles, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Los Angeles County Museum of Natural History, in consultation with the appropriate Indian tribes, has determined that the cultural item listed in this notice meets the definitions of sacred object and object of cultural patrimony. Lineal descendants or representatives of any Indian tribe not identified in this notice that wish to claim this cultural item

should submit a written request to the Los Angeles County Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe not identified in this notice that wish to claim the cultural item should submit a written request with information in support of the claim to the Los Angeles County Museum of Natural History Foundation at the address in this notice by January 11, 2016.

**ADDRESSES:** James R. Gilson, Vice President and General Counsel, Los Angeles County Museum of Natural History Foundation, 900 Exposition Boulevard, Los Angeles, CA 90007, telephone (213) 763-3305, email [jgilson@nhm.org](mailto:jgilson@nhm.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005 of the intent to repatriate a cultural item under the control of the Los Angeles County Museum of Natural History that meets the definitions of a sacred object and of an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

#### History and Description of the Cultural Item

Between 1895 and 1915, a headdress made from cotton cord, red woolen fabric, and feathers came into the possession of Francis (Frank) Ammann, Sr., who was a baker and operated a dry goods store in Needles, CA. Upon his death, the headdress passed to his son, Dr. F.X. Amman, Jr., who donated the headdress to the Los Angeles County Museum of Natural History in 1934. In 2002, the Los Angeles County Museum of Natural History lent the headdress to the Twenty-Nine Palms Band of Mission Indians of California for exhibition, where it remains today.

Based on research and consultation with the Twenty-Nine Palms Band of Mission Indians of California, and other Chemehuevi elders and scholars of Chemehuevi culture and history, the Los Angeles County Museum of Natural

History has determined that the headdress is possibly the most complete example currently known of a *Kaitcoxo*. *Kaitcoxo* headdresses are important objects worn in Chemehuevi traditional religious and tribal ceremonies. The Los Angeles County Museum of Natural History also has determined that, in accordance with traditional Chemehuevi practice, an object of this importance to the group as a whole could not have been alienated by any individual. The research also leads the Los Angeles County Museum of Natural History to believe that a preponderance of the evidence indicates that this *Kaitcoxo* came into the hands of Mr. Amman, Sr., from one or more Chemehuevi persons, who were trading with Mr. Amman, Sr., between 1895 and 1915 while he was operating his bakery and store in Needles, CA. For the Chemehuevi people, this was a period of dislocation, successive moves, and removal to reservations.

The Los Angeles County Museum of Natural History's consultations included communication with the three Federally-recognized Chemehuevi tribes: Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; and Twenty-Nine Palms Band of Mission Indians of California. On July 31, 2015, the Los Angeles County Museum of Natural History received a letter dated March 31, 2015, and signed by the tribal chairmen of all three Federally-recognized Chemehuevi tribes stating the three tribes "without exception, enter into this agreement with full consensus, that it is our stated and formal request that the Chemehuevi Headdress . . . be repatriated . . . to the Twenty-Nine Palms Band of Mission Indians."

#### Determinations Made by the Los Angeles County Museum of Natural History

Officials of the Los Angeles County Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the single *Kaitcoxo* described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

- In addition, pursuant to 25 U.S.C. 3001(3)(D), the single *Kaitcoxo* described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the single *Kaitcoxo* and the Twenty-Nine Palms Band of Mission Indians of California.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to James R. Gilson, Vice President and General Counsel, Los Angeles County Museum of Natural History Foundation, 900 Exposition Boulevard, Los Angeles, CA 90007, telephone (213) 763-3305, email [jgilson@nhm.org](mailto:jgilson@nhm.org), by January 11, 2016. After that date, if no additional claimants have come forward, transfer of control of the single *Kaitcoxo* to the Twenty-Nine Palms Band of Mission Indians of California may proceed.

The Los Angeles County Museum of Natural History is responsible for notifying the following Federally-recognized tribes that this notice has been published: Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; and the Twenty-Nine Palms Band of Mission Indians of California.

Dated: November 6, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31308 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS-WASO-NAGPRA-19770;  
PCU00RP14.R50000-PPWOCRDN0]**

#### Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Interior, Bureau of Indian Affairs has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice

that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Indian Affairs. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Indian Affairs at the address in this notice by January 11, 2016.

**ADDRESSES:** Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Bureau of Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390-6343, email [Anna.Pardo@bia.gov](mailto:Anna.Pardo@bia.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Peabody Museum of Archaeology and Ethnology, Harvard University (Peabody Museum), Cambridge, MA. The human remains and associated funerary objects were removed from Burns Township, Shiawassee County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the U.S. Department of the Interior, Bureau of Indian Affairs professional staff in consultation with representatives of the Saginaw Chippewa Indian Tribe of Michigan.

#### History and Description of the Remains

In 1915, human remains representing, at minimum, two individuals were

removed from a site three miles northwest of Byron, Burns Township, Shiawassee County, MI. The human remains were removed by Arthur W. Carpenter as part of a Peabody Museum expedition to investigate the historic Ojibwe Reservation of Keetchewaundaugnink. Mr. Carpenter donated these human remains—one of an adult male and the other of a child of indeterminate sex—to the Peabody Museum in 1915. No known individuals were identified. The three associated funerary objects are a porcupine skull and mandible, a faunal remain, and a wood fragment.

Peabody Museum records describe the site three miles northwest of Byron, MI, as “Mound 1” and “Ojibwa Historic Burial Site, Keetchewaundaugnink Reservation.” The reservation encompasses a village site of the same name that was established circa 1810. The reservation itself was established by the Treaty of Saginaw in September 1819, and ceded in 1837 after a small pox epidemic. The presence of mounds and graves near the Keetchewaundaugnink village site are known from historic accounts. An early written history of Shiawassee County indicates that a large cemetery was known to be associated with the Keetchewaundaugnink village. Consultation with representatives of the Saginaw Chippewa Indian Tribe of Michigan indicates that the Keetchewaundaugnink Reservation was an early reservation of the Saginaw Chippewa in the historic period.

#### **Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs**

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the three objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Saginaw Chippewa Indian Tribe of Michigan.

#### **Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian

organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Bureau of Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390-6343, email [Anna.Pardo@bia.gov](mailto:Anna.Pardo@bia.gov), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Saginaw Chippewa Indian Tribe of Michigan may proceed.

The U.S. Department of the Interior, Bureau of Indian Affairs is responsible for notifying the Saginaw Chippewa Indian Tribe of Michigan that this notice has been published.

Dated: November 12, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31316 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

**[NPS-WASO-NAGPRA-19757;  
PPWOCRADN0-PCU00RP14.R50000]**

#### **Notice of Intent To Repatriate Cultural Items: San Francisco State University, San Francisco, CA**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** San Francisco State University, in consultation with the appropriate Indian tribes, has determined that the cultural items in this notice meet the definition of sacred objects and objects of cultural patrimony and repatriation to the Indian tribes stated below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural items may contact San Francisco State University.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact San Francisco State University at the address below by January 11, 2016.

**ADDRESSES:** Jeffrey Boland Fentress, San Francisco State University NAGPRA Program, c/o Department of Anthropology, San Francisco, CA 94132, telephone (415) 338-3075.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of San Francisco State University (SFSU) that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

#### **History and Description of the Cultural Items**

On an unknown date, a basket (item 1-2-6/20; 1-3-24/72; 1-3-(38)/5; I-III-15) was donated to the San Francisco State University (SFSU) Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning the acquisition of this item. The three-rod, closed coiled basket has a globular bowl, measures 13 cm in height and 23 cm in diameter, is made of willow, sedge, bulrush root, and bracken fern, and is decorated with feathers, trade beads, and clam shell disk beads. The use of trade beads to ornament a three-rod coiled basket was characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California) and other ethnographic research, the basket is an object of cultural patrimony, identified as a gift basket created for an important occasion, and is an item of cultural patrimony.

On an unknown date, a basket (item 1-3-/80; (A73)) was donated to the SFSU Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning the acquisition of this item. The closed twined basket has a globular bowl, measures 25 cm in height and 34 cm in diameter, and is made of willow, sedge, conifer root, and bracken fern root. The specific design techniques and elements used in this basket were characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other ethnographic research, the object is a cooking basket used with the traditional stone boiling

technique to cook food for the entire tribe, and is an object of cultural patrimony.

On an unknown date, a basket (item 1-3-24/16; I-III-48; 1-3 (38)/16) was donated to the SFSU Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning the acquisition of this item. The closed twined, bowl shaped basket, measures 30 cm in height and 43 cm in diameter, and was made of willow, sedge, conifer root and redbud. The specific design techniques and elements used in this basket were characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other ethnographic research, the object is a cooking basket used with the traditional stone boiling technique to cook food for the entire tribe, and is an object of cultural patrimony.

On an unknown date, a basket (item 1-3-24/5; I-III-16; I-III (38)/5) was donated to the SFSU Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning the acquisition of this item. The three-rod, closed coiled basket has a flared bowl, measures 14 cm in height and 29 cm in diameter, made with willow, sedge, and bulrush, and is decorated with woodpecker feathers, clam shell disk beads, and white glass trade beads. The use of trade beads to ornament a three-rod coiled basket and the flat-bottomed, flared shape of the basket were characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other ethnographic research, the object is a washing basin used in a ceremony welcoming an newborn child into the world, and is a sacred object and an object of cultural patrimony.

In 1970, Margaret Hindes Molarsky donated a basket (item 1-3-24/18; 1-3-25/18; 70-1-2) to the SFSU Treganza Anthropology Museum. The single-rod, closed coiled beaded basket has a globular bowl, measures 5 cm in height and 15 cm in diameter, is made of willow and sedge, and is decorated with glass beads. The specific design techniques and elements used in this basket were characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other

ethnographic research, the object is a gift basket created for an important occasion and is an item of cultural patrimony.

On an unknown date, a basket (item 1-3-24/64; I-III-6; I-III-3) was donated to the SFSU Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning the acquisition of this item. The open-lattice, twined basket is bowl shaped, measures 16 cm in height and 25.5 cm in diameter, and is made with willow, sedge, and redbud. The lattice-twining with redbud design elements was characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other ethnographic research, the object is a storage basket made to store acorns or other dried foods for the entire community, and is an item of cultural patrimony.

On an unknown date, a basket (item 1-3-24/L; 1-53629) was donated to the SFSU Treganza Anthropology Museum. There are no records at the Treganza Anthropology Museum concerning acquisition of this item. The three-rod, closed coiled feathered basket is bowl shaped, measures 6 cm in height and 15.5 cm in diameter, is made with willow, sedge, bulrush, and dogbane, and is decorated with white feathers, clam shell disk beads, and abalone pendants. The Dry Creek Rancheria Band of Pomo Indians believed the basket was the work of a Dry Creek Pomo traditional healer and visionary named Wala-Wala. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California), and other ethnographic research, the basket was used during healing ceremonies and is a sacred object and an object of cultural patrimony.

In 1976, Margaret Hindes Molarsky donated a basket (item 76-07-1) to the SFSU Treganza Anthropology Museum. The unusual multi-technique twined basket has a flared bowl shape, measures 34.5 cm in height and 43 cm in diameter, and is made with a willow and redbud. The design techniques and elements used in this basket were characteristic of Dry Creek Pomo weavers. Based on consultation with the Dry Creek Rancheria Band of Pomo Indians, California (previously listed as the Dry Creek Rancheria of Pomo Indians of California) and other ethnographic research, the object is a burden basket created to carry food for

the entire tribe, and is an object of cultural patrimony.

#### **Determinations Made by the San Francisco State University**

Officials of the San Francisco State University have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the two sacred objects and objects of cultural patrimony described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents and these cultural items are also objects of cultural patrimony that have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(3)(D), the six objects of cultural patrimony described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the eight baskets and the Dry Creek Rancheria Band of Pomo Indians.

#### **Additional Requestors and Disposition**

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects and the objects of cultural patrimony should contact Jeffrey Boland Fentress, San Francisco State University NAGPRA Program, c/o Department of Anthropology, San Francisco, CA 94132, telephone (415) 338-3075 before January 11, 2016. Repatriation of the sacred objects and the objects of cultural patrimony to the Dry Creek Rancheria Band of Pomo Indians may proceed after that date if no additional claimants come forward.

The San Francisco State University is responsible for notifying the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, CA; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians, California (formerly Hopland Band of Pomo Indians of the Hopland Rancheria, California); Cahto Tribe of Laytonville Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Koi Nation of

Northern California (previously listed as the Lower Lake Rancheria, California); Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester Rancheria, California (previously listed as the Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California); Middletown Rancheria of Pomo Indians of California; Pinoleville Pomo Nation, California (previously listed as the Pinoleville Rancheria of Pomo Indians of California); Potter Valley Tribe, California; Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California (previously listed as the Redwood Valley Rancheria of Pomo Indians of California); Robinson Rancheria (previously listed as the Robinson Rancheria Band of Pomo Indians, California and the Robinson Rancheria of Pomo Indians of California); Round Valley Indian Tribes, Round Valley Reservation, California (previously listed as the Round Valley Indian Tribes of the Round Valley Reservation, California); Scotts Valley Band of Pomo Indians of California; and the Sherwood Valley Rancheria of Pomo Indians of California that this notice has been published.

Dated: November 6, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31305 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-19813;  
PPWOCRADNO-PCU00RP14.R50000]

### Notice of Inventory Completion: Hudson Museum, University of Maine, Orono, ME

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Hudson Museum, University of Maine has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Hudson Museum, University of Maine. If no additional requestors come forward,

transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Hudson Museum, University of Maine at the address in this notice by January 11, 2016.

**ADDRESSES:** Gretchen Faulkner, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469-5747, telephone (207) 581-1904, email [gretchen\\_faulkner@umit.maine.edu](mailto:gretchen_faulkner@umit.maine.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Hudson Museum, Orono, ME. The human remains were removed from present-day Kiowa County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the Marcella Sorg, Ph.D., D-ABGFA Forensic Anthropologist and Hudson Museum professional staff, in consultation with representatives of the Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma).

### History and Description of the Remains

In the 1860s, human remains representing, at minimum, one individual were removed by Colonel Henry Inman from the Smoky Hill Reservation, in what was then Kansas. Based on additional research undertaken by the Hudson Museum, it would appear that the human remains were probably removed from the site of the Sand Creek Massacre in present day Kiowa County, CO. The human remains represent one individual and consist of a partial cranium of a male age 25-40. The human remains came to the Hudson Museum as a transfer from the former Portland Museum of Natural History in

1970. They were given catalog number AMUa27640. No known individuals were identified. No associated funerary objects are present.

### Determinations Made by the Hudson Museum, University of Maine

Officials of the Hudson Museum, University of Maine have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on an analysis by a forensic anthropologist.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma) and the Arapaho Tribe of the Wind River Reservation, Wyoming.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma) and the Arapaho Tribe of the Wind River Reservation, Wyoming.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remain may be to the Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma) and the Arapaho Tribe of the Wind River Reservation, Wyoming.

### Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Gretchen Faulkner, Hudson Museum, University of Maine, 5746 Collins Center for the Arts, Orono, ME 04469-5746, telephone (207) 581-1904, email [gretchen\\_faulkner@umit.maine.edu](mailto:gretchen_faulkner@umit.maine.edu), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma)



and the Arapaho Tribe of the Wind River Reservation, Wyoming, may occur.

The Hudson Museum, University of Maine is responsible for notifying the Cheyenne and Arapahoe Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma) and the Arapaho Tribe of the Wind River Reservation, Wyoming, that this notice has been published.

Dated: November 17, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31320 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS-WASO-NAGPRA-19812;  
PPWOCRADN0-PCU00RP14.R50000]**

#### Notice of Inventory Completion: Northwest Museum, Whitman College, Walla Walla, WA; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Correction.

**SUMMARY:** The Maxey Museum (formerly Northwest Museum), Whitman College, has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on August 13, 2008. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Maxey Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Maxey Museum at the address in this notice by January 11, 2016.

**ADDRESSES:** Dr. Lisa Perfetti, Maxey Museum, Whitman College, 345 Boyer Avenue, Walla Walla, WA 99362,

telephone (509) 527-5187, email [perfetlr@whitman.edu](mailto:perfetlr@whitman.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Maxey Museum, Walla Walla, WA. The human remains and associated funerary objects were removed from Sheep Island and Canoe Island, Benton County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (73 FR 47231, August 13, 2008). A re-inventory of the museum collection identified additional human remains and associated funerary objects from this collection. Transfer of control of the items in this correction notice has not occurred.

#### Correction

In the **Federal Register** (73 FR 47231, August 13, 2008), paragraph ten, sentence one is corrected by substituting the following sentence:

In 1949, human remains representing a minimum of 14 individuals were removed from site 45BN55, Sheep Island, Site 17 and Canoe Island, Site 13, Benton County, WA, by Thomas R. Garth, Jr. and accessioned into the museum (Cat Whit-J-028, 034, 057, 060, 063-072, 107-108, 0114, 0116 Whit-X-0003, 0004, 0007, 0061).

In the **Federal Register** (73 FR 47231, August 13, 2008), paragraph ten, sentence three is corrected by substituting the following sentence:

The 79 associated funerary objects are 46 light red beads, 11 pestle fragments, 2 flint scrapers, 1 rock with ochre, 1 mud-dauber's nest, 1 sandstone smoother, 1 bag of charcoal, 2 cranial faunal remains, 1 lot of seven faunal remains, 1 lot of nine faunal remains, 9 faunal remains, 2 petrified bone awls, and 1 chert flake (Cat. Whit-J-2, 3, 5, 18, 19, 23 to 25, 133, Whit-X-0003, 0004, 0005, 0060, 0062, Whit-J-0110, 0111, 0112, 0113, 0115, 0117, 0118, 0119, 0120, 0121).

In the **Federal Register** (73 FR 47231, August 13, 2008), paragraph eleven,

sentence one is corrected by substituting the following sentence:

Sheep Island and Canoe Island were important burial islands for the *Imatalamlama* and are within the ceded lands of the Confederated Tribes of the Umatilla Indian Reservation, Oregon.

In the **Federal Register** (73 FR 47231, August 13, 2008), paragraph nineteen, sentence one is corrected by substituting the following sentence:

Officials of the Northwest Museum, Whitman College have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of a minimum of 24 individuals of Native American ancestry.

In the **Federal Register** (73 FR 47231, August 13, 2008), paragraph nineteen, sentence two is corrected by substituting the following sentence:

Officials of the Northwest Museum, Whitman College also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 105 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Lisa Perfetti, Maxey Museum, Whitman College, 345 Boyer Avenue, Walla Walla, WA 99362, telephone (509) 527-5187, email [perfetlr@whitman.edu](mailto:perfetlr@whitman.edu), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Confederated Tribes of the Umatilla Indian Reservation may proceed.

The Maxey Museum is responsible for notifying the Confederated Tribes of the Umatilla Indian Reservation that this notice has been published.

Dated: December 7, 2015.

**Melanie O'Brien,**

*Acting Manager, National NAGPRA Program.*

[FR Doc. 2015-31317 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

**DEPARTMENT OF THE INTERIOR****National Park Service**

[NPS-WASO-NAGPRA-19811;  
PPWOCRADNO-PCU00RP14.R50000]

**Notice of Inventory Completion: Field Museum of Natural History, Chicago, IL**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Field Museum of Natural History has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Field Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribe or Native Hawaiian organization stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Field Museum of Natural History at the address in this notice by January 11, 2016.

**ADDRESSES:** Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S. Lake Shore Drive, Chicago, IL 60605, telephone (312) 665-7317, email [hrobbins@fieldmuseum.org](mailto:hrobbins@fieldmuseum.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Field Museum of Natural History, Chicago, IL. The human remains and associated funerary objects were removed from a location on Bonito Creek and a cave on the East Fork of the White River (8 miles above Fort Apache) on the Fort Apache Reservation, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d).

The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Field Museum of Natural History professional staff in consultation with representatives of Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Fort McDowell Yavapai Nation, Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kewa Pueblo (formerly Pueblo of Santo Domingo, New Mexico); Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northwestern Band of Shoshoni Nation of Utah (Washakie); Ohkay Owingeh (formerly Pueblo of San Juan, New Mexico); Paiute Indian Tribe of Utah; Pascua Yaqui Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ramah Navajo Chapter; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; Ute Indian Tribe of the Uintah & Ouray

Reservation, Utah; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. Key consultation with the tribes listed took place between January and July of 2015. This consultation included sending a letter inviting THPOs, NAGPRA Representatives and other appropriate tribal representatives to consult as well follow-up telephone conversations.

**History and Description of the Remains**

In October 1903, human remains representing, at minimum, one individual were removed from the area along Bonito Creek on the Fort Apache Reservation in Arizona, and were accessioned by The Field Museum. These human remains were removed by Charles Owen, Assistant Curator of Archaeology at The Field Museum, at some point during his two collecting trips to the reservation in 1901 and 1903. No further provenience or dating information is available. The human remains belong to a child of indeterminate sex between the ages of six and ten. No known individuals were identified. No associated funerary objects are present.

In October 1903, human remains representing at minimum eight individuals were removed from a cave site on the East Fork of the White River, 8 miles north of Fort Apache on the Fort Apache Reservation in Arizona, and were accessioned by The Field Museum. These human remains were removed by Charles Owen, Assistant Curator of Archaeology at The Field Museum, at some point during his two collecting trips to the reservation in 1901 and 1903. While there is historical information about known cave systems and archaeological work undertaken on the White River, including Owen's for The Field Museum, it is not possible to ascertain from which cave in particular the human remains and associated funerary objects were removed. The cranial human remains present (which have been used to determine the number of individuals) belong to two individuals over the age of 50, one male and one indeterminate, two possible females aged 35 or older, a possible female between the ages of 20 and 40, and three children between the age of four and six, eight and ten, and eight and twelve, respectively. The post-cranial human remains present are commingled and do not necessarily represent additional individuals. The

human remains represent both juvenile/young adult and adult persons. No known individuals were identified. The four associated funerary items are one piece of unidentified tubular organic material, one piece of twisted fibers, one piece of plant fiber wrapped with bird feather stem, and circular shell or stone beads on twine.

#### Determinations Made by The Field Museum of Natural History

Officials of The Field Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on Field Museum records and a physical inventory of the collection.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of a minimum of nine individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the four objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

- Pursuant to 25 U.S.C. 3001 (15), the land from which the Native American human remains and associated funerary objects were removed is the tribal land of the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona.

#### Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S. Lake Shore Drive, Chicago, IL 60605, telephone (312) 665-7317, email [hrobbins@fieldmuseum.org](mailto:hrobbins@fieldmuseum.org), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona may proceed.

The Field Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Cocopah Tribe of Arizona; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Fort McDowell Yavapai Nation, Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Isleta del Sur Pueblo of Texas; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kewa Pueblo (formerly Pueblo of Santo Domingo, New Mexico); Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northwestern Band of Shoshoni Nation of Utah (Washakie); Ohkay Owingeh (formerly Pueblo of San Juan, New Mexico); Paiute Indian Tribe of Utah; Pascua Yaqui Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ramah Navajo Chapter; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: November 17, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31303 Filed 12-10-15; 8:45 am]

BILLING CODE 4312-50-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-19684;  
PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Montezuma Castle National Monument, Camp Verde, AZ; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** The U.S. Department of the Interior, National Park Service, Montezuma Castle National Monument has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on April 1, 2015. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Montezuma Castle National Monument. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Montezuma Castle National Monument at the address in this notice by January 11, 2016.

**ADDRESSES:** Dorothy FireCloud, Superintendent, Montezuma Castle National Monument, P.O. Box 219, Camp Verde, AZ 86322, telephone (928) 567-5276, email [dorothy\\_firecloud@nps.gov](mailto:dorothy_firecloud@nps.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated

funerary objects under the control of the U.S. Department of the Interior, National Park Service, Montezuma Castle National Monument, Camp Verde, AZ. The human remains and associated funerary objects were removed from Montezuma Castle National Monument, Yavapai County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Montezuma Castle National Monument.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (80 FR 17477, April 1, 2015). The human remains and associated funerary object were inadvertently omitted from the published notice. Transfer of control of the items in this correction notice has not occurred.

#### Correction

In the **Federal Register** (80 FR 17477, April 1, 2015), the following paragraph is inserted immediately before paragraph 18:

In 1936, human remains representing, at minimum, one individual were removed from the Montezuma Well area in Yavapai County, AZ by the William Back family. The human remains and associated funerary object were donated to Montezuma Castle National Monument in 2014 by a Back family descendant. No known individuals were identified. The one associated funerary object is an obsidian projectile point.

In the **Federal Register** (80 FR 17477, April 1, 2015), paragraph numbers 28 and 29 are corrected by substituting the following paragraphs:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 129 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 84 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dorothy FireCloud, Superintendent, Montezuma Castle National Monument, P.O. Box 219,

Camp Verde, AZ 86322, telephone (928) 567-5276, email [dorothy\\_firecloud@nps.gov](mailto:dorothy_firecloud@nps.gov), by January 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Consulted and Invited Tribes may proceed.

Montezuma Castle National Monument is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 28, 2015.

**Melanie O'Brien**,

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31321 Filed 12-10-15; 8:45 am]

**BILLING CODE 4312-50-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-19665;  
PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Intent To Repatriate Cultural Items: New York State Museum, Albany, NY

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The New York State Museum, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the New York State Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the New York State Museum at the address in this notice by January 11, 2016.

**ADDRESSES:** Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230, telephone (518) 486-2020, email [lisa.anderson@nysed.gov](mailto:lisa.anderson@nysed.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and

Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the New York State Museum, Albany, NY, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

#### History and Description of the Cultural Item(s)

In 1898, the New York State Museum acquired three cultural items from members of the Seneca-Cayuga Tribe of Oklahoma. The three sacred objects are medicine masks donated by Harriet Maxwell Converse of New York City, NY (E-37012, E-37030, E-37621). Museum records indicate the masks are culturally affiliated with the Seneca-Cayuga Tribe of Oklahoma.

Consultation with members of the Haudenosaunee Standing Committee on Burial Rules and Regulations has identified the medicine masks as being needed for the practice of traditional Native American religions by present-day adherents. Museum documentation supported by consultation with the Seneca-Cayuga Tribe of Oklahoma indicates that these medicine faces are culturally affiliated with the Seneca-Cayuga Tribe of Oklahoma.

#### Determinations Made by the New York State Museum

Officials of the New York State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Seneca-Cayuga Tribe of Oklahoma.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230 telephone

(518) 486-2020, email [lisa.anderson@nysed.gov](mailto:lisa.anderson@nysed.gov), by January 11, 2016. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Seneca-Cayuga Tribe of Oklahoma may proceed.

The New York State Museum is responsible for notifying the Cayuga Nation; Oneida Nation of New York; Oneida Tribe of Indians of Wisconsin; Onondaga Nation; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); and Tuscarora Nation that this notice has been published.

Dated: November 17, 2015.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2015-31304 Filed 12-10-15; 8:45 am]

BILLING CODE 4312-50-P

## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

[Docket No. ONRR-2011-0020; DS63610000 DR2PS0000.CH7000 156D0102R2]

#### Agency Information Collection Activities: Royalty and Production Reporting—OMB Control Number 1012-0004; Comment Request

**AGENCY:** Office of Natural Resources Revenue (ONRR), Interior.

**ACTION:** Notice of renewal of an existing Information Collection.

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on an information collection request that we have submitted to the Office of Management and Budget (OMB) for review and approval. This Information Collection Request (ICR) covers the paperwork requirements under title 30, *Code of Federal Regulations* (CFR), parts 1210 and 1212. There are three forms associated with this information collection. This notice also provides the public a second opportunity to comment on the paperwork burden of the regulatory requirements.

**DATES:** Submit written comments on or before January 11, 2016.

**ADDRESSES:** You may submit your written comments directly to the Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, OMB, by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov)

telefax at (202) 395-5806. Please also mail a copy of your comments to Mr. Luis Aguilar, Regulatory Specialist, ONRR, P.O. Box 25165, MS 61030A, Denver, Colorado 80225-0165, or email [Luis.Aguilar@onrr.gov](mailto:Luis.Aguilar@onrr.gov). Please reference OMB Control Number 1012-0004 in your comments.

**FOR FURTHER INFORMATION CONTACT:** For questions on technical issues, contact Ms. LeeAnn Martin, Reporting & Solid Mineral Services, ONRR, telephone (303) 231-3313, or email at [LeeAnn.Martin@onrr.gov](mailto:LeeAnn.Martin@onrr.gov). For other questions, contact Mr. Luis Aguilar, telephone (303) 231-3418, or email [Luis.Aguilar@onrr.gov](mailto:Luis.Aguilar@onrr.gov). You may also contact Mr. Aguilar to obtain copies (free of charge) of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the information collection request online at <http://www.reginfo.gov/public/do/PRAMain>.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary's responsibility, according to various laws, is to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected in accordance with applicable laws. The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands. Public laws pertaining to mineral leases on Federal Indian lands are available on our Web site at [http://www.onrr.gov/Laws\\_R\\_D/PubLaws/default.htm](http://www.onrr.gov/Laws_R_D/PubLaws/default.htm).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee, or the designee, must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals.

The information that ONRR collects includes data necessary to ensure that the lessee accurately values and appropriately pays all royalties and other mineral revenues due.

Reporters submit information into the ONRR financial accounting system that includes royalty, rental, bonus, and other payment information; sales volumes and values; and other royalty values. ONRR uses the accounting system to compare production volumes with royalty volumes to verify that companies reported and paid proper royalties for the minerals produced. Additionally, we share the data electronically with the Bureau of Safety and Environmental Enforcement, Bureau of Land Management, Bureau of Indian Affairs, and Tribal and State governments so they can perform their lease management responsibilities.

We use the information collected in this ICR to ensure that companies properly pay royalties based on accurate production accounting on oil, gas, and geothermal resources that they produce from Federal and Indian leases. The requirement to report accurately and timely is mandatory. Please refer to the chart for all reporting requirements and associated burden hours.

##### Royalty Reporting

Payors (Reporters) must report, according to various regulations, and remit royalties on oil, gas, and geothermal resources that they produced from leases on Federal and Indian lands. ONRR uses the following form for royalty reporting:

*Form ONRR-2014, Report of Sales and Royalty Remittance.* Reporters submit this form monthly to report royalties on oil, gas, and geothermal leases, certain rents, and other lease-related transactions such as transportation and processing allowances, lease adjustments, and quality and location differentials.

##### Production Reporting

Operators (Reporters) must submit, according to various regulations, production reports if they operate a Federal or Indian onshore or offshore oil and gas lease or federally approved unit or communitization agreement. We use the ONRR financial accounting system to track minerals produced from Federal and Indian lands, from the point of production to the point of disposition or royalty determination and/or point of sale. The reporters use the following forms for production accounting and reporting:

*Form ONRR-4054, Oil and Gas Operations Report (OGOR).* Reporters submit this form monthly for all

production reporting for Outer Continental Shelf, Federal, and Indian leases. ONRR compares the production information with sales and royalty data that reporters submit on Form ONRR–2014 to ensure that the latter reported and paid the proper royalties on the oil and gas production to ONRR. ONRR uses the information from OGOR parts A, B, and C to track all oil and gas from the point of production to the point of first sale, or other disposition.

*Form ONRR–4058, Production Allocation Schedule Report (PASR).* Reporters submit this form monthly. The facility operators manage the facilities and measurement points where they commingle the production from an offshore Federal lease or metering point with production from other sources

before they measure it for royalty determination. ONRR uses the data to determine if the payors reported reasonable sales.

*OMB Approval*

We are requesting OMB’s approval to continue to collect this information. Not collecting this information would limit the Secretary’s ability to discharge the duties of the office and may also result in the loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection. It is mandatory that the reporters submit Forms ONRR–2014, ONRR–4054, and ONRR–4058.

**II. Data**

*Title:* 30 CFR parts 1210 and 1212, Royalty and Production Reporting.  
*OMB Control Number:* 1012–0004.  
*Bureau Form Number:* Forms ONRR–2014, ONRR–4054, and ONRR–4058.  
*Frequency:* Monthly.  
*Estimated Number and Description of Respondents:* 3,870 oil, gas, and geothermal reporters.  
*Estimated Annual Reporting and Recordkeeping “Hour” Burden:* 337,933 hours.  
 We have not included in our estimates certain requirements that companies perform in the normal course of business, and that ONRR considers usual and customary. We display the estimated annual burden hours by CFR and paragraph in the following chart.

RESPONDENTS’ ESTIMATED ANNUAL BURDEN HOURS

30 CFR part 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses (lines of data)	Annual burden hours
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30 CFR 1210—FORMS AND REPORTS

Subpart B—Royalty Reports—Oil, Gas, and Geothermal Resources

		Form ONRR–2014		
1210.52(a) and (b) ...	1210.52 What royalty reports must I submit? .....	Electronic* (approximately 99 percent)		
	You must submit a completed Form ONRR–2014, Report of Sales and Royalty Remittance, to ONRR with:			
	(a) All royalty payments; and .....	3 min. per line .....	4,688,216	234,411
	(b) Rents on nonproducing leases, where specified in the lease	Manual* (approximately 1 percent)		
1210.53(a), (b), and (c).	1210.53 When are my royalty reports and payments due? .....	7 min. per line .....	47,356	5,526
	(a) Completed Forms ONRR–2014 for royalty payments and the associated payments are due by the end of the month following the production month (see also § 1218.50).			
	(b) Completed Forms ONRR–2014 for rental payments, where applicable, and the associated payments are due as specified by the lease terms (see also § 1218.50).			
	(c) You may submit reports and payments early.			
1210.54(a), (b), and (c).	1210.54 Must I submit this royalty report electronically?			
	(a) You must submit Form ONRR–2014 electronically unless you qualify for an exception under § 1210.55(a).			
	(b) You must use one of the following electronic media types, unless ONRR instructs you differently * * *.			
	(c) Refer to our electronic reporting guidelines in the ONRR Minerals Revenue Reporter Handbook, for the most current reporting options, instructions, and security measures. The handbook may be found on our Internet Web site or you may call your ONRR customer service representative * * *.			
	* * * * *			
Subtotal for Royalty Reporting.	.....	.....	4,735,572	239,937

Subpart C—Production Reports—Oil and Gas

1210.102(a)(1)(i) and (ii).	1210.102 What production reports must I submit? .....	Burden hours covered under 1210.104(a) and (b).
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RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR part 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses (lines of data)	Annual burden hours
1210.102(a)(2)(i) and (ii).	<p>(a) Form ONRR-4054, Oil and Gas Operations Report. If you operate a Federal or Indian onshore or OCS oil and gas lease or federally approved unit or communitization agreement that contains one or more wells that are not permanently plugged or abandoned, you must submit Form ONRR-4054 to ONRR:</p> <p>(1) You must submit Form ONRR-4054 for each well for each calendar month, beginning with the month in which you complete drilling, unless:</p> <p>(i) You have only test production from a drilling well; or</p> <p>(ii) The ONRR tells you in writing to report differently</p> <p>(2) You must continue reporting until:</p> <p>(i) The Bureau of Land Management (BLM) and [Bureau of Safety and Environmental Enforcement] approves all wells as permanently plugged or abandoned or the lease or unit or communitization agreement is terminated; and.</p> <p>(ii) You dispose of all inventory .....</p>			
1210.102(b)(1) .....  1210.102(b)(2)(i)–(vi)	<p>(b) Form ONRR-4058, Production Allocation Schedule Report. If you operate an offshore facility measurement point (FMP) handling production from a Federal oil and gas lease or federally approved unit agreement that is commingled (with approval) with production from any other source prior to measurement for royalty determination, you must file Form ONRR-4058.</p> <p>(1) You must submit Form ONRR-4058 for each calendar month beginning with the month in which you first handle production covered by this section.</p> <p>(2) Form ONRR-4058 is not required whenever all of the following conditions are met:</p> <p>(i) All leases involved are Federal leases;</p> <p>(ii) All leases have the same fixed royalty rate;</p> <p>(iii) All leases are operated by the same operator;</p> <p>(iv) The facility measurement device is operated by the same person as the leases/agreements;</p> <p>(v) Production has not been previously measured for royalty determination; and</p> <p>(vi) The production is not subsequently commingled and measured for royalty determination at an FMP for which Form ONRR-4058 is required under this part.</p>	Burden hours covered under 1210.104(a) and (b).		
1210.103(a) and (b) ..	<p>1210.103 When are my production reports due? .....</p> <p>(a) The ONRR must receive your completed Forms ONRR-4054 and ONRR-4058 by the 15th day of the second month following the month for which you are reporting..</p> <p>(b) A report is considered received when it is delivered to ONRR by 4 p.m. mountain time at the addresses specified in § 1210.105. Reports received after 4 p.m. mountain time are considered received the following business day..</p>	Burden hours covered under 1210.104(a) and (b).		
1210.104(a), (b), and (c).	<p>1210.104 Must I submit these production reports electronically?</p> <p>(a) You must submit Forms ONRR-4054 and ONRR-4058 electronically unless you qualify for an exception under § 1210.105.</p>	Form ONRR-4054 (OGOR)	Electronic* (approximately 99 percent)	

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR part 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses (lines of data)	Annual burden hours
	(b) You must use one of the following electronic media types, unless ONRR instructs you differently * * *.	1 min. per line .....	5,688,962	94,816
	(c) Refer to our electronic reporting guidelines in the ONRR <i>Minerals Production Reporter Handbook</i> , for the most current reporting options, instructions, and security measures. The handbook may be found on our Internet Web site or you may call your ONRR customer service representative * * *.	Manual * (approximately 1 percent)		
	* * * * *	3 min. per line .....	57,464	2,873
		Total OGOR .....	5,746,426	97,689
		Form ONRR-4058 (PASR)		
		Electronic * (approximately 99 percent)		
		1 min. per line .....	17,820	298
		Manual * (approximately 1 percent)		
		3 min. per line .....	180	9
		Total PASR .....	18,000	307

**Subpart D—Special-Purpose Forms and Reports—Oil, Gas, and Geothermal Resources**

1210.155 .....	1210.155 What reports must I submit for Federal onshore stripper oil properties?  (a) <i>General.</i> Operators who have been granted a reduced royalty rate by the Bureau of Land Management (BLM) under 43 CFR 3103.4-2 must submit Form ONRR-4377, Stripper Royalty Rate Reduction Notification, under 43 CFR 3103.4-2(b)(3).  * * * * *	Burden covered under OMB Control Number 1012-0005.		
Subtotal for Production Reporting.	.....	5,764,426      97,996		

**PART 1212—RECORDS AND FILES MAINTENANCE**

**Subpart B—Oil, Gas and OCS Sulphur—General**

1212.50 .....	1212.50 Required recordkeeping and reports. ....  All records pertaining to offshore and onshore Federal and Indian oil and gas leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the recordholder is notified, in writing, that records must be maintained for a longer period * * *.  [In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.].	Burden hours covered under 1210.54(a), (b), and (c); and 1210.104(a) and (b).		
1212.51 (a) and (b) ...	(a) <i>Records.</i> Each lessee, operator, revenue payor, or other person shall make and retain accurate and complete records necessary to demonstrate that payments of rentals, royalties, net profit shares, and other payments related to offshore and onshore Federal and Indian oil and gas leases are in compliance with lease terms, regulations, and orders * * *.	Burden hours covered under 1210.54(a), (b), and (c); and 1210.104(a) and (b).		



RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR part 1210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses (lines of data)	Annual burden hours
	(b) Period for keeping records. Lessees, operators, revenue payors, or other persons required to keep records under this section shall maintain and preserve them for 6 years from the day on which the relevant transaction recorded occurred unless the Secretary notifies the record holder of an audit or investigation involving the records and that they must be maintained for a longer period * * *. [In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.]			
Total for Royalty and Production Reporting.	.....	.....	10,499,998	337,933

\* **Note:** ONRR considers each line of data as one response/report.

*Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden:*

We have identified non-hour costs for this collection of information for the implementation of system changes and new setups in the accounting system. Based on information provided by participants, we estimate that the average total non-hour cost for each participant is approximately \$7,200. Since there are an estimated 3,870 respondents, the total estimated non-hour costs are \$27,864,000 (\$7,200 × 3,870 = \$27,864,000). This equates to an annual non-hour cost of \$9,288,000 for this ICR renewal. It is important to note that these are one-time costs due to the regulation changes implemented in May of 2015 and are not expected to continue past this ICR renewal period.

**III. Request for Comments**

Section 3506(c)(2)(A) of the PRA requires each agency to “\* \* \* publish a 60-day notice in the **Federal Register** \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a

notice in the **Federal Register** on May 15, 2015 (80 FR 28003), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 11, 2016.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor—and a person is not required to respond to—a collection of information unless it displays a currently valid OMB control number.

*Public Comment Policy:* ONRR will post all comments, including names and addresses of respondents at <http://www.regulations.gov>. Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us in your comment to withhold PII from public view, we cannot guarantee that we will be able to do so.

Dated: November 24, 2015.

**Gregory J. Gould,**  
*Director, Office of Natural Resources Revenue.*

[FR Doc. 2015–31289 Filed 12–10–15; 8:45 am]

**BILLING CODE 4335–30–P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Reclamation**

[RR02015200, XXXR0680R1, RR.17520306.0000006]

**Notice of Availability of the Final Environmental Impact Report/ Environmental Impact Statement/ Environmental Impact Statement, Upper Truckee River and Marsh Restoration Project, El Dorado County, California**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Reclamation, the California Tahoe Conservancy (Conservancy), and the Tahoe Regional Planning Agency have prepared the final Environmental Impact Report/ Environmental Impact Statement/ Environmental Impact Statement (EIR/ EIS/EIS) for the Upper Truckee River and Marsh Restoration Project (Project). The purpose of the Project is to restore natural geomorphic processes and improve ecological functions and values in this lowest reach of the Upper Truckee River and the surrounding marsh and help reduce the river’s discharge of nutrients and sediment that diminish Lake Tahoe’s clarity.

**DATES:** Reclamation will not make a decision on the proposed action until at least 30 days after the release of the final EIR/EIS/EIS. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

**ADDRESSES:** Send written correspondence or requests for the document to Scott Carroll,

Environmental Planner, State of California, California Tahoe Conservancy, 1061 Third Street, South Lake Tahoe, CA 96150; by fax to (530) 542-5567; or by email to [scott.carroll@tahoe.ca.gov](mailto:scott.carroll@tahoe.ca.gov).

The final EIR/EIS/EIS is accessible at the following Web sites:

- <http://tahoe.ca.gov/upper-truckee-marsh-69.aspx>.
- [http://www.usbr.gov/mp/nepa/nepa\\_projdetails.cfm?Project\\_ID=2937](http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2937).

To request a compact disc of the final EIR/EIS/EIS, please contact Mr. Carroll as indicated above, or call (530) 543-6062. See the **SUPPLEMENTARY INFORMATION** section for locations where paper copies of the final EIR/EIS/EIS are available for public review.

**FOR FURTHER INFORMATION CONTACT:**

Scott Carroll, California Tahoe Conservancy, at [scott.carroll@tahoe.ca.gov](mailto:scott.carroll@tahoe.ca.gov), or (530) 543-6062; or Shannon Friedman, Tahoe Regional Planning Agency, at [sfriedman@trpa.org](mailto:sfriedman@trpa.org), or (775) 589-5205; and Rosemary Stefani, Bureau of Reclamation, at (916) 978-5045, or [rstefani@usbr.gov](mailto:rstefani@usbr.gov).

**SUPPLEMENTARY INFORMATION:** The approximately 592-acre project area is along the most downstream reaches of the Upper Truckee River and Trout Creek, including their mouths at Lake Tahoe in the City of South Lake Tahoe, within El Dorado County, California. It includes 1.8-miles of the Upper Truckee River as well as the marsh and meadows surrounding the lowest reaches of Trout Creek. The majority of the project area is owned by the Conservancy though the Project does include small areas owned by other public agencies and private landowners.

Four action alternatives (Alternatives 1-4), and the No-Project/No-Action Alternative (Alternative 5), were analyzed in the draft EIR/EIS/EIS. None of the alternatives evaluated in the draft EIR/EIS/EIS were designated as preferred. Rather, guiding principles were developed requiring that each alternative be designed as a "full-spectrum" alternative that addressed, to varying degrees, all project objectives and design directives; be modular in nature, such that recreation access and infrastructure components could be interchangeable with habitat restoration and protection measures proposed; and embody a diverse range of feasible and implementable concepts, consistent with constraints identified and mapped early in the planning process. After input from responsible and interested agencies, and public comments provided on the draft EIR/EIS/EIS, and through additional outreach efforts, the

lead agencies used a qualitative system to weigh the pros and cons of the alternatives to develop the Preferred Alternative described following the action alternatives below.

Alternative 1 would involve restoration of the Upper Truckee River by increasing channel length and decreasing channel capacity. Alternative 1 includes maximum recreation access and infrastructure on the perimeter of the marsh, including a bridge and board walk. Alternative 2 would involve river restoration by directly raising the streambed elevation, increasing the channel length, and decreasing channel capacity. A key element of this alternative's restoration component would be the excavation of a new river channel that has less capacity than the existing channel. Alternative 2 includes a minimum recreation access and infrastructure design approach, focusing primarily on habitat protection features. Alternative 3 would promote the development, through natural processes, of a new main channel and/or distributary channels in the central portion of the project area. A "pilot" channel would be constructed from the existing river channel to historical channels in the center of the project area, but no construction would occur in the central or northern portions of the project area. Rather, natural processes would be allowed to dictate the flow path(s), bed and bank elevations, and capacities of the channel(s) through the central and northern portions of the project area. Alternative 3 would include a moderate level of recreation access and infrastructure, including more signage, more trail development, and viewpoints than proposed under Alternative 2 but less than Alternative 1. Alternative 4 would restore the river channel and its connection to the floodplain by lowering bank heights by excavating an inset floodplain along much of the river channel, and by localized cut and fill to create meanders in the existing straightened reach. Alternative 4 would include a similar level of recreation infrastructure as Alternative 3. Alternative 5 would not provide any actions to restore the river channel and its connection to the floodplain or recreation features beyond maintaining existing infrastructure in the project area. This alternative would allow, but not facilitate the long-term, passive recovery of the river system via natural processes. This alternative represents a projection of reasonably foreseeable future conditions that could occur if no project actions were implemented.

The Preferred Alternative includes the most beneficial and cost-effective

elements of the five alternatives evaluated in the draft EIR/EIS/EIS. This alternative is also the most feasible, the most highly responsive to public comments, and the most resilient to the potential impacts of climate change. It includes the following components:

- Alternative 3 restoration elements which involve construction of a small pilot channel that would reconnect the Upper Truckee River to the middle of the marsh to attain ecosystem and water quality improvements. This concept proposes the most geomorphically appropriate channel configuration allowing the pilot channel to strategically connect the current river alignment to historic channels and lagoons. The river would form its own pattern and spread over the expanse of the marsh, resulting in substantial benefits to habitats, wildlife, and water quality. The abandoned sections of existing river channel would be largely filled to create restored meadow and expanded wetlands.

- Alternative 5 for recreation elements on the east side of the Upper Truckee Marsh that would maintain the current dispersed recreation experience. No new recreation infrastructure would be installed and public access would be afforded through the current informal user-created trail system. The Conservancy would continue to manage and reduce the impacts of recreational use and new trails while providing on-site signage.

- Alternative 3 recreation elements for the west side of the Upper Truckee Marsh would upgrade the recreation infrastructure through construction of ADA-accessible trails to Lake Tahoe and formalized viewpoints that provide interpretive and site-information signage. The developed recreation experience would be maintained consistent with natural resource values.

- Previously proposed only under Alternatives 1 and 2, the Preferred Alternative would also include the restoration of sand ridges ("dunes") at Cove East Beach that were graded and leveled as part of the Tahoe Keys development and the removal of fill at the east end of Barton Beach to create a restored lagoon.

The detailed description of the Preferred Alternative, the selection process, and a summary of Alternatives 1 through 5 are presented in Chapter 2 of the final EIR/EIS/EIS.

A Notice of Availability of the draft EIR/EIS/EIS was published in the **Federal Register** on February 26, 2013 (78 FR 13082). The comment period on the draft EIR/EIS/EIS ended on April 29, 2013. The final EIR/EIS/EIS contains responses to all comments received and

reflects comments and any additional information received during the review period.

Copies of the final EIR/EIS/EIS are available for public review at the following locations:

- State of California, California Tahoe Conservancy, 1061 Third Street, South Lake Tahoe, CA 96150.
- Tahoe Regional Planning Agency front desk, 128 Market Street, Stateline, NV 89449.
- Mid-Pacific Regional Library, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825.

#### Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you may ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 20, 2015.

**Jason R. Phillips,**

*Deputy Regional Director, Mid-Pacific Region.*

[FR Doc. 2015-31230 Filed 12-10-15; 8:45 am]

BILLING CODE 4332-90-P-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000  
167S180110; S2D2S SS08011000  
SX064A000 16XS501520]

#### North Cumberland Wildlife Management Area, Tennessee Lands Unsuitable for Mining Draft Petition Evaluation Document and Environmental Impact Statement OSM-EIS-37

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Notice of availability.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSMRE) announces that the draft Petition Evaluation Document and Environmental Impact Statement (PED/EIS) for the North Cumberland Wildlife Management Area Petition to Find Certain Lands Unsuitable for Surface Coal Mining Operations is available for public review and comment.

**DATES:** *Electronic or written comments:* OSMRE will accept electronic or written comments within 45 days of the

publication of this Notice in the **Federal Register**.

**ADDRESSES:** Comments may be submitted using any of the following methods:

*Electronic Comments:* <http://www.osmre.gov/programs/rcm/TNLUM.shtm>. Please follow the online instructions for submitting comments.

*Mail/Hand-Delivery/Courier:* Earl D. Bandy Jr., Director—Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, John J. Duncan Federal Building, 710 Locust Street, 2nd Floor Knoxville, Tennessee 37902.

You may review the draft PED/EIS online at <http://www.osmre.gov/programs/rcm/TNLUM.shtm>. You also may review these documents in person at the location listed below.

**FOR FURTHER INFORMATION CONTACT:** Earl D. Bandy Jr., Director—Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, John J. Duncan Federal Building, 710 Locust Street, 2nd Floor, Knoxville, Tennessee 37902. Telephone: 865-545-4103. Email: [TNLUM@OSMRE.gov](mailto:TNLUM@OSMRE.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

On September 30, 2010, pursuant to section 522 of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1272(c), the State of Tennessee filed a petition with OSMRE to designate certain lands in the state as unsuitable for surface coal mining operations. These lands include the area within 600 feet of all ridge lines (a 1,200 foot corridor) lying within the North Cumberland Wildlife Management Area (NCWMA)—made up of the Royal Blue Wildlife Management Area, the Sundquist Wildlife Management Area, and the New River Wildlife Management Area (also known as the Brimstone Tract Conservation Easement)—and the Emory River Tracts Conservation Easement (ERTCE). The area under consideration for designation encompasses in total approximately 67,326 acres along 505 miles of ridgelines. In accordance with its responsibility to administer the federal coal program in Tennessee, OSMRE must process and make decisions on all petitions submitted to designate areas in the state as unsuitable for surface coal mining operations.

The petition includes two primary allegations with numerous allegations of fact and supporting statements. In primary allegation 1, the petitioner contends that the petition area should be designated unsuitable for surface coal mining operations because surface coal

mining in the area would be incompatible with existing state or local land use plans or programs. SMCRA 522(a)(3)(A), 30 U.S.C. 1272(a)(3)(A). In primary allegation 2, the petitioner contends that the OSMRE should designate the petition area as unsuitable for surface coal mining operations because such operations would affect fragile or historic lands, resulting in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems. SMCRA 522(a)(3)(B), 30 U.S.C. 1272(a)(3)(B).

The Director, OSMRE, is required to make a decision on the petition. The draft EIS currently considers in detail the following alternatives for action by the Secretary:

- Alternative 1—do not designate any of the petition area as unsuitable for surface coal mining operations (no-action). There would be no change in types of permits applications accepted for evaluation.
- Alternative 2—designate the entire petition area (67,326 acres) as unsuitable for all surface coal mining operations (State's proposed action). No types of surface mining permits applications would be accepted for this area.
- Alternative 3—designate the state petition area (67,326 acres) while allowing remining and road access (agency's preferred alternative). The only acceptable types of permits would be permits for remining.
- Alternative 4—grant an expanded corridor designation of independently-identified ridgelines within the petition area (76,133 acres) while allowing remining and road access. The only acceptable types of permits would be permits for remining.
- Alternative 5—designate lands based on the presence of certain sensitive resources (12,331 acres). No types of surface mining permits would be accepted for this area.
- Alternative 6—designate a reduced corridor of 600 feet (39,106 acres). No types of surface mining permits applications would be accepted for this area.

In accordance with the applicable regulations under 30 CFR parts 762 and 764 and the requirements of the National Environmental Policy Act of 1969 (NEPA), as amended, OSMRE evaluated the merits of the unsuitability petition and analyzed the impacts of these alternatives. This analysis is reflected in the draft PED/EIS.

OSMRE has identified Alternative 3 as its preferred alternative.

**How do I comment on the DEIS?**

In accordance with 43 CFR 46.435(a) and 40 CFR 1503.1(a)(4), the public is invited to provide written comments on the draft PED/EIS during the 45-day comment period. Please see **ADDRESSES** and **DATES** for more information.

OSMRE will review and consider all comments submitted via the methods discussed under **ADDRESSES** by the close of the comment period (see **DATES**). OSMRE cannot ensure that comments received after the close of the comment period or at a location other than the office and Web site listed under **ADDRESSES** will be included in the docket for this DEIS or considered in the development of a final EIS.

All comments should refer to a specific portion of the draft PED/EIS (citation to the chapter, section, page, paragraph, and sentence to which your comment applies would be helpful), be confined to pertinent issues, explain the reason for any recommended change or objection, and include supporting data when appropriate.

Before including your address, phone number, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you may request in your comment that your personally identifiable information be withheld from public review, OSMRE cannot guarantee that it will be able to do so.

In addition, a limited number of CD copies of the DEIS are available upon request. You may obtain a CD by contacting the person identified in **FOR FURTHER INFORMATION CONTACT**.

If you would like to be placed on the mailing list to receive future information on the draft PED/EIS, please contact the person identified in **FOR FURTHER INFORMATION CONTACT**.

**Public Hearings**

OSMRE will hold a series of public hearings on the draft PED/EIS. OSMRE representatives will provide information at each hearing. OSMRE will announce arrangements, specific locations, dates, and times for each hearing in local press releases and on the project Web site at <http://www.osmre.gov/programs/rcm/TNLUM.shtm>. If you are a disabled individual who needs reasonable accommodation to attend and participate in a public hearing, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. A court reporter will be available at each hearing to record your comments if you wish to provide input in this fashion.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.1.

Dated: November 20, 2015.

**Thomas D. Shope,**

*Regional Director, Appalachian Region.*

[FR Doc. 2015-30981 Filed 12-10-15; 8:45 am]

**BILLING CODE 4310-05-P**

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-974]

**Certain Aquarium Fittings and Parts Thereof Notice of Institution of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 6, 2015, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of HYDOR USA Inc. of Sacramento, California. Letters supplementing the complaint were filed on November 25, 2015. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain aquarium fittings and parts thereof by reason of infringement of certain claims of U.S. Patent No. 8,191,846 (“the ‘846 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative, a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record

for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2015).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on December 7, 2015, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain aquarium fittings and parts thereof by reason of infringement of one or more of claims 1-9 of the ‘846 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: HYDOR USA Inc., 4740 Northgate Boulevard, Suite 125, Sacramento, CA 95834.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Jebao Co., Ltd., Tongmao Jebao Industrial Park, Dongsheng Town, Zhongshan City, Guangdong province, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20

days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: December 8, 2015.

**Lisa R. Barton,**

Secretary to the Commission.

[FR Doc. 2015-31261 Filed 12-10-15; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

[OMB Number 1140-0019]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Federal Firearms License (FFL) RENEWAL Application

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 proposed information collection was previously published in the **Federal Register** 80 *FR* 60934, on October 8, 2015, allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until January 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the

proposed information collection instrument with instructions or additional information, please Tracey Robertson, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 20226 at email: [tracey.robertson@atf.gov](mailto:tracey.robertson@atf.gov). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection 1140-0019:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Federal Firearms License (FFL) RENEWAL Application.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF F 8 (5310.11) Part 11.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individual or households.

Abstract: The form is filed by the licensee desiring to renew a Federal

firearms license. It is used to identify the applicant, locate the business/ collection premises, identify the type of business/collection activity, and determine the eligibility of the applicant.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 35,000 respondents will complete a 30 minute form.

6. *An estimate of the total public burden (in hours) associated with the collection:* Total annual burden hours are 17,500.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E-405B, Washington, DC 20530.

Dated: December 8, 2015.

**Jerri Murray,**

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015-31244 Filed 12-10-15; 8:45 am]

BILLING CODE 4410-FY-P

## DEPARTMENT OF JUSTICE

[OMB Number 1117-0014]

### Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection, Application for Registration, Application for Registration Renewal; DEA Forms 224, 224A

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 80 *FR* 61239, October 9, 2015, allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until January 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have comments on the estimated public burden or associated response time, suggestions, or need a copy of the

proposed information collection instrument with instructions or additional information, please contact Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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;
- Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; 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 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 collection.
2. *Title of the Form/Collection:* Application for Registration; Application for Registration Renewal.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* DEA Forms: 224, 224A. The applicable component within the Department of Justice is the Drug Enforcement Administration, Office of Diversion Control.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: The Controlled Substances Act (CSA) requires all persons that manufacture, distribute, dispense, conduct research with, import, or export any controlled substance to obtain a registration issued by the Attorney General.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

	Number of annual respondents	Average time per response	Total annual hours
DEA-224 (paper) .....	4,548	0.2 hours (12 minutes) .....	910
DEA-224 (online) .....	97,763	0.13 hours (8 minutes) .....	13,035
DEA-224A (paper) .....	50,265	0.2 hours (10 minutes) .....	8,378
DEA-224A (online) .....	381,506	0.07 hours (4 minutes) .....	25,434
<b>Total</b> .....	<b>534,082</b>	.....	<b>47,757</b>

Figures are rounded.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates that this collection takes 47,757 annual burden hours.

If additional information is required please contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3E.405B, Washington, DC 20530.

Dated: December 8, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015-31251 Filed 12-10-15; 8:45 am]

**BILLING CODE 4410-09-P**

**DEPARTMENT OF JUSTICE**

[OMB Number 1140-0001]

**Agency Information Collection Activities; Proposed eCollection eComments Requested; ATF Distribution Center Survey**

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until February 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time,

suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John Sickler, Visual Information Services Branch, 99 New York Ave. NE., Washington, DC 20226 at email: [john.sickler@atf.gov](mailto:john.sickler@atf.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the

information to be collected can be enhanced; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection 1140-0001

1. *Type of Information Collection* (check justification or form 83): Extension of a currently approved collection.

2. *The Title of the Form/Collection*: ATF Distribution Center Contractor Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection*:

*Form number (if applicable)*: ATF F 1370.4.

*Component*: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract*:

*Primary*: Businesses or other for-profit.

*Other (if applicable)*: Individuals or households.

*Abstract*: The form is used to evaluate the ATF Distribution Center, and the services it provides to the users of ATF forms and publications.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: An estimated 240 respondents will take 1 minute to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection*: The estimated annual public burden associated with this collection is 4 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E-405B, Washington, DC 20530.

Dated: December 8, 2015.

**Jerri Murray**,  
Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015-31248 Filed 12-10-15; 8:45 am]

BILLING CODE 4410-FY-P

## DEPARTMENT OF JUSTICE

[OMB Number 1140-0066]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Manufacturers of Ammunition, Records and Supporting Data of Ammunition Manufactured and Disposed of

**AGENCY**: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION**: 60-Day notice.

**SUMMARY**: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

**DATES**: Comments are encouraged and will be accepted for 60 days until February 9, 2016.

**FOR FURTHER INFORMATION CONTACT**: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rinell Lawrence, Firearms Enforcement Specialist, Firearms Industry Program, 99 New York Avenue NE. 20226 at email: [Fipb-informationcollection@atf.gov](mailto:Fipb-informationcollection@atf.gov).

**SUPPLEMENTARY INFORMATION**: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

*e.g.*, permitting electronic submission of responses.

*Overview of this information collection 1140-0066*:

1. *Type of Information Collection* (check justification or form 83):

Revision of a currently approved collection.

2. *The Title of the Form/Collection*: Manufacturers of Ammunition, Records and Supporting Data of Ammunition Manufactured and Disposed of

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection*:

*Form number (if applicable)*: None.

*Component*: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract*:

*Primary*: Business.

*Other (if applicable)*: None.

*Abstract*: ATF uses manufacturer's records information during investigations, inspections for criminal activity, or for compliance purposes.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: An estimated 159 respondents will take two (2) minutes (.033 hours) to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection*: The estimated annual public burden associated with this collection is 5.25 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E-405B, Washington, DC 20530.

Dated: December 8, 2015.

**Jerri Murray**,  
Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015-31249 Filed 12-10-15; 8:45 am]

BILLING CODE 4410-FY-P

## DEPARTMENT OF JUSTICE

[OMB Number 1121-0339]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Comments Requested: Generic Clearance for Cognitive, Pilot and Field Studies for Bureau of Justice Statistics Data Collection Activities

**AGENCY**: Bureau of Justice Statistics, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 80 FR 60935, on October 8, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for 30 days until January 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact please contact Devon Adams, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: [Devon.Adams@usdoj.gov](mailto:Devon.Adams@usdoj.gov); telephone: 202-307-0765). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g.,

permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Generic Clearance for cognitive, pilot and field studies for Bureau of Justice Statistics data collection Activities.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form numbers not available for generic clearance. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Administrators or staff of state and local agencies or programs in the relevant fields; administrators or staff of non-government agencies or programs in the relevant fields; individuals; policymakers at various levels of government.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* We estimate that approximately 20,000 respondents will be involved in exploratory, field test, pilot, cognitive, and focus group work conducted under this clearance over the requested 3-year clearance period. The average response time per respondent will be specific to each project covered under the clearance. Specific estimates of the number of respondents and the average response time are not known for each pilot study or development project covered under a generic clearance at this time. Project specific estimates will be submitted to OMB separately for each project conducted under this clearance. An estimate of the overall number of burden hours for activities under this generic

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden for identified and future projects covered under this generic clearance over the 3-year clearance period is approximately 15,000 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: December 8, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015-31250 Filed 12-10-15; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before January 11, 2016.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (Email), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:**



## I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## II. Petitions for Modification

*Docket Number:* M-2015-022-C.

*Petitioner:* Speed Mining LLC, P.O. Box 99, Dawes, West Virginia 25054.  
*Mine:* American Eagle Mine, MSHA I.D. No. 46-05437, located in Kanawha County, West Virginia.

*Regulation Affected:* 30 CFR 77.214(a) (Refuse piles; general).

*Modification Request:* The petitioner requests a modification of the existing standard to permit, as an alternative method, backfill of the incised excavation [where previously sealed and abandoned mine openings in the No. 2 Gas (Powellton) coal seam exist] with coal refuse. The petitioner states that:

(1) The box cut configuration, as built mine opening seal locations and proposed backfill plans, is presented graphically on Drawing Nos. B15-334-E4 and B15-334-E5. The five mine openings within the box cut have previously been sealed in accordance with the MSHA approval. Subsequently, the sealed openings were backfilled with soil and rock. The surveyed limits of the soil and rock backfill are presented on Drawing No. B15-334-E4. During our field visit, it was noted that the backfill above opening No. 2 had settled, exposing the top of the opening. Additional soil and rock will be placed at the openings to at least 4 feet above the coal seam.

(2) The petitioner proposes to backfill the totally incised box cut excavation with coal refuse; however, 30 CFR 77.214(a) states that refuse piles shall not be located over abandoned openings. The apparent intent of this regulation is to limit the potential for a "blowout" of mine water and to limit

the potential for combustion of the refuse and/or coal seam. The proposed backfill plan described below addresses these concerns and provides a practical method of backfilling the box cut excavation that will provide an equivalent or greater measure of protection afforded by the existing standard.

(3) In the case of the Wet Branch box cut, the material excavated from the box cut was used to bring the preparation plant and coal stockpile areas to grade and is no longer available to eliminate the pit. The coal refuse will be used as a construction material, not to construct a new refuse pile. The five openings associated with the American Eagle Mine in the No. 2 Gas seam were sealed and have been backfilled with soil and rock. Additional soil and rock fill placement is specified to effectively isolate the openings from the proposed refuse backfill. The seal in Opening No. 2 located at the southern end of the box cut included a drain through the seal. It is proposed to cap this drain since there are openings at a lower elevation to the northwest currently discharging water from unmapped abandoned mine workings which were intersected by this mine. The previously placed and proposed soil and rock isolates the mine workings from the proposed coal refuse fill minimizing any potential for a mine fire to spread to the refuse fill. Any exposed coal seams will be covered with at least four feet of soil and rock as the coal refuse backfill is placed. The coal refuse will be placed in 2-foot maximum thick lifts. This requirement should preclude the potential for the refuse to spontaneously combust. Since the mine has a gravity outlet at an elevation lower than the bottom of the box cut, there is no significant potential for the mine workings at the box cut to flood.

The petitioner asserts that the proposed alternative method will provide an equivalent or greater measure of protection to that afforded by the existing standard.

*Docket Number:* M-2015-023-C.

*Petitioner:* M-Class Mining, LLC, 11351 N. Thompsonville Road, Macedonia, Illinois 62860.

*Mine:* MC #1 Mine, MSHA I.D. No. 11-03189, located in Franklin County, Illinois.

*Regulation Affected:* 30 CFR 75.503 (permissible electric face equipment; maintenance) and 18.35 (Portable (trailing) cables and cords).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of 995-volt trailing cables with a maximum length of 1000 feet. The petitioner states that:

(1) The 995-volt bolters trailing cables will not be smaller than No. 2 American Wire Gauge (AWG) cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 800 amperes. The trip setting of these circuit breakers will be sealed or locked so that the settings cannot be changed, and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting No. 2 AWG cables. The cables will be maintained legible.

(3) Replacement instantaneous trip units used to protect the No. 2 AWG trailing cables will be calibrated to trip at 800 amperes and this setting will be sealed and locked.

(4) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) Short circuit settings must not exceed the setting specified in the approval documentation or 70 percent of the maximum available current, whichever is less.

(6) Any cable that is not in safe operating condition will be removed from service immediately and repaired or replaced.

(7) Each splice or repair in the trailing cables will be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair kit. The outer jacket of each splice or repair will be vulcanized with flame-resistant material or made with material that has been accepted by MSHA as flame-resistant.

(8) In the event that mining methods or operating procedures cause or contribute to the damage of any trailing cable, the trailing cable will be removed from service immediately, repaired or replaced, and additional precautions will be taken to ensure that in the future the cable is protected and maintained in safe operating condition.

(9) During the production day, persons designated by the mine operator will visibly examine the trailing cables to ensure that the cables are in safe operating condition. The instantaneous settings of the specially calibrated breakers will also be visually examined to ensure that the seals or locks have not been removed and that they do not exceed the settings stipulated in this petition.

(10) Permanent warning labels will be installed and maintained on the cover(s) of the power center identifying the location of each sealed short-circuit protective device. These labels will

warn miners not to change or alter these sealed short-circuit settings.

(11) The alternative method will not be implemented until all miners who have been designated to examine the integrity of the seals or locks to verify the short-circuit settings, and to examine the trailing cables for defects, have received training.

(12) Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions for their approved 30 CFR part 48 training plans to the District Manager. The procedures specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The training will include the following elements:

(a) Mining methods and operating procedures that will protect the trailing cables against damage.

(b) Proper procedures for examining the trailing cables to ensure that the cables are in safe operating condition.

(c) The hazards of setting the short-circuit interrupting device(s) too high to adequately protect the trailing cables.

(d) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

*Docket Number:* M–2015–024–C.

*Petitioner:* Perry County Coal, LLC, P.O. Box 190, Lovely, Kentucky 41231.

*Mine:* E4–1 Mine, MSHA I.D. No. 15–18565, E4–2 Mine, MSHA I.D. No. 15–19015 and E3–1 Mine, MSHA I.D. No. 15–18662, located in Perry County, Kentucky.

*Regulation Affected:* 30 CFR 75.1506(a)(1) (Refuge alternatives).

*Modification Request:* The petitioner requests a modification of the existing standard to allow for alternate examination, testing, maintenance, and repairs of Mine Shield underground shelters. The petitioner seeks modification of the standard as it applies to examinations, testing, maintenance, and repairs by the refuge manufacturer (Mine Shield LLC located at 322 Crab Orchard Road, Lancaster, Kentucky 40444). The petitioner states that:

(1) There are a total of 7 Mine Shield LLC shelters in service and 5 Mine Shield Shelter available in its Perry County Coal E4–1 Mine, E4–2 Mine, and E3–1 Mine. All units have been retrofitted as prescribed by MSHA.

(2) Examination, testing, maintenance, and repairs cannot be accomplished

according to the manufacturer's recommendation since Mine Shield LLC is no longer in business and the technician conducting the examination, maintenance, and repairs no longer exist.

(3) The examinations, testing, maintenance, and repairs as required by the manufacturer's recommendation cannot be conducted since the manufacturer's technicians are no longer available. The petitioner proposes to:

—Have certified and qualified persons as defined in 30 CFR 75.151 conduct all examination, testing, maintenance, and repairs. A sufficient number of trained personnel will be provided. A list of qualified examiners, maintenance, and repair persons will be posted at each mine, and proof of training will be verifiable by MSHA forms 5000–23.

—Adhere to and comply with all provisions of the Manufacturer's Service Manual on all shelters.

—Train all examiners and repairmen through the WHA International Inc., Mr. Elliot Forsyth, BSME PE Chief, Technical Training Officer, Senior Oxygen Safety & Forensic Engineer, or his equivalent, on Level 1, Level 2, and Level 3.

—Train all examiners, maintenance, and repair persons in use of, and equip them with, a state of the art IBRID MX6 Gas Monitor (MSHA approval # 07–LPA–130006, Part Approval # 222–A080002–0) gas monitoring device manufactured by Industrial Scientific Inc.

—Continue maintenance and repairs of incidental and routine nature such as replacing leaking air lines, breathable air cylinders, curtains, batteries, out dated items such as food, water, fire extinguishers, emergency first aid equipment, identification tags and other minor issues too numerous to list.

—Record and retain the results of all examinations, tests, maintenance, and repairs for one year and make available to MSHA.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the District Manager. These proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

*Docket Number:* M–2015–025–C.

*Petitioner:* Hamilton County Coal, LLC, P.O. Box 339, McLeansboro, Illinois 62959.

*Mine:* Mine No. 1, MSHA I.D. No. 11–03203, located in Hamilton County, Illinois.

*Regulation Affected:* 30 CFR 75.382(a) and (b) (Mechanical escape facilities).

*Modification Request:* The petitioner requests a modification of the existing standard to permit, through the use of alternative safety measures, the use of the slope belt conveyor as a mechanical escape facility at the Mine No. 1. The petitioner states that:

(1) The Mine No. 1 extracts coal from the Herrin No. 6 seam by both continuous mining and longwall extraction methods. The coal seam is intersected by a vertical shaft with cage hoist facility and by a dual compartment slope that contains a slope car hoist facility in the lower track compartment and a belt conveyor in the isolated upper compartment. Escapeways as required in 30 CFR 75.380(a) are connected to these hoist facilities as required by 30 CFR 75.380(i)(1) and (2).

(2) Rope and drum hoists used as mechanical escape facilities are subject to maintenance and/or conditions that could interfere with the operation of the facility for extended periods of time. The availability of a third mechanical escape facility enhances compliance with escapeway regulations in that there will be an additional escape facility during normal hoist operations and provide the second mechanical escape facility in the event there is required maintenance of either rope and drum hoist.

(3) The specific language of 30 CFR 75.382(a), (b), (c)(1) and (2), and (f) specifically addresses rope-type drum hoists and elevators. Subparagraph (b) also uses the term "or other devices" as a reference to a type of escape facility. While not specifying a belt conveyor as an "other device", the subparagraph also does not preclude a belt conveyor from being used as an escape facility.

(4) Belt conveyors have been used to safely transport miners to and from the surface and underground areas of coal mines when the safety measures and provisions listed in the criteria of 30 CFR 75.1403–5 are provided. Belt conveyors so equipped for the transportation of personnel and used as a "mantrip" can also be used safely as a mechanical escape facility.

(5) Current technology for slope belt conveyors can now provide mechanical escape facility capability with no less measure of safety for the miner than the application of the mandatory standard. The 72-inch slope belt conveyor at Mine

No. 1 is powered by multiple drive motors located on the mine's surface facilities. Each drive motor is controlled by a variable frequency drive (VFD), coupled with encoders, that monitors the speed of the motor unit and can shut down the belt if a predetermined speed set point is exceeded.

(6) The original equipment manufacturer has by design, provided the necessary components (variable frequency drives, programmable logic computers and associated software, and switches/touchscreen controls) to provide for "mantrip-mode" operation. Additionally, the drive motor gear boxes are provided with a braking/blocking device that mechanically prevents rotation of the gears when the drive motors are deenergized.

The petitioner proposes to use the slope belt conveyor at Mine No. 1 as a mechanical escape facility conditioned on compliance with the following:

- The slope belt conveyor will be equipped with an automatic braking system which prevents the belt from reversing direction if power is lost.
- Positive acting stop control will be installed along the slope belt conveyor and such controls will be readily accessible and will be maintained so that the belt can be stopped or started at any location. Automatic controls will also deenergize the belt flight dumping onto the slope belt and will be so designed that the power cannot be reapplied to the belt flight dumping onto the slope belt while it is in use as an emergency escape facility.
- The slope belt conveyor will have a minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there will be at least 36 inches of sided clearance where men board and leave the slope conveyor.
- When persons are being transported on the slope belt conveyor being used as an emergency escape facility, the belt speed will not exceed 300 feet per minute when the vertical clearance is less than 24 inches and will not exceed 350 feet per minute when the vertical clearance is 24 inches or more.
- Adequate illumination including colored lights or reflectors will be installed at all loading and unloading stations on the slope conveyor belt. Such colored lights will be located to be observable to all persons riding the conveyor belt.
- The slope conveyor belt will not be used to transport supplies and the slope conveyor will be clear of all

material, including coal, before men are transported.

- Telephone or other suitable communications will be provided at points where persons are loaded on or unloaded from the slope belt conveyor.
- Suitable crossing facilities will be provided wherever persons must cross the moving slope conveyor or any other moving belt conveyor belt to gain access to or leave the mechanical escape facility.
- The belt slope conveyor will have a minimum 48-inch wide clear travelway on at least one side and will have a minimum 24-inch clear travelway on the opposite side.
- Suitable belt crossing facilities will be provided wherever necessary to maintain a continuous route of travel alongside the slope belt conveyor from the slope bottom where the alternative escape exits the slope belt entry at the surface.
- The slope belt conveyor will be examined by a certified person at least once a week. This examination will include:
  - (a) Operating the slope belt conveyor as an emergency escape facility;
  - (b) Examination for hazards along the slope belt conveyor and examination of the mechanical and electrical condition of the slope conveyor system;
  - (c) Immediate reporting of hazards or mechanical deficiencies observed; and
  - (d) Confirmation that any reported hazards or defects are corrected before the slope belt is used as an emergency escape facility.
- The slope conveyor belt will also be subject to the preshift examination requirements of 30 CFR 75.360(b)(2) and, where one of those examinations include operation of the slope conveyor as a mechanical escape facility and examination for mechanical and electrical condition of the slope belt conveyor, the weekly examination requirements will be satisfied.
- The person(s) making the examinations will certify by initials, date, and the time the examinations were made. The certification will be at the loading and unloading stations of the slope conveyor belt. The petitioner asserts that the proposed alternative method will at all times provide the same degree of safety as that provided by the existing standard.

**Sheila McConnell,**

*Acting Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2015-31220 Filed 12-10-15; 8:45 am]

**BILLING CODE 4520-43-P**

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**Petitions for Modification of Application of Existing Mandatory Safety Standards**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before January 11, 2016.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (Email), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or

other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## II. Petitions for Modification

*Docket Number:* M-2015-006-M.

*Petitioner:* Marigold Mining Company, 950 17th Street, Suite 2600, Denver, Colorado 80202.

*Mine:* Marigold Mine, MSHA I.D. No. 26-02081, located in Humboldt County, Nevada.

*Regulation Affected:* 30 CFR 56.6309(b) (Fuel oil requirements for ANFO).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the use of re-refined oil in lieu of conventional diesel when preparing ANFO for blasting. The petitioner states that:

(1) Only RDO-100 will be used, which is an engineered liquid hydrocarbon fuel that is refined off site from recycled petroleum products by a reputable commercial business with quality controls in place to assure that the product meets the specifications outlined in the Material Safety Data Sheet.

(2) Marigold mining company received lab results from American Testing Technologies, Inc., analyzing the RDO-100 Burner Fuel. The RDO-100 Burner Fuel oil exceeds the following Environmental Protection Agency (EPA) limits of 40 CFR 279.11:

- Arsenic—5 ppm maximum
- Benzene—25 ppm maximum
- Cadmium—2 ppm maximum
- Chromium—10 ppm maximum
- Lead—100 ppm maximum
- Total Halogens—1,000 ppm maximum
- Flash Point—100°–125° F minimum

In similar cases, and corresponding orders granting modification of the application of 30 CFR 56-6309(b), MSHA has determined that there is not a diminution of safety when using re-refined used oil that meets the EPA criteria of 40 CFR 279.11, and does not contain hazardous waste material listed in 40 CFR part 261 to prepare ANFO.

(3) Marigold Mining Company seeks modification of the existing standard

that recognizes the RDO-100 Burner Fuel is not a “waste oil” or “crankcase oil” prohibited by the referenced standard. RDO-100 is an engineered liquid hydrocarbon fuel manufactured offsite from 100 percent reclaimed petroleum products, and has a flash point greater than 200 degrees Fahrenheit. Marigold Mining seeks recognition from MSHA that it can utilize RDO-100 Burner Fuel to prepare ANFO.

(4) RDO-100 burner fuel is not a “waste oil” or “crankcase oil” prohibited by the referenced standard. Used oil is clearly acceptable to certain situations under EPA standard. Marigold Mining should be allowed to use re-refined and EPA compliant oil to prepare ammonium nitrate-fuel oil for the blasting process. 30 CFR 56.6309(b) states that “waste oil, including crankcase oil, shall not be used to prepare ammonium nitrate-fuel oil” However, the standard does not define the terms “waste oil and “crankcase oil”. Evaluating common industry definitions, it is clear that the RDO-100 burner fuel utilized by Marigold Mining does not fall into either of these categories.

The Merriam-Webster Dictionary defines a “crankcase” as “the part of an engine that contains the crankshaft, the housing of a crankshaft.” Thus, “crankcase oil” is the oil inside the crankcase that lubricates the crankshaft. The oil that Marigold Mining intends to utilize is recycled EPA compliant oil that does not fall under this definition. Used oil is clearly acceptable in certain situations under EPA standards. “Used oil means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities,” 40 CFR 279.1. 40 CFR part 279 defines the acceptable and prohibited uses of “used oil”. However, “used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment is subject to regulation under [40 CFR part 279] unless it is shown not to exceed any of the allowable levels of the constituents and properties.

40 CFR 279.11 (emphasis added). Based on Marigold Mining analysis test results, it is evident that Marigold Mining re-refined used oil does not exceed any allowable levels, and thus is not subject to the prohibitions described in 40 CFR part 279. As such, Marigold Mining should be allowed to utilize used, recycled, EPA compliant oil to prepare ammonium nitrate-fuel oil.

(5) RDO-100 burner fuel (recycled oil) is almost chemically identical to Mobile 15-W40 motor oil (new oil). Even if

RDO-100 burner fuel is considered “waste oil” under 30 CFR 56.6309(b), a comparison of the lab results for RDO-100 burner fuel (recycled oil) and Mobile 15-W40 motor oil” (new oil) used to make ANFO reveals that there is not significant difference between the two. The new oil contains more total halogens than the recycled oil. RDO-100 is an engineered liquid hydrocarbon fuel refined offsite from recycled petroleum products by a reputable commercial business with quality controls in place to assure that the product meets the specifications outlined in the MSDS. Thus, creation of ANFO using RDO-100 versus Mobile15-W40 motor oil is similar to the creation of a Coke bottle using recycled plastic versus new plastic.

(6) Marigold Mining is in the process of establishing several precautionary measures that it intends to follow in an effort to dispel any safety concerns. The procedures below constitute a fully appropriate and safe method for transporting, storing, and utilizing recycled used oil to prepare ANFO without any diminution of safety.

- Marigold Mining will only be using re-refined used oil that has already been recycled and tested by a reputable commercial business.
- The recycled oil received by Marigold Mining for use to prepare ANFO will be stored in an oil tank that is dedicated for diesel and/or used oil blend storage.
- The ammonium nitrate to be combined with the re-refined used oil to create ANFO will be stored separate and apart from the re-refined used oil in a locked and secured compound.
- The recycled oil, after it is filtered and meets the EPA criteria of 40 CFR 279.11, shall have no other products added except for No. 2 diesel fuel.
- The re-refined used oil shall not be modified by heating, the addition of additives (excluding the No. 2 diesel fuel), or in any other way that would change the relevant properties of the oil.
- The ANFO will be transported and used in a closed system which prevents skin contact, inhalation of vapors and ingestion of the product. Personal protective equipment worn by employees who handle the ANFO mixture, as required by 30 CFR 56.15006, will be maintained to ensure the intended protection and will be properly disposed of after each use.
- The ANFO will be used only on Marigold Mine property and will not be sold or transferred to other mine properties.

—The re-refined used oil and ammonium nitrate will be taken to the blast site in separate containers and will be combined only as part of the actual process of loading the blast holes.

—The petitioner will maintain a daily “load” and “shot” report detailing all holes loaded and shots fired which contain this re-refined used oil/prill mixture.

(7) There have been no documented incidents at the Marigold Mine from use of RDO-100 burner fuel to prepare ANFO. Marigold Mining has successfully used RDO-100 burner fuel for over eight years without any problems, and has had several discussions with MSHA inspectors during that period regarding use of the product. Prior to Citation No. 8562938 being issued and subsequently vacated in 2011, no MSHA inspector has ever cited Marigold Mining for the use of RDO-100 burner fuel, nor has any MSHA inspector ever advised Marigold Mining not to use RDO-100 burner fuel. Marigold Mining’s use of RDO-100 burner fuel is a safe environmentally responsible practice that complies with the requirements of 30 CFR 6309.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

**Sheila McConnell,**

*Acting Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2015-31219 Filed 12-10-15; 8:45 am]

BILLING CODE 4520-43-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2015-0272]

### Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-4025, “Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites.” This DG proposes guidance for an approach that the NRC staff considers acceptable for use in assessing

abnormal, inadvertent radioactive releases that may result in discharges of contaminated ground water from the subsurface to the unrestricted area at commercial nuclear power plant sites.

**DATES:** Submit comments by February 9, 2016. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0272. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN-12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Nicholson, telephone: 301-415-2471, email: [Thomas.Nicholson@nrc.gov](mailto:Thomas.Nicholson@nrc.gov) and Edward O’Donnell, telephone: 301-415-3317, email: [Edward.ODonnell@nrc.gov](mailto:Edward.ODonnell@nrc.gov). Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2015-0272 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0272.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The DG is electronically available in ADAMS under Accession No. ML15237A388.

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC-2015-0272 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission.

The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

#### II. Additional Information

The NRC is issuing for public comment a DG in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC’s regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, “Assessment of Radioactive Discharges in Ground Water to the Unrestricted Area at Nuclear Power Plant Sites” is a proposed new

guide temporarily identified by its task number, DG-4025. This guidance provides an approach acceptable to the NRC for licensees to satisfy the regulatory requirements for reporting subsurface radioactive discharges to offsite areas. The approach can be used for assessing abnormal, inadvertent radioactive releases that may result in discharges of contaminated ground water from the subsurface to the unrestricted area at commercial nuclear power plant sites.

## II. Backfitting and Issue Finality

This DG-4025 describes a method that the staff of the NRC considers acceptable for assessing abnormal, inadvertent radioactive releases which may result in discharges of contaminated ground water from the subsurface to the unrestricted area at commercial nuclear power plant sites. Issuance of this DG, if finalized, would not constitute backfitting as defined in section 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Backfitting" (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this DG, the NRC has no current intention to impose this guide, if finalized, on holders of current operating licenses or combined licenses.

This DG may be applied to applications for operating licenses, combined licenses, early site permits, and certified design rules docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications submitted after the issuance of the regulatory guide. Such action would not constitute backfitting as defined in the Backfit Rule or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 2nd day of December, 2015.

For the Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2015-31254 Filed 12-10-15; 8:45 am]

**BILLING CODE 7590-01-P**

## OFFICE OF PERSONNEL MANAGEMENT

### National Council on Federal Labor-Management Relations Meeting

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Council on Federal Labor-Management Relations plans to meet on the following dates—

- Wednesday, January 20, 2016
- Wednesday, March 16, 2016
- Wednesday, May 18, 2016
- Wednesday, July 20, 2016
- Wednesday, September 21, 2016
- Wednesday, November 16, 2016

The meetings will start at 10:00 a.m. Eastern Time and will be held in Room 1350, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415. Interested parties should consult the Council Web site at [www.lmrcouncil.gov](http://www.lmrcouncil.gov) for the latest information on Council activities, including changes in meeting dates, venue and/or time.

The Council is an advisory body composed of representatives of Federal employee organizations, Federal management organizations, and senior Government officials. The Council was established by Executive Order 13522, entitled, "Creating Labor-Management Forums to Improve Delivery of Government Services," which was signed by the President on December 9, 2009. Along with its other responsibilities, the Council assists in the implementation of labor-management forums throughout the Government and makes recommendations to the President on innovative ways to improve delivery of services and products to the public while cutting costs and advancing employee interests. The Council is co-chaired by the Director of the Office of Personnel Management and the Deputy Director for Management of the Office of Management and Budget.

At its meetings, the Council will continue its work in promoting cooperative and productive relationships between labor and management in the executive branch by carrying out the responsibilities and functions listed in section 1(b) of the Executive Order. The meetings are open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at the meeting. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

**FOR FURTHER INFORMATION CONTACT:** Tim Curry, Deputy Associate Director for Partnership and Labor Relations, Office of Personnel Management, 1900 E Street NW., Room 7H28, Washington, DC 20415; phone at (202) 606-2930; or email at [PLR@opm.gov](mailto:PLR@opm.gov).

For the National Council.

**Beth F. Cobert,**

*Acting Director.*

[FR Doc. 2015-31299 Filed 12-10-15; 8:45 am]

**BILLING CODE 6325-39-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016-25 and CP2016-31; Order No. 2855]

### 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 159 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:

#### Table of Contents

- I. Introduction
- 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 Contract 159 to the competitive product list.<sup>1</sup>

The Postal Service contemporaneously filed a redacted contract related to the proposed new

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 159 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 4, 2015 (Request).

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. MC2016–25 and CP2016–31 to consider the Request pertaining to the proposed Priority Mail Contract 159 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 Christopher C. Mohr to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016–25 and CP2016–31 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Christopher C. Mohr 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. 2015–31165 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–24 and CP2016–30; Order No. 2856]

### 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 158 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:

#### Table of Contents

- I. Introduction
- 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 Contract 158 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. MC2016–24 and CP2016–30 to consider the Request pertaining to the proposed Priority Mail Contract 158 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 158 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 4, 2015 (Request).

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 Derrick D. Dennis to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016–24 and CP2016–30 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Derrick D. Dennis 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. 2015–31166 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–23 and CP2016–29; Order No. 2857]

### 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 157 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:

**Table of Contents**

- I. Introduction
- 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 Contract 157 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. MC2016–23 and CP2016–29 to consider the Request pertaining to the proposed Priority Mail Contract 157 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 Derrick D. Dennis to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016–23 and CP2016–29 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Derrick D. Dennis 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.

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 157 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 4, 2015 (Request).

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**  
*Secretary.*

[FR Doc. 2015–31187 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–FW–P**

**POSTAL SERVICE****Product Change—Priority Mail Negotiated Service Agreement**

**AGENCY:** Postal Service™.  
**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 158 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016–24, CP2016–30.

**Stanley F. Mires,**  
*Attorney, Federal Compliance.*  
[FR Doc. 2015–31173 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–12–P**

**POSTAL SERVICE****Product Change—Priority Mail Negotiated Service Agreement**

**AGENCY:** Postal Service™.  
**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 156 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016–22, CP2016–28.

**Stanley F. Mires,**  
*Attorney, Federal Compliance.*

[FR Doc. 2015–31181 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–12–P**

**POSTAL SERVICE****Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement**

**AGENCY:** Postal Service™.  
**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 23 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016–26, CP2016–32.

**Stanley F. Mires,**  
*Attorney, Federal Compliance.*  
[FR Doc. 2015–31171 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–12–P**

**POSTAL SERVICE****Product Change—Priority Mail Negotiated Service Agreement**

**AGENCY:** Postal Service™.  
**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.



**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 157 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016–23, CP2016–29.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2015–31180 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

**DATES AND TIMES:** January 7, 2016, at 1:00 p.m.

**PLACE:** via Teleconference.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Thursday, January 7, 2016, at 1:00 p.m.

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and

Compensation Issues.

5. Executive Session—Discussion of prior agenda items and Board governance.

**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. 2015–31432 Filed 12–9–15; 4:15 pm]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal

Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* December 11, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 4, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 159 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2016–25, CP2016–31.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2015–31172 Filed 12–10–15; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76565; File No. SR–ICEEU–2015–019]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Gross Margining for Certain Categories of Customer Accounts

December 7, 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 24, 2015, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b–4(f)(4)(i) and (ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b–4(f)(4)(i) and (ii).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to amend certain provisions relating to gross margining for various categories of Customer Accounts.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe 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

##### i. Purpose

ICE Clear Europe submits certain proposed amendments to its Clearing Rules (the “Rules”) and Clearing Procedures relating to the margining of Customer Accounts. The amendments provide additional options for Clearing Members to use so-called “gross margined” Customer Accounts (and will require use of such accounts for certain F&O products as discussed below). The amendments further clarify which types of Customer Accounts are margined on a gross as opposed to a net basis, as well as related procedures for the collection and transfer of margin for such accounts and certain related information requirements, as discussed herein. For this purpose, for a Customer Account margined on a “gross” basis, initial or original margin requirements are determined separately with respect to the positions of each customer of the relevant Clearing Member (*i.e.*, without netting of different positions across multiple customers). By contrast, for a Customer Account margined on a “net” basis, initial or original margin requirements are determined for the entire account on a net basis across the positions of all customers in that account.

The proposed changes are principally relevant to the Customer Accounts of Non-FCM/BD Clearing Members with respect to F&O Contracts. ICE Clear Europe's existing rules provide several types of Customer Accounts for such Clearing Members in light of relevant regulatory requirements and

permissions. Currently, most such accounts for F&O Contracts are margined on a net basis, which is permitted under the European Market Infrastructure Regulation (“EMIR”).<sup>5</sup> ICE Clear Europe is proposing to revise its account structure to allow Clearing Members to use Customer Accounts of the same types but which are margined on a gross basis for certain products. Once the rule amendments are effective, ICE Clear Europe will require the use of such gross margined accounts for Non-FCM/BD Clearing Members in relation to certain F&O products in the energy category that are margined using a one-day period of risk, as specified below, such as oil contracts traded on ICE Futures Europe. Gross or net margined accounts would be available on an optional basis for other categories of F&O Contracts (which are margined using a two-day period of risk). As a result of these changes, ICE Clear Europe will no longer permit net margining of contracts for which margin is calculated using a one-day period of risk.

ICE Clear Europe is adopting the requirement for the use of gross margining to align the margin framework for certain energy contracts cleared by Non-FCM/BD Clearing Members more closely with the requirements that apply to FCM Clearing Members under CFTC rules and the Clearing House’s rules for FCM Customer Accounts, as implemented in 2012 when certain cleared OTC contracts were converted to economically-equivalent futures contracts admitted to trading on ICE Futures US. Such contracts are margined using a one-day period of risk. In this regard, ICE Clear Europe also notes that the European Securities and Markets Authority has issued a discussion paper for consultation as to the use of gross margined customer accounts under certain circumstances (and in particular, whether a gross margined account using a one-day margin period of risk (of the type being provided under the rule amendments) should be a permitted alternative to an account using a two-day margin period of risk in order to satisfy requirements under EMIR, in light of the fact that EMIR is currently silent on whether accounts should be net or gross margined).<sup>6</sup>

<sup>5</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as well as various implementing regulations and technical standards.

<sup>6</sup> ESMA, Review of Article 26 of RTS No. 153/2013 with respect to client accounts (26 August 2015) (Discussion Paper).

For Customer Accounts with respect to CDS Contracts, the current practice of margining on a gross basis would be maintained.

The status of the DCM Customer Account and Swap Customer Account of FCM/BD Clearing Members (which are currently gross margined, consistent with U.S. regulatory requirements) would not be affected by the proposed amendments. The amendments would clarify the option for FCM/BD Clearing Members to use their Non-DCM/Swap Customer Account or General Customer Account on either a gross margined or net margined basis, to the extent permitted by applicable law. Certain other clarifications and updates are made in the Rules and Clearing Procedures as well, as discussed herein.

Specifically, ICE Clear Europe proposes to make amendments to Parts 3, 4, 6, 7 and 16 of its Rules and to the Clearing Procedures.

In Part 3 of the Rules, Rule 302, which addresses the procedures for payments to and from the Clearing House in respect of various categories of Customer Accounts, has been revised to take into account the new set of gross margined accounts and to simplify some of the drafting. As revised, the Rule clarifies that the Clearing House will determine the required margin amount based on the relevant margin model for that account type (net or gross). The Clearing House will then calculate the net amount owed to or by the Clearing House for that account based on that requirement. With respect to the Swap Customer Account, Rule 302 has been revised to add a cross-reference to the appropriate provisions in Rule 1605(h), which address the calculation and settlement of margin for that account more specifically. In Rule 304, which addresses payments with respect to Sponsored Principal accounts, certain changes have been made to conform to the changes made in Rule 302.

Rule 401(g) is amended to require each Clearing Member to submit on a daily basis (or more frequently, if requested by ICE Clear Europe) a breakdown of the open positions in each Customer Account on a per customer basis, in order to permit the Clearing House to calculate gross margin for that account, if applicable. Rule 406 is amended to clarify that positions in a Customer Account of one customer are not to be netted against opposite positions of another customer, and that positions in separate Customer Accounts are not to be netted against each other, consistent with other existing provisions of the Rules.

Rule 702(c) is amended to set out more clearly how the cash settlement

amount for futures contracts is calculated based on the positions held in different accounts, in light of the use of gross or net margining discussed above. As revised, the rule refers to the difference between the exchange settlement price and the price at which the contract is recorded on the Clearing House’s books (or, for new contracts entered into on the day of settlement, the price at which the contract was bought or sold). This is consistent with current practice for such contracts. Similar clarifications are made in Rule 705(a) to reflect the treatment of contracts entered into on the day of settlement. In Rule 803(a), a similar change is made to reflect the treatment of option contracts entered into on the same day as the exercise date. Rule 810(d) is amended to set out more clearly the calculation of the cash settlement amount for an option contract (based on the difference between the relevant reference price and the price at which the contract is recorded on the Clearing House’s books (or, for new contracts entered into on the day of exercise, the price at which the contract was bought or sold)). This is also consistent with current practice for such option contracts.

In Rule 1605(h), which addresses margin for the Swap Customer Account of FCM/BD Clearing Members, certain amendments have been made to refer more specifically to the relevant Rules and procedures used for the transfer of relevant amounts to and from the Clearing House (in line with the procedures applicable to transfers of Margin for other accounts under the Rules and Finance Procedures). The amendments do not materially change the operation of the Swap Customer Account, but reflect the addition of the cross reference to Rule 1605(h) in Rule 302, which is intended to provide greater clarity to Clearing Members and market participants.

The Clearing Procedures have been amended to add the relevant new account designations and to distinguish more clearly between net margined and gross margined Customer Accounts, along with various conforming and clarifying changes. In paragraph 2.3(b)(2), for FCM/BD Clearing Members, the amendments state explicitly that the S, W and Z accounts use gross margin models, and add a new E account that can be used as a net margined account under the Non-DCM/Swap Customer Account or General Customer Account category, to the extent permissible under applicable law. In paragraphs 2.3(b)(3) and (4), for Non-FCM/BD Clearing Members, the amendments state explicitly that the S,

C, F, and T accounts use a gross margin model, and the E, R and K accounts use a net margin model. A change is made in paragraph 2.4(b) to conform to the changes made in Rule 406. Conforming changes to the relevant account designations have been made in paragraphs 3.1 and 3.2. Amendments to paragraph 4.4 of the Clearing Procedures address the difference between the calculation of net and gross margin for relevant Customer Accounts, consistent with the account designations under paragraph 2.3.

ICE Clear Europe has made available to F&O Clearing Members, pursuant to a member transition plan and the electronic GSPD file provided to clearing members on a daily basis, the details of the particular F&O Contracts that will be required to be held in gross margined Customer Accounts, as well as those that may be held in either gross or net margined Customer Accounts, in accordance with the amended Rules and Procedures described above, upon implementation of the amendments. Specifically, those ICE Futures Europe and ICE Futures US energy contracts that currently are margined using a one-day margin period of risk will be required to be carried in gross margined Customer Accounts. These include contracts relating to coal, crude oil and refined crude products, petrochemicals, US electricity, US emissions, US natural gas and natural gas liquids. Other F&O Contracts (including Financials & Softs contracts and certain energy contract traded on ICE Futures Europe and ICE Endex that are currently margined using a two-day margin period of risk) may be carried in either net or gross margined Customer Accounts. ICE Clear Europe will notify F&O Clearing Members by circular of the date of implementation of the amendments and gross margining requirements discussed herein.

#### ii. Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Rules and Clearing Procedures are consistent with the requirements of Section 17A of the Act<sup>7</sup> and the regulations thereunder applicable to it.<sup>8</sup> Section 17A(b)(3)(F) of the Act<sup>9</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of

the clearing agency or for which it is responsible and to protect investors and the public interest.

The amendments are designed principally to facilitate the use by Non-FCM/BD Clearing Members of gross margined Customer Accounts for the F&O product category. The amendments also more clearly distinguish between net margined and gross margined accounts in the Rules and Procedures, and clarify and simplify the rules and procedures relating to the calling and return of initial and original margin for all accounts. The amendments thus build on the existing customer account structure established in the ICE Clear Europe rules. By facilitating gross margining, and providing the Clearing House with customer-by-customer position data that supports such margining, the amendments will also enhance the Clearing House's risk management infrastructure with respect to Customer Accounts. As described above, the amendments are principally relevant to Non-FCM/BD Clearing Members for F&O Contracts; the DCM Customer Account and Swap Customer Account structures for FCM/BD Clearing Members (which are gross margined accounts) are prescribed by applicable U.S. law and are not materially changing as a result of the amendments. As a result, in ICE Clear Europe's view, the amendments will promote the prompt and accurate clearance and settlement of derivative transactions, are consistent with the safeguarding of funds and securities in the custody or control of ICE Clear Europe, and generally further the public interest. The amendments are therefore consistent with the requirements of Section 17A(b)(3)(F) of the Act<sup>10</sup> and the regulations thereunder.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the Rules discussed herein would have any adverse impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments are intended to provide Clearing Members with additional ability to use gross margined Customer Accounts. Such accounts will be available on the same terms to all Non-FCM/BD Clearing Members. ICE Clear Europe does not believe the proposed amendments would adversely affect access to clearing by Clearing Members or their customers, adversely affect competition among Clearing Members

or adversely affect the market for clearing services or limit market participants' choices for clearing transactions. Rather, competition among Clearing Members, and access to clearing, may be facilitated through the possibility of Clearing Members offering a choice of net or gross margining, where permitted (in all cases subject to applicable legal requirements and Clearing Rules). Although the proposed amendments may impose additional compliance costs on Clearing Members, including because of the requirements to provide customer-related data to the Clearing House, ICE Clear Europe believes that such costs are appropriate in light of the benefits (to each of the Clearing House, Clearing Members and customers) from facilitating gross margining for Customer Accounts. As a result, ICE Clear Europe does not believe that the proposed amendments to the Rules will impose any burden on competition not appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

On October 30, 2015, ICE Clear Europe solicited written comments relating to the proposed Rule and Procedure changes via a circular. Comments were due by November 13, 2015, and no comments had been received as of the time of this filing. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and Rule 19b-4(f)(4)(i) and (ii)<sup>12</sup> thereunder. The amendments principally effect a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. Certain other aspects of the amendments effect a change in an existing service of

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 17 CFR 240.17Ad-22.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> *Id.*

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(4)(i) and (ii).

a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible, and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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.

#### 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-ICEEU-2015-019 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-ICEEU-2015-019. 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 filings will also be available for inspection and copying at the principal

office of ICE Clear Europe and on ICE Clear Europe's Web site at <https://www.theice.com/clear-europe/regulation#rule-filings>.

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-ICEEU-2015-019 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2015-31176 Filed 12-10-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76580; File No. SR-NYSEMKT-2015-99]

### **Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rules To Prescribe the Securities Traders Examination as the Qualifying Examination for Persons Associated With a Member Organization Engaged Solely in Proprietary Trading, and Amend Continuing Education Requirement Applicable to Such Members**

December 8, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 23, 2015, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Exchange rules to prescribe the Securities Traders examination (Series

57) (the "Series 57 Examination") as the qualifying examination for persons associated with a member organization ("Member") engaged solely in proprietary trading, and amend Exchange rules regarding continuing education requirement applicable to such Member. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

###### 1. Purpose

Rule 345—Equities currently states that no Member shall permit any natural person to perform the duties customarily performed by a securities lending representative or a direct supervisor of such, unless such person is registered with, qualified by and is acceptable to the Exchange. The rule further states that Members shall comply with NASD Rule 1031 concerning the registration and approval of registered representatives and their supervisors. Under the current rule, each associated person of a Member who is included within the definition of "representative" in NASD Rule 1031 is required to appropriately register with the Exchange if such person is engaged in proprietary trading or directly supervises such activity. In order to engage in proprietary trading on the Exchange, an associated person must be registered as a General Securities Representative (Series 7) as NYSE MKT does not recognize the Series 56 Examination as an acceptable qualification standard for associated persons engaged in equities proprietary trading.<sup>4</sup>

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> While the Series 7 Examination is required for associated persons engaged in proprietary trading,

The Exchange proposes to amend Rule 345—Equities to recognize a new category of limited representative registration for a Securities Trader and allow such individual to register in Web CRD<sup>5</sup> as a Securities Trader in order to engage in proprietary trading. As proposed, a Securities Trader would be any person engaged in the purchase or sale of securities or other similar instruments for the account of a member organization with which such person is associated, as an employee or otherwise, and who does not transact any business with the public.<sup>6</sup> Under the proposed rule, a Securities Trader must be registered as such on Web CRD and pass an appropriate qualification examination as prescribed by the Exchange. With this proposed rule change, Members engaged solely in proprietary trading, or who supervise such activity, would qualify for registration by passing the Series 57 Examination.

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) in consultation with industry and exchange representatives. The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 examination will cover, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>7</sup> The Exchange believes that acceptance of the Series 57 Examination will benefit both the Exchange and the applicable proprietary traders affected by the proposal because the examination would allow an individual who wishes to transact business on NYSE MKT in a limited capacity to qualify by passing an examination tailored to that limited capacity.

Individuals currently engaged solely in proprietary trading, who currently

qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. However, the registration of individuals who have taken the Series 7 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals would be required to take the Series 57 Examination in order to register as Securities Traders as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading on the Exchange. In addition, individuals registered as Proprietary Traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date the individual last registered as a Proprietary Trader and the date the individual registers as a Securities Trader.<sup>8</sup>

In addition, the Exchange proposes to amend Rule 345—Equities to create a new category of limited representative Principal—the Securities Trader Principal. Registration as a Securities Trader Principal would be restricted to individuals whose supervisory responsibilities are limited to Securities Traders, as defined in amended Supplementary Material .10 to Rule 345—Equities. As proposed, a supervisor of a Securities Trader must satisfy its registration requirements under Supplementary Material .10 to Rule 345—Equities by registering and qualifying as a Securities Trader Principal in Web CRD if (a) such supervisor’s supervisory responsibilities are limited solely to supervising Securities Traders; (b) such supervisor is qualified to be so registered by passing the General Securities Principal Qualification Examination—Series 24; and (c) such supervisor is registered pursuant to Exchange Rules as a Securities Trader. Under the proposed rule change, a Securities Trader Principal would not be qualified to function in a Principal or supervisory capacity with responsibility over any

area of business other than that involving proprietary trading.<sup>9</sup>

The Exchange notes that in order to currently qualify as a Proprietary Trader Principal, an associated person must pass the Series 7 Examination and the Series 24 Examination. Once the Series 57 Examination becomes the qualifying exam for a Securities Trader, associated persons would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is appropriately registered as a Securities Trader Principal and a General Securities Principal.

Further, registered persons are required under Rule 345A—Equities to comply with the Exchange’s continuing education requirements. Specifically, under Rule 345A—Equities(a)(1), no Member may permit any registered person to continue to, and no registered person may continue to, perform duties as a registered person, unless such person has complied with the Exchange’s continuing education requirements. The Exchange proposes to amend the rule to specifically require each registered person who is qualified solely as a Securities Trader to comply with the continuing education requirements appropriate for the Series 57.<sup>10</sup>

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”),<sup>11</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>12</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>13</sup> of the Act, in particular, in that it is designed,

<sup>9</sup> The proposed rule is similar to NYSE MKT LLC Rule 341, Commentary .01(e) and NYSE Arca, Inc. Rule 2.23(b)(3)(B).

<sup>10</sup> Registered persons will be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they only may engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>5</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

<sup>6</sup> The proposed definition is similar to NYSE MKT LLC Rule 341, Commentary .01(c) [sic] and NYSE Arca, Inc. Rule 2.23(b)(2)(C).

<sup>7</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

<sup>8</sup> See Rule 345A—Equities, Commentary .30.

among other things, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change to make the Series 57 Examination the qualifying exam for individuals engaged solely in proprietary trading is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>14</sup> Accordingly, adopting the Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the

Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>19</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2015-99 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEMKT-2015-99. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2015-99 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76575; File No. SR-CBOE-2015-101]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of Proposed Rule Change To Amend the Fees Schedule**

December 7, 2015.

On November 2, 2015, the Chicago Board Options Exchange, Incorporated ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the Exchange's fees schedule. The proposed rule change was published for comment in the **Federal Register** on November 25, 2015.<sup>3</sup> The Commission received no comment letters on the proposal. On December 1, 2015, the Exchange

<sup>20</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4

<sup>3</sup> See Securities Exchange Act Release No. 34-76442 (November 16, 2015), 80 FR 72761.

<sup>14</sup> See *supra*, note 7.

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

withdrew the proposed rule change (SR-CBOE-2015-101).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015-31179 Filed 12-10-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76585; File No. SR-CBOE-2015-107]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Price Protection Mechanisms

December 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 24, 2015, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On December 4, 2015, the Exchange filed Amendment No. 1 to the proposal.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to enhance current and adopt new price protection mechanisms for orders and quotes.

The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange proposed changes to amend the proposed rule text of Rule 6.53C, Interpretation and Policy .08(c) in Exhibit 5 and the purpose and statutory basis sections of each of the Form 19b-4 and Exhibit 1 regarding the applicability of the proposed enhancement to the debit/credit price reasonability check to index options with European-style exercises. The Exchange also amended Item 7(d) of the Form 19b-4 to delete redundant language.

#### 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 has in place various price check mechanisms that are designed to prevent incoming orders from automatically executing at potentially erroneous prices.<sup>4</sup> These mechanisms are designed to help maintain a fair and orderly market by mitigating potential risks associated with orders trading at prices that are extreme and potentially erroneous. The Exchange proposes to adopt Rule 6.14, which was previously deleted, and amend Rule 6.53C, Interpretation and Policy .08, to add new, as well as enhance current, price protection mechanisms for orders and quotes to help further prevent potentially erroneous executions.

###### Put Strike Price and Call Underlying Value Checks

Proposed Rule 6.14(a) provides price protections for simple orders to buy put and call options based on the strike price or underlying value, respectively. The proposed rule provides that the System<sup>5</sup> will reject back to the Trading Permit Holder a quote<sup>6</sup> or buy limit order for (i) a put if the price of the quote bid or order is equal to or greater than the strike price of the option or (ii) a call if the price of the quote bid or

<sup>4</sup> See, e.g., Rules 6.12(a)(3) and (4) (limit order price parameters), 6.13(b)(v) (market-width and drill-through price check parameters), 6.53C, Interpretation and Policy .08 (price check parameters for complex orders), and 8.18 (quote risk monitor).

<sup>5</sup> The “System” refers to the Exchange’s Hybrid Trading System, which is (i) the Exchange’s trading platform that allows Market-Makers to submit electronic quotes in their appointed classes and (ii) any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub. See Rule 1.1(aaa).

<sup>6</sup> The term quote includes both sides of a quote that is entered as a two-sided quote.

order is equal to or greater than the consolidated last sale price of the underlying security, with respect to equity and exchange-traded fund (“ETF”) options, or the last disseminated underlying index value, with respect to index options.<sup>7</sup>

With respect to put options, a Trading Permit Holder seeks to buy an option that could be exercised into the right to sell the underlying. The value of a put can never exceed the strike price of the option, even if the underlying goes to zero. For example, one put for stock ABC with a strike price of \$50 gives the holder the right to sell 100 shares of ABC for \$50, no more or less. Therefore, it would be illogical to pay more than \$50 for the right to sell shares of ABC, regardless of the price of ABC. Pursuant to proposed Rule 6.14(a)(i)(A), the Exchange would deem any put bid or buyer order with a price that equals or exceeds the strike price of the option to be erroneous, and the Exchange believes it would be appropriate to reject these bids and buy orders.

With respect to call options, a Trading Permit Holder seeks to buy an option that could be exercised into the right to buy the underlying. The Exchange does not believe that a derivative product that conveys the right to buy the underlying should ever be priced higher than the prevailing value of the underlying itself. In that case, a market participant could just purchase the underlying at the prevailing value rather than pay a larger amount for the call. Accordingly, pursuant to proposed Rule 6.14(a)(i)(B), the Exchange believes it is appropriate to reject bids or buy orders for call options with prices that are equal to or in excess of the value of the underlying. As an example, suppose a Trading Permit Holder submits Order 1 to buy an ABC call for \$8 and Order 2 to buy an ABC call for \$11 when the last sale price for stock ABC is \$10. Because the price to buy for Order 2 is greater than the last sale price of the underlying, the System will reject Order 2. The System will either execute or book Order 1 in accordance with CBOE’s rules.

Pursuant to the proposed rule, with respect to equity and ETF options, the Exchange would use the consolidated last sale price of the underlying security, with respect to equity and ETF

<sup>7</sup> These price checks would also apply to buy auction responses submitted in the various Exchange auctions, such as the Hybrid Agency Liaison (“HAL”) and the Automated Improvement Mechanism (“AIM”). See proposed Rule 6.14(a)(iii). The Exchange believes responses can cause erroneous executions in the same manner as quotes and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions.

options, and the last disseminated value of the underlying index, with respect to index options. The Exchange notes that, in certain circumstances, the last sale price or index value, as applicable, may be from the close of the previous trading day. These circumstances include during the pre-opening period or a delayed opening.

As an additional risk control feature, if a Market-Maker submits a quote in a series in which the Market-Maker already has a resting quote (thus, was attempting to update a quote) and the System rejects that quote pursuant to either of these proposed checks, the System will cancel the Market-Maker's resting quote<sup>8</sup> in the series. The Exchange believes it is appropriate to reject or cancel, as applicable, both sides of a quote (whether submitted as a two-sided quote or resting, respectively) because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting and cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

As an example, suppose a Market-Maker has a resting two-sided quote in Series 1 for stock ABC of 14.00 to 16.00. The options in Series 1 are puts with a strike price of \$18.00. The Market-Maker submits an updated two-sided quote of 18.00 to 19.00. Because the quote bid is the same as the strike price for Series 1, the System will reject the 18.00 quote bid and the 19.00 quote offer. Additionally, the System will cancel the Market-Maker's resting quote in Series 1 of 14.00 to 16.00. The Market-Maker then submits a new two-sided quote of 16.00 to 17.00, which the System accepts.

Proposed Rule 6.14(a)(ii) provides that the Exchange may determine not to apply to a class either the put check or the call check described above if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and

orderly market.<sup>9</sup> The Exchange may also determine not to apply the call check to a class during Extended Trading Hours (which the Exchange will announce to Trading Permit Holders by Regulatory Circular). Additionally, the call check does not apply to adjusted classes or if the data for the underlying is not available. As these price checks are intended to assist with the maintenance of fair and orderly markets, the Exchange may believe it is appropriate to disable either of these checks in response to a market event (for example, if dissemination of data was delayed and resulting in unreliable underlying values). If the data for the underlying is not available (for example, if the underlying exchange is not disseminating data or if the applicable securities information processor is down), then the System cannot perform the check, which is why the check will not apply in that situation. With respect to Extended Trading Hours, the underlying may not always be available (for example, if an underlying index is not calculated during those hours or if an underlying stock is not traded during those hours), or may not be appropriate to use due to decreased liquidity and trading during those hours, and thus the Exchange may determine to not apply the call check during Extended Trading Hours in the interest of maintaining a fair and orderly market. Additionally, the call check does not apply to options in an adjusted series, which is an option series for which, as a result of a corporate action by the issuer of the security underlying such option series, one option contract in the series represents the delivery of other than 100 shares of underlying stock or units. After a corporate action and subsequent adjustment to the existing options, the series receives a new symbol, while exchanges listing options on the underlying security that undergoes a corporate action resulting in an adjusted series will generally list a new standard option series for that underlying. Therefore, because trading of options in adjusted series may not accurately reflect the value of the underlying (as the new standard series would), the Exchange believes it appropriate to not apply these checks to options in these series.

To the extent a Trading Permit Holder submits a pair of orders to AIM,<sup>10</sup> the Solicitation Auction Mechanism

<sup>9</sup> Pursuant to Exchange procedures, any decision to not apply the put check or call check, as well as the reason for the decision, will be documented and retained.

<sup>10</sup> See Rule 6.74A for a description of the AIM auction process.

("SAM"),<sup>11</sup> or as a qualified cross-contingent order ("QCC order"),<sup>12</sup> these proposed checks will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. It is the intent of these paired orders to execute against each other (with respect to AIM and SAM orders) or as a single transaction (with respect to QCC orders). Thus, the Exchange believes it is appropriate to reject both orders if one does not satisfy the price checks to be consistent with the intent of the submitted Trading Permit Holder. Notwithstanding the foregoing, with respect to an AIM order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, because there are not three Market-Makers quoting in the series as required by Rule 6.74A(a)(4) or if the contra-side order does not stop the agency order at the price required by Rule 6.74A(a)(2) or (3)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check). The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Trading Permit Holder) to execute despite not entering an AIM auction pursuant to which the order may execute against a facilitation or solicitation order of the Trading Permit Holder. The Exchange believes the proposed rule change is consistent with that contingency.

#### Quote Inverting NBBO Check

Currently, the Exchange applies price reasonability checks to limit orders.<sup>13</sup> Proposed Rule 6.14(b) sets forth a national best bid or offer ("NBBO") price reasonability check that would apply to Market-Maker quotes. This check would similarly compare quote bids with the national best offer ("NBO") and quote offers with the national best bid ("NBB"). Specifically, if CBOE is at the NBO (NBB), the System will reject a quote<sup>14</sup> back to a Market-Maker if the quote bid (offer)

<sup>11</sup> See Rule 6.74B for a description of the SAM auction process.

<sup>12</sup> See Rule 6.53(u) for a definition of QCC orders.

<sup>13</sup> See Rule 6.12(a)(3).

<sup>14</sup> See *supra* note 4.

<sup>8</sup> This includes any quote on the same side and opposite side in the series.



crosses the NBO (NBB)<sup>15</sup> by more than a number of ticks specified by the Exchange (which will be no less than three minimum increment ticks and announced to Trading Permit Holders by Regulatory Circular). If CBOE is not at the NBO (NBB), the System rejects a quote back to a Market-Maker if the quote bid (offer) locks or crosses the NBO (NBB). The System will reject any inbound Market-Maker quotes that do not satisfy these parameters as presumptively erroneous. The Exchange believes that using specified tick distance is appropriate because that is the parameter used for the corresponding limit order reasonability check and because it provides Market-Makers a precise price protection.<sup>16</sup> While the limit order price check parameter indicates the Exchange may set the acceptable tick distance to be no less than five minimum increments, the Exchange believes it is reasonable to be able to set the acceptable tick distance to be tighter for the quote price reasonability check (no less than three minimum increments) to provide additional protection to Market-Makers given their unique role in the market, which could encourage Market-Makers to quote tighter and deeper markets. The Exchange believes having a minimum tick distance of more than three would be ineffective.

As an additional risk control feature, if a Market-Maker submits a quote in a series in which the Market-Maker already has a resting quote (thus, was attempting to update a quote) and the System rejects that quote pursuant to this proposed check, the System will cancel the Market-Maker's resting quote<sup>17</sup> in the series. The Exchange believes it is appropriate to reject or cancel, as applicable, both sides of a quote (whether submitted as a two-sided quote or resting, respectively) because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting and cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing

the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

For example, suppose the Exchange has set a tick distance of three in a class. The minimum increment for that class is \$0.05 for series quoted below \$3 and \$0.10 for series quotes at \$3 and above,<sup>18</sup> and the NBBO is 3.10 to 3.40. Suppose a Market-Maker submits a bid of 3.80. Because this bid is more than three ticks above the NBO of 3.40, the System rejects the bid. Similarly, suppose a Market-Maker submits an offer of 2.85. Because this offer is more than three ticks below the NBB of 3.10, the System rejects the offer.

Proposed Rule 6.14(b)(ii) provides that the Exchange may determine not to apply this proposed check to quotes entered during the pre-opening, a trading rotation or a trading halt, which it will announce to Trading Permit Holders by Regulatory Circular. The Exchange believes it is appropriate to have the ability to not apply this check during the pre-open or opening rotation so that the check does not impact the determination of the opening price. However, the Exchange may determine that there is sufficient information during those times (such as if another exchange is disseminating pricing information) to apply the check. The Exchange also may not want to apply this check during halts, as pricing during that time may be volatile and inaccurate. Additionally, this check will not apply if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and orderly market.<sup>19</sup> The Exchange believes it is appropriate to have this flexibility to determine times when the check should not apply to respond to market events, such as times of extreme price volatility.

Proposed Rule 6.14(b)(iii) states that if the System accepts a quote that locks or crosses the NBBO (which may occur if the proposed check is not applied to a quote pursuant to the proposed rule or if a quote inverts the NBBO but by no more than the specified number of ticks), the System will execute the quote bid (offer) against quotes and orders in the book at a price(s) that is the same or better than the best price disseminated by away exchanges up to the size available on the Exchange. If there is any remaining size of the quote after this execution, the System either (i) cancels any remaining size of the quote,

if the price of the quote locks or crosses the price disseminated by the away exchange(s) or (ii) books any remaining size of the quote, if the price of the quote does not lock or cross the price of the away exchange(s).<sup>20</sup> While the Exchange believes Market-Makers are generally willing to accept executions of their quotes that exceed the NBBO to a certain extent, it also believes executions of quotes that exceed the NBBO by too much may be potentially erroneous executions. The Exchange believes blocking these potentially erroneous executions is consistent with expectations of Market-Makers and helps them manage their risk. Cancelling the remaining size of the quote after it partially executes against orders and quotes on the Exchange if the remaining size would be at a price that locks or crosses the best price disseminated from an away market is similarly intended to prevent trade-throughs and displays of crossed markets. Similarly, rejecting quotes that would lock or cross the NBBO if CBOE was not at the NBBO is intended to prevent trade-throughs and displays of locked and crossed markets. Unlike orders that may be routed to other options exchanges for executions, quotes may only execute against quotes or orders on CBOE. Thus, if CBOE is not at the NBBO, a quote may not execute against a quote or order that is at the NBBO.

For example, suppose the NBBO is 1.00 to 1.20, and a Market-Maker submits a quote bid for 100 contracts at 1.24. Assuming this class has a minimum increment of 0.01 and the Exchange set the tick distance for this check at five, the System accepts this quote because it only inverts the NBO by four ticks. CBOE has an order to sell 10 at 1.20, an order to sell 20 at 1.21, an order to sell 10 at 1.22, an order to sell 10 at 1.23 and an order to sell 20 at 1.24 resting on the book. The best offer disseminated by an away exchange is 1.23. The incoming quote bid will execute against the order to sell at 1.20 (10 contracts), the order to sell at 1.21 (20 contracts), the order to sell at 1.22 (10 contracts) and the order to sell at

<sup>20</sup> A quote that inverts another quote will continue to be subject to Rule 6.45A(d)(ii) or 6.45B(d)(ii), which states that the System will not disseminate an internally crossed market (*i.e.*, the CBOE best bid is higher than the CBOE best offer). If a Market-Maker submits a quote that would invert an existing quote, the System will change the incoming quote such that it locks the first quote. Locked markets are handled in accordance with the quote lock provision in Rule 6.45A(d)(i) or 6.45B(d)(i), as applicable. During the lock period, if the existing quote is cancelled subsequent to the time the incoming quote is changed, the incoming quote will automatically be restored to its original terms.

<sup>15</sup> If the NBBO is unavailable, locked or crossed (and thus unreliable), then this check will compare the quote to the Exchange's best bid or offer ("BBO") (if available). See proposed Rule 6.14(b)(i).

<sup>16</sup> See *supra* note 11.

<sup>17</sup> This includes any quote on the same side and opposite side in the series.

<sup>18</sup> See Rule 6.42(3).

<sup>19</sup> See *supra* note 7.

1.23 (10 contracts), for a total of 50 contracts. The quote will not execute against the order to sell at 1.24, because that would result in a trade-through of the best disseminated offer from an away exchange of 1.23. The System cancels the remaining 50 contracts, because the bid price of 1.23 would invert the best disseminated market from an away exchange. If, instead, the quote bid in the above example was for 1.22 rather than 1.24, it would execute against the order to sell at 1.20 (10 contracts), the order to sell at 1.21 (20 contracts) and the order to sell at 1.22 (10 contracts). The System would book the remaining 60 contracts of the quote at the bid price of 1.22, which would not lock or cross the best disseminated offer by an away exchange (1.23 in the above example). Alternatively, if in the above example the NBO of 1.20 was disseminated from an away exchange, the System would reject the quote bid of 1.24, because it would cross the best disseminated offer of an away exchange.

#### Debit/Credit Price Reasonability Checks

Current Rule 6.53C, Interpretation and Policy .08(c) provides that the System will not automatically execute certain vertical and butterfly complex orders<sup>21</sup> that appear to be erroneously priced because the prices are inconsistent with particular complex order strategies.<sup>22</sup> Specifically, the System will not automatically execute a limit order with a net credit price when it clearly should have been entered at a net debit price, a limit order with a net debit price when

it clearly should have been entered at a net credit price, or a market order that would be executed at a net debit price when it clearly should execute at a net credit price.<sup>23</sup>

The proposed rule change expands the applicability of this price check to all complex orders for which the System can determine whether they are debits (orders to buy) or credits (orders to sell). The proposed rule change simplifies the current rule text in subparagraphs (c)(1) and (2) and combines them into proposed subparagraph (c)(1) to state that the System will not automatically execute a limit order for a debit strategy with a net credit price, a limit order for a credit strategy with a net debit price, or a market order for a credit strategy that would be executed at a net debit price.<sup>24</sup> The System will reject back to the Trading Permit Holder any limit order, and cancel any market order (or remaining size after partial execution of the order), that does not satisfy this proposed check.<sup>25</sup>

The System determines whether an order is a debit or credit based on general options volatility and pricing principles, which the Exchange understands are used by market participants in their option pricing models. With respect to options with the same underlying:

- If two calls have the same expiration date, the price of the call with the lower exercise price is more than the price of the call with the higher exercise price;
- if two puts have the same expiration date, the price of the put with

the higher exercise price is more than the price of the put with the lower exercise price; and

- if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration.

The principles in the first two bullets are based on the standard trading principle of “buy low, sell high.” The ability to buy stock at a lower price is more valuable than the ability to buy stock at a higher price, and thus a call with a lower strike price has more value, and thus is more expensive, than a call with a higher strike price. Similarly, the ability to sell stock at a higher price is more valuable than the ability to sell stock at a lower price, and thus a put with a higher strike price has more value, and thus is more expensive, than a put with a lower strike price. The principle in the last bullet is based on the general concept that locking in a price further into the future involves more risk for the buyer and seller and thus is more valuable, making an option (call or put) with a farther expiration more expensive than an option with a nearer expiration. This is similar, for example, to interest rates for mortgages: In general, an interest rate on a 30-year mortgage is higher than the interest rate on a 15-year mortgage due to the risk of potential interest rate changes over the longer period of time to both the mortgagor and mortgagee.<sup>26</sup>

Based on these general rules, proposed subparagraph (c)(2) provides that the System will define a complex order as follows:

- A call butterfly spread for which the middle leg is to sell (buy) and twice the exercise price of that leg is greater than or equal to the sum of the exercise prices of the buy (sell) legs is a debit (credit) (because the “aggregate” exercise price of the sell (buy) leg is the same or higher than the “aggregate” exercise price of the buy (sell) legs and thus the sell (buy) leg is for the less (more) expensive option);
- a put butterfly spread for which the middle leg is to sell (buy) and twice the exercise price of that leg is less than or equal to the sum of the exercise prices of the buy (sell) legs is a debit (credit) (because the “aggregate” exercise price

<sup>21</sup> The proposed rule change adds definitions for vertical and butterfly complex orders (or spreads) and proposes to use these terms for the various price checks in Interpretation and Policy .08, as applicable, as those are the common trading terms used by market participants in the industry that refer to these strategies. See, e.g., CBOE Options Dictionary, available at <http://www.cboe.com/LearnCenter/Glossary.aspx>; and NASDAQ Options Trading Glossary, available at [http://www.stocks-options-trading.com/glossary\\_options.asp](http://www.stocks-options-trading.com/glossary_options.asp). A “vertical” spread is a two-legged complex order with one leg to buy a number of calls (puts) and one leg to sell the same number of calls (puts) with the same expiration date but different exercise prices. A “butterfly” spread is a three-legged complex order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice as many calls (puts), all with the same expiration date but different exercise prices, and the exercise price of the middle leg is between the exercise prices of the other legs. If the exercise price of the middle leg is halfway between the exercise prices of the other legs, it is a “true” butterfly; otherwise, it is a “skewed” butterfly.

<sup>22</sup> Pursuant to the introductory paragraph of Rule 6.53C, Interpretation and Policy .08, the current debit/credit price reasonability check in subparagraph (c) does not apply to stock-option orders. The proposed debit/credit price reasonability check will apply to stock-option orders; therefore, the proposed rule change deletes the reference to subparagraph (c) from that introductory paragraph statement.

<sup>23</sup> A market order with a debit strategy that would result in an execution at a net credit price (*i.e.*, the net sale proceeds from the series being sold are more than the net purchase cost of the series being bought) but would normally execute at a net debit price (*i.e.*, the net sale proceeds from the series being sold are less than the net purchase cost of the series being bought) would be a favorable execution for the market order, and thus this price check would not block its execution.

<sup>24</sup> This proposed price check will apply to auction responses. See proposed subparagraph (c)(4). As discussed above, the Exchange believes these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. See *supra* note 5.

<sup>25</sup> See current subparagraph (c)(3) and proposed subparagraph (c)(6). The proposed rule change amends this provision to indicate that the System rejects back the order rather than does not accept the order, as the proposed language more accurately reflects the System’s actions, which is to send a reject message to the submitting Trading Permit Holder. Additionally, the proposed rule change moves the language regarding partial executions in current subparagraph (c)(3) to proposed subparagraph (c)(3), with the change that the remainder of the order that cannot execute is rejected rather than routed for manual handling and other nonsubstantive changes to simplify the language.

<sup>26</sup> The general principle described in the third bullet above does not necessarily apply to European-style index options, and thus the aspect of the proposed price check that is based on that general principle does not apply to those options, as described below. Additionally, this proposed price check will not apply to multi-class spreads, as these general principles do not necessarily apply to pricing of legs in different classes. See proposed subparagraphs (c)(2) and (c)(6).

of the sell (buy) leg is the same or less than the “aggregate” exercise price of the buy (sell) leg and thus the sell (buy) leg is for the less (more) expensive option); and

- an order for which all pairs and loners are debits (credits) is a debit (credit).

The Exchange believes that these categories are consistent with Trading Permit Holders’ expectations of pricing for these strategies.

A “pair” is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and both legs have the same expiration date but different exercise prices or, for all options except European-style index options, the same exercise price but different expiration dates. Based on the general option pricing rules described above, the System can determine whether a pair is a debit or credit. Being able to determine whether a pair of legs with the same exercise price but different expiration dates is a debit or credit is based on the general principle above that if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration. As discussed above, this principle does not apply to European-style index options. Therefore, legs of complex orders for European-style index options may be paired only if they have the same expiration date but different exercise prices (and meet the other pairing criteria described above), but not if they have the same exercise price but different expiration dates—the System will skip this pairing step for European-style index options—and instead will be loners. A “loner” is any leg in an order that the System cannot pair with another leg in the order (including, as noted earlier in this paragraph, legs in orders for European-style index options that have the same exercise price but different expiration dates).<sup>27</sup> The System will first pair legs to the extent possible within each expiration date, pairing one leg with the leg that has the next highest exercise price. The System will then, for all options except European-style index options, pair legs to the extent possible with the same exercise price across expiration dates, pairing one leg with the leg that has the next nearest expiration date.

- A pair of calls is a credit (debit) if the exercise price of the buy (sell) is higher than the exercise price of the sell (buy) leg (if the pair has the same

expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).

- A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).
- A loner to buy is a debit.
- A loner to sell is a credit.

If the System cannot determine whether a complex order is a debit or credit based on these categories, it will not apply this proposed check to the order.

Based on this proposed provision, a vertical spread to buy one call (put) and sell one call (put) will have one pair. A vertical spread to buy more than one call (put) and sell more than one call (put) will have the same number of pairs as calls (puts) in each leg of the spread. For example, a vertical spread to buy three Jan 10 calls and three Jan 20 calls contains three identical pairs that each consist of a buy Jan 10 call and a sell Jan 20 call. Because the pairs are identical, they will all be debits or credits, and thus the System can define vertical spreads as debits or credits. The System would pair the orders in a vertical spread in accordance with the proposed provision set forth above to determine whether it is a credit or debit.

Below are a number of examples demonstrating how the System determines whether a complex order is a debit or credit, and whether the system will reject the order pursuant to the proposed check (for purposes of the examples, assume the orders are not for index options with European-style exercises).

#### Example #1—Limit Call Vertical Spread

A Trading Permit Holder enters a vertical spread to buy 10 Sept 30 XYZ calls and sell 10 Sept 20 XYZ calls at a net debit price of  $-\$10.00$ . The System defines this order as a credit, because the buy leg is for the call with the higher exercise price (and is thus the less expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a credit strategy that contains a net debit price.

#### Example #2—Limit Put Vertical Spread

A Trading Permit Holder submits a vertical spread to buy 20 Oct 30 XYZ puts and sell 20 Oct 20 XYZ puts at a net credit price of  $\$9.00$ . The System defines this order as a debit, because the buy leg is for the put with the higher exercise price (and is thus the more

expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a debit strategy that contains a net credit price.

#### Example #3—Market Call Vertical Spread

A Trading Permit Holder enters a market vertical spread to buy 30 Nov 20 XYZ calls and sell 30 Nov 10 XYZ calls. The System defines this order as a credit, because the buy leg is for the call with the higher exercise price (and is thus the less expensive leg). The current bid in the market for this strategy is a net debit price of  $-\$20.00$ . The System rejects the order back to the Trading Permit Holder because it is a market order for a credit strategy that would otherwise be executed at a net debit price.

#### Example #4—Market Put Vertical Spread

A Trading Permit Holder submits a market vertical spread to buy 10 Oct 20 XYZ puts and sell 10 Oct 10 XYZ put. The System defines this order as a debit, because the buy leg is for the put with the higher exercise price (and is thus the more expensive leg). The current offer in the market for this strategy is a net credit price of  $\$8.00$ . The order executes at a net credit price of  $\$8.00$ , because that is a more favorable execution for the Trading Permit Holder, and thus the price check would not block execution of this order.

#### Example #5—Limit Call Butterfly Spread (Sell 2 Outside Legs, Buy Middle Leg)

A Trading Permit Holder submits a butterfly spread to sell 5 Jul 20 XYZ calls, buy 10 Jul 30 XYZ calls and sell 5 Jul 40 XYZ calls at a net debit price of  $-\$15.00$ . The “aggregate” exercise price of the middle buy leg of 60 ( $2 \times 30$ ) is equal to the “aggregate” exercise price of the two outside sell legs of 60 ( $20 + 40$ ), and thus the System defines this order as a credit. The System rejects the order back to the Trading Permit Holder because it is a limit order for a credit strategy with a net debit price.<sup>28</sup>

#### Example #6—Limit Call Butterfly Spread (Buy 2 Outside Legs, Sell Middle Leg)

A Trading Permit Holder submits a butterfly spread to buy 10 Feb 20 XYZ calls, sell 20 Feb 25 XYZ calls and buy 10 Feb 35 XYZ calls at a net credit price

<sup>28</sup> Similar to the result in Example #3, if this butterfly spread was a market order, the System would reject back to the Trading Permit Holder the order because it is a market order for a credit strategy that would otherwise be executed at a net debit price.

<sup>27</sup> The System treats the stock leg of a stock-option order as a loner.

of \$20.00. The “aggregate” exercise price of the middle sell leg of 50 (2 × 25) is less than the “aggregate” exercise price of the two outside legs of 55 (20 + 35), and thus the System cannot determine whether the order is to buy or sell. The System therefore does not block execution of this order based on this price check. If the exercise price of the middle leg was 30 (making the “aggregate” exercise price of that leg 60), the System would have defined this order as a debit and rejected the order back to the Trading Permit Holder, since it would be an order for a debit strategy with a net credit price.<sup>29</sup>

**Example #7—Limit Put Butterfly Spread (Sell 2 Outside Legs, Buy Middle Leg)**

A Trading Permit Holder submits a butterfly spread to sell 20 Aug 10 XYZ puts, buy 40 Aug 20 XYZ puts and sell 20 Aug XYZ 30 puts at a net debit price of –\$20.00. The “aggregate” exercise price of the middle buy leg of 40 (2 × 20) is equal to the “aggregate” exercise price of the two outside sell legs of 40 (10 + 30), and thus the System defines this order as a credit. The System rejects the order back to the Trading Permit Holder because it is a limit order for a credit strategy with a net debit price.<sup>30</sup>

**Example #8—Limit Put Butterfly Spread (Buy 2 Outside Legs, Sell Middle Leg)**

A Trading Permit Holder submits a butterfly spread to buy 5 Apr 35 XYZ puts, sell 10 Apr 45 XYZ puts and buy 5 Apr 50 XYZ puts at a net credit price of \$25.00. The “aggregate” exercise price of the middle sell leg of 90 (2 × 45) is more than the “aggregate” exercise price of the two outside legs of 85 (35 + 50), and thus the System cannot determine whether the order is a debit or credit. The System therefore does not block execution of this order based on this price check. If the exercise price of the middle leg was 40 (making the “aggregate” exercise price of that leg 80), the System would have defined this order as a debit and rejected the order back to the Trading Permit Holder, since it would be a limit order for a debit strategy with a net credit price.<sup>31</sup>

**Example #9—3-Legged Complex Order (Same Expiration, Different Strikes)**

A Trading Permit Holder submits a complex order to buy 1 Jan 10 XYZ calls, sell 2 Jan 20 XYZ calls and buy

1 Jan 15 XYZ put at a net debit price of –\$8.00. The System pairs one of the sell Jan 20 calls with the buy Jan 10 call and defines it as a debit, because the buy leg is for the lower exercise price (and thus is more expensive). There are two loners remaining: the other sell Jan 20 call, which the System defines as a credit, and the buy Jan 15 put, which the System defines as a debit. Because not all pairs and loners are debits or credits (the pair and one loner are debits and the other loner is a credit), the System cannot determine whether the order is a debit or credit. The System therefore does not block execution of this order based on this price check.

**Example #10—4-Legged Complex Order (Same Strike, Different Expirations)**

A Trading Permit Holder submits a complex order to buy 1 Feb 15 XYZ call, to sell 1 Jan 15 XYZ call, to buy 1 Jun 15 XYZ put, and to sell 1 Apr 15 XYZ put at a net credit price of \$12.00. The System pairs the two calls, which the System defines a debit (because the buy leg is for the call with the farther expiration date and is thus more expensive), and the two puts, which the System defines as a debit (because the buy leg is for the call with the farther expiration date and is thus more expensive). There are no loners. Because all pairs are debits, the System defines this order as a debit. The System rejects the order back to the Trading Permit Holder, since it is a limit order for a debit strategy with a net credit price.

**Example #11—7-Legged Complex Order<sup>32</sup> (Different Strikes and Expirations)**

A Trading Permit Holder submits a complex order with the following legs:

- Sell 1 Apr 10 XYZ put;
- buy 1 Mar 20 XYZ call;
- buy 1 Mar 25 XYZ call;
- buy 2 Mar 30 XYZ put;
- sell 2 Mar 35 XYZ put;
- buy 2 Jun 20 XYZ calls; and
- sell 2 Jul 20 XYZ calls.

The System pairs (i) the buy 1 Mar 20 call with one of the sell Jul 20 calls and (ii) one of the buy Jun 20 calls with the other sell Jul 20 calls (there are no call pairs with the same expiration date but different exercise prices). The System defines both of these call pairs as credits because the buy leg of each pair has the nearer expiration date and is thus less expensive. There are two loner calls remaining: The buy Mar 25 call and the

other buy Jun 20 call, both of which the System defines as debits. The System then pairs (i) one of the buy Mar 30 puts with one of the sell Mar 35 puts and (ii) the other buy Mar 30 put with the other sell Mar 35 put. The System defines both of these put pairs as credits because the buy leg of each pair is for the lower exercise price (and is thus less expensive). The sell Apr 10 put is the remaining loner put, which the System defines as a credit. Because not all pairs and loners are debits or credits (four pairs and one loner are credits but two other loners are debits), the System cannot define the order as a debit or credit. The System therefore does not block execution of this order based on this price check.

To the extent a Trading Permit Holder submits a pair of orders to AIM, SAM or as a QCC orders, this proposed check will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. As discussed above, it is the intent of these paired orders to execute against each other (with respect to AIM and SAM orders) or as a single transaction (with respect to QCC orders). Thus, the Exchange believes it is appropriate to reject both orders if one does not satisfy the price checks to be consistent with the intent of the submitted Trading Permit Holder. Notwithstanding the foregoing, with respect to an AIM order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, because there are not three Market-Makers quoting in the series as required by Rule 6.74A(a)(4) or if the contra-side order does not stop the agency order at the price required by Rule 6.74A(a)(2) or (3)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check).<sup>33</sup> The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Trading Permit Holder) to execute despite not entering an AIM auction pursuant to which the order may execute against a facilitation or solicitation order of the Trading Permit Holder. The Exchange believes the proposed rule change is consistent with that contingency.

<sup>29</sup> Similar to the result in Example #4, if this alternative butterfly spread was a market order, the order would execute at a net credit price, because that is a more favorable execution for the Trading Permit Holder, and thus the price check would not block execution of the market order.

<sup>30</sup> See *supra* note 26.

<sup>31</sup> See *supra* note 27.

<sup>32</sup> Currently, the System only accepts complex order with two, three or four legs. This example is included to demonstrate the pairing of orders. To the extent the Exchange determines to accept complex orders with more than four legs, the pairing in this example would apply.

<sup>33</sup> See proposed subparagraph (c)(5).

### Maximum Value Acceptable Price Range

Proposed Rule 6.53C, Interpretation and Policy .08(g) adds an additional price check for vertical, true butterfly and box spreads.<sup>34</sup> These strategies have quantifiable maximum possible values, and the Exchange proposes to subject these strategies to a price check that would block executions at prices that exceed their maximum possible values by more than a reasonable amount. While the Exchange believes Trading Permit Holders are generally willing to accept executions at prices that exceed the maximum possible value of the applicable spread to a certain extent, executions that exceed the maximum possible value by too much may be erroneous. The Exchange believes blocking these potentially erroneous executions are consistent with expectations of Trading Permit Holders with respect to these strategies. This check is intended to be a second layer of protection to prevent executions of orders at potentially erroneous prices that were not on face erroneous (and thus not rejected pursuant to the proposed debit/credit check described above). For example, a limit order for a debit strategy at a net debit price will not be rejected pursuant to the proposed debit/credit check above; however, the net debit price may be too far above the maximum possible value of the order that it is potentially erroneous.

Specifically, proposed paragraph (g) states that if an order is a vertical, true butterfly or box spread, the System will not automatically execute a limit order for a net credit price or net debit price, or a market order for a debit strategy if it would execute at a net debit price, that is outside of an acceptable price range.<sup>35</sup> Pursuant to proposed

<sup>34</sup> See *supra* note 19 for definitions of vertical and true butterfly spreads. The proposed rule change also adds a definition for box spreads and proposes to use these terms for the various price checks in Interpretation and Policy .08, as applicable, it is also the common trading term used by market participants in the industry that refers to this strategy. See, e.g., CBOE Options Dictionary, available at <http://www.cboe.com/LearnCenter/Glossary.aspx>; and NASDAQ Options Trading Glossary, available at [http://www.stocks-options-trading.com/glossary\\_options.asp](http://www.stocks-options-trading.com/glossary_options.asp). A “box spread” is a four-legged complex order with one leg to buy calls and one leg to sell puts with one strike price, and one leg to sell calls and one leg to buy puts with another strike price, all of which have the same expiration date and are for the same number of contracts.

<sup>35</sup> This proposed price check will also apply to auction responses. See proposed subparagraph (g)(3). As discussed above, the Exchange believes these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. See *supra* note 5.

subparagraph (g)(1), the System determines the acceptable price range as follows:

- The maximum possible value of a vertical spread is the difference between the exercise prices of the two legs.
- The maximum possible value of a true butterfly spread is the difference between the exercise prices of the middle leg and the legs on either side.
- The maximum possible value of a box spread is the difference between the exercise prices of each pair of legs.
- The minimum possible value of the spread is zero.
- The System will calculate the amount that is a percentage of the maximum possible value of the spread (the “percentage amount”), which percentage the Exchange will determine and announce to Trading Permit Holders by Regulatory Circular.
- The acceptable price range is zero to the maximum possible value of the spread plus:
  - The percentage amount, if that amount is not outside a pre-set range (the Exchange will determine the pre-set range minimum and maximum amounts and announce them to Trading Permit Holders by Regulatory Circular);
  - the pre-set minimum, if the percentage amount is less than the pre-set minimum; or
  - the pre-set maximum, if the percentage amount is greater than the pre-set maximum.

The System will reject back to the Trading Permit Holder any limit order, and cancel any market order (or remaining size after partial execution of the order), that does not satisfy this proposed check.<sup>36</sup>

#### Example #1—Vertical Spread

Assume the pre-set range is 0.05 to 0.50 and the percentage is 5%. A Trading Permit Holder submits a complex order to buy 1 Aug 25 XYZ call and sell 1 Aug 30 XYZ call, which is a market order for a debit strategy. The maximum possible value of the vertical spread is \$5 (30 – 25), and the percentage amount is 0.25 (5% of \$5), which is within the pre-set range. Therefore, the acceptable price range is 0 to 5.25. The best net offer price is \$6.60. The System rejects the order back to the Trading Permit Holder, because the order would otherwise execute at a price that is outside of the acceptable price range. If the market changed so that the best net offer price is \$5.20 and the Trading Permit Holder resubmitted the order, the System would not block execution of the order, as the execution

price would be within the acceptable price range.

#### Example #2—Butterfly Spread

Assume the pre-set range is 0.30 to 0.90 and the percentage is 2%. A Trading Permit Holder submits a complex order to buy 1 Nov 10 XYZ put, sell 2 Nov 20 XYZ puts and buy 1 Nov 30 XYZ, which is an order for a debit strategy with a net debit price of \$7.00.<sup>37</sup> The maximum possible value of true butterfly spread is \$10 (20 – 10, 30 – 20) and the percentage amount is 0.2 (2% of \$10), which is less than the pre-set range minimum amount of 0.30. Therefore, the acceptable price range is 0 to 5.30. The System rejects the order back to the Trading Permit Holder, because the net debit price of \$7.00 is outside of the acceptable price range. If the Trading Permit Holder resubmitted the order with a net debit price of \$5.00, the System would not block execution of the order, as the limit price is within the acceptable price range.

#### Example #3—Box Spread

Assume the pre-set range is 0.20 to 0.60 and the percentage is 3%. A Trading Permit Holder submits a complex order to buy 1 Mar 45 XYZ call, sell 1 Mar 45 XYZ put, sell 1 Mar 20 XYZ call and buy 1 Mar 20 XYZ put, which is an order for a credit strategy with a net credit price of \$28.00. The maximum possible value of the box spread is \$25 (45 – 20), and the percentage amount is 0.75 (3% of \$25), which is more than the pre-set range maximum amount of 0.60. Therefore, the acceptable price range is 0 to 25.60. The System rejects the order back to the Trading Permit Holder, because the net credit price of \$28.00 is outside of the acceptable price range. If the Trading Permit Holder resubmitted the order with a net credit price of \$24.00, the System would not block execution of the order, as the limit price is within the acceptable price range.

To the extent a Trading Permit Holder submits a pair of orders to AIM, SAM or as a QCC order, this proposed check will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. As discussed above, it is the intent of these paired orders to execute against each other (with respect to AIM and SAM orders) or as a single transaction (with respect to QCC orders). Thus, the Exchange believes it is appropriate to reject both orders if

<sup>37</sup> Generally, a net debit price is referred to as having a negative price (e.g., – \$7.00). For purposes of this proposed check, the absolute value of the net debit price (e.g., \$7.00) is used.

<sup>36</sup> See proposed subparagraph (g)(2).

one does not satisfy the price checks to be consistent with the intent of the submitted Trading Permit Holder. Notwithstanding the foregoing, with respect to an AIM order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, because there are not three Market-Makers quoting in the series as required by Rule 6.74A(a)(4) or if the contra-side order does not stop the agency order at the price required by Rule 6.74A(a)(2) or (3)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check).<sup>38</sup> The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Trading Permit Holder) to execute despite not entering an AIM auction pursuant to which the order may execute against a facilitation or solicitation order of the Trading Permit Holder. The Exchange believes the proposed rule change is consistent with that contingency.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>39</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>40</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>41</sup> requirement that the rules of an exchange not be designed

to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed price protection mechanisms will protect investors and the public interest and maintain fair and orderly markets by mitigating potential risks associated with market participants entering orders at clearly unintended prices and orders trading at prices that are extreme and potentially erroneous, which may likely have resulted from human or operational error. The proposed put strike price and call underlying value checks of the reasonability of quotes and orders will assist in the maintenance of a fair and orderly market and protect investors by rejecting quotes and orders that exceed the corresponding benchmark (the strike price for puts and the value of the underlying for calls). The Exchange believes the additional risk control feature to reject a quote (both sides if entered as a two-sided quote) and cancel a Market-Maker's resting quote (on both sides) if the System rejects an updated/incoming quote in that series pursuant to this proposed price check is appropriate, because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting or cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless. The Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM, SAM and QCC orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those types of orders.

In addition, the Exchange believes it is appropriate to not apply the call price check if that value is unavailable, because the proposed call price check references the last value of the underlying, or to an adjusted series,

because trading of options in adjusted series may not accurately reflect the value of the underlying (as the new standard series would). Without the current value of the underlying or with a potentially inaccurate underlying value, if the System continued to attempt to perform the check, there is risk that the System may reject appropriately priced orders, quotes or responses, which could negatively impact market participants. Similarly, the Exchange believes it is appropriate to have the flexibility to not apply the call price check during Extended Trading Hours, as there may be no underlying value or the underlying value may not be appropriate to use due to decreased liquidity and trading during those hours. The Exchange believes it is appropriate to have the flexibility to disable the put or call check in response to a market event (for example, if dissemination of data was delayed and resulting in unreliable underlying values) to maintain a fair and orderly market. This will promote just and equitable principles of trade and ultimately protect investors.

The Exchange believes the quote inverting NBBO check will help mitigate the risks associated with the entry of quotes that are priced a specified number of ticks through the prevailing contra-side market, which the Exchange believes is evidence of an error with the quotes. By rejecting these quotes, the Exchange believes it is promoting just and equitable principles of trade by preventing potential price dislocation that could result from erroneous Market-Maker quotes sweeping through multiple price points resulting in executions that cross the NBBO. Specifically, the Exchange believes rejecting Market-Maker quotes that cross the NBBO (or the BBO when the NBBO is not available) by more than an acceptable tick distance will remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest because it would enable the Exchange to avoid the submission of erroneous quotes that otherwise may cause price dislocation before such quotes could cause harm to the market. Cancellation of any remaining size of a quote that would lock or cross the best disseminated price by an away exchange, and rejection of a quote that locks or crosses the NBBO if CBOE is not at the NBBO prevents trade-throughs and the display of locked of crossed market, consistent with the options linkage plan.

The Exchange believes that using a specified tick distance is appropriate because that is the parameter used for

<sup>38</sup> See proposed subparagraph (g)(4).

<sup>39</sup> 15 U.S.C. 78f(b).

<sup>40</sup> 15 U.S.C. 78f(b)(5).

<sup>41</sup> *Id.*

the corresponding limit order reasonability check and because it provides Market-Makers a precise price protection. The Exchange believes it is reasonable to be able to set the acceptable tick distance to be tighter for the quote price reasonability check to provide additional protection to Market-Makers given their unique role in the market, which could encourage Market-Makers to quote tighter and deeper markets and thus enhance liquidity. The Exchange believes it is appropriate to execute quotes that are no more than the specified number of ticks away from the NBBO, because while the Exchange believes Market-Makers are generally willing to accept executions of their quotes that exceed the NBBO to a certain extent, it also believes executions of quotes that exceed the NBBO by too much may be erroneous. The Exchange believes blocking these potentially erroneous executions is consistent with expectations of Market-Makers and helps them manage their risk, and thus benefits investors and promotes just and equitable principles of trade.

Similar to the put strike price and call underlying value check, the Exchange believes the additional risk control feature to reject a quote (both sides if entered as a two-sided quote) and cancel a Market-Maker's resting quote (on both sides) if the System rejects an updated/incoming quote in that series pursuant to this proposed price check is appropriate, because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting or cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

The Exchange believes it is appropriate to have the flexibility to determine not to apply this proposed check to quotes entered during the pre-opening, a trading rotation or a trading halt (and to apply this check to a quote entered during those times after trading opens or resumes, as applicable, and prior to their entry into the Book) so that the check does not impact the determination of the opening price or

the entry of quotes during times when pricing may be volatile and inaccurate. Additionally, this check will not apply if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and orderly market. Similarly, the Exchange believes it is appropriate to have this flexibility to determine times when the check should not apply to respond to market events, such as times of extreme price volatility. This assists the Exchange's maintenance of a fair and orderly market, which ultimately removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest.

The proposed debit and credit price reasonability checks expand the applicability of the current check to additional complex orders for which the Exchange can determine whether the order is a debit or credit. By expanding the orders to which these checks apply, the Exchange can further assist with the maintenance of a fair and orderly market by mitigating the potential risks associated with additional complex orders trading at prices that are inconsistent with their strategies (which may result in executions at prices that are extreme and potentially erroneous), which ultimately protects investors. The Exchange believes the methodology the System will use to determine whether an order is a debit or credit is consistent with general option and volatility pricing principles, which the Exchange understands are used by market participants in their option pricing models and promote just and equitable principles of trade. Because one of these principles does not necessarily apply to European-style index options, the Exchange believes it is reasonable to not apply the aspect of this proposed price check based on that principle to those options classes. Additionally, the Exchange believes it is reasonable to not apply this proposed check to multi-class spreads, as these rules do not apply to pricing of legs in different classes. In addition, the Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM, SAM and QCC orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those pairs of orders. The nonsubstantive changes to

this provision and the addition of defined strategies clarify the applicability of the price check using terms generally used throughout the industry, which will benefit investors.

The proposed maximum value acceptable price range will further assist with the maintenance of a fair and orderly market by helping to mitigate the potential risks associated with orders that have strategies with quantifiable maximum possible values trading at prices that are extreme or "too far away" from that value and thus that are potentially erroneous. While the Exchange believes Trading Permit Holders are generally willing to accept executions at prices that exceed the maximum possible value of the applicable spread to a certain extent, executions that exceed the maximum possible value by too much may be erroneous. The Exchange believes the methodology to determine the acceptable price range is reasonable because using a percentage amount provides Trading Permit Holders with precise protection, while the pre-set range amounts ensure that, with respect to strategies with larger or smaller maximum values, the acceptable price range cannot be too wide or narrow to the point that the price check would become ineffective. The Exchange believes blocking these potentially erroneous executions are consistent with expectations of Trading Permit Holders with respect to these strategies and will thus protect investors. As discussed above, the Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM, SAM and QCC orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those pairs of orders.

Three of the proposed price checks are substantially similar to those included in other options exchanges' rules:

- The put strike price and call underlying value checks are substantially similar to NYSE Arca, Inc. ("NYSE Arca") Rule 6.61(a)(2) and (3) (note that CBOE's proposed checks apply to orders and quotes (as well as auction responses) while NYSE Arca's checks apply only to quotes);
- the quote price reasonability check is substantially similar to NYSE Arca Rule 6.61(a)(1) (note that NYSE Arca

uses percentage and dollar thresholds, which is consistent with the parameters used in its limit order price check, while the proposed rule uses tick distance, which is consistent with the parameters used in CBOE's limit order price check); and

- the maximum value acceptable price range is substantially similar to NASDAQ OMX PHLX, Inc. ("PHLX") Rule 1080, Interpretation and Policy .07(g) (note that the PHLX rule applies to vertical and time spreads, while the proposed rule applies to vertical, true butterfly and box spreads).

The fourth price check is an expansion of the applicability of a price check already included in CBOE's rules.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change adds price protection mechanisms for orders and quotes of all Trading Permit Holders submitted to CBOE to help further prevent potentially erroneous executions, which benefits all market participants. The price checks apply to all incoming orders and quotes of all Trading Permit Holders in the same manner. The quote price reasonability check applies only to Market-Maker quotes, because the Rules currently have a similar price check that applies to orders. Additionally, the Exchange believes this type of protection for Market-Makers is appropriate given their unique role in the market and may encourage Market-Makers to quote tighter and deeper markets, which will increase liquidity and enhance competition, given the additional protection these price checks provide. The Exchange believes the proposed rule change would provide market participants with additional protection from anomalous or erroneous executions.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may

designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- By order approve or disapprove such proposed rule change, or
- institute proceedings to determine whether the proposed rule change should be 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, as modified by Amendment No. 1, 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-CBOE-2015-107 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-CBOE-2015-107. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR-CBOE-2015-107 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>42</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-76584; File No. SR-C2-2015-033]**

### **Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Price Protection Mechanisms**

December 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 25, 2015, C2 Options Exchange, Incorporated (the "Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 4, 2015, the Exchange filed Amendment No. 1 to the proposal.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to enhance current and adopt new price protection mechanisms for orders and quotes. The text of the proposed rule change is available on the Exchange's Web site (<http://www.c2exchange.com/Legal/>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

<sup>42</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange proposed changes to amend the proposed rule text of Rule 6.13, Interpretation and Policy .04(c) in Exhibit 5 and the purpose and statutory basis sections of each of the Form 19b-4 and Exhibit 1 regarding the applicability of the proposed enhancement to the debit/credit price reasonability check to index options with European-style exercises. The Exchange also switched the order of the rule text in Exhibit 5 so that Rule 6.13 appears before Rule 6.17.



## 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 has in place various price check mechanisms that are designed to prevent incoming orders from automatically executing at potentially erroneous prices.<sup>4</sup> These mechanisms are designed to help maintain a fair and orderly market by mitigating potential risks associated with orders trading at prices that are extreme and potentially erroneous. The Exchange proposes to adopt Rule 6.17(d) and (e) and amend Rule 6.13, Interpretation and Policy .04, to add new, as well as enhance current, price protection mechanisms for orders and quotes to help further prevent potentially erroneous executions.

#### Put Strike Price and Call Underlying Value Checks

Proposed Rule 6.17(d) provides price protections for simple orders to buy put and call options based on the strike price or underlying value, respectively. The proposed rule provides that the System<sup>5</sup> will reject back to the Participant a quote<sup>6</sup> or buy limit order for (i) a put if the price of the quote bid or order is equal to or greater than the strike price of the option or (ii) a call if the price of the quote bid or order is equal to or greater than the consolidated last sale price of the underlying security, with respect to equity and exchange-traded fund ("ETF") options, or the last disseminated underlying

index value, with respect to index options.<sup>7</sup>

With respect to put options, a Participant seeks to buy an option that could be exercised into the right to sell the underlying. The value of a put can never exceed the strike price of the option, even if the underlying goes to zero. For example, one put for stock ABC with a strike price of \$50 gives the holder the right to sell 100 shares of ABC for \$50, no more or less. Therefore, it would be illogical to pay more than \$50 for the right to sell shares of ABC, regardless of the price of ABC. Pursuant to proposed Rule 6.17(d)(i)(A), the Exchange would deem any put bid or buyer order with a price that equals or exceeds the strike price of the option to be erroneous, and the Exchange believes it would be appropriate to reject these bids and buy orders.

With respect to call options, a Participant seeks to buy an option that could be exercised into the right to buy the underlying. The Exchange does not believe that a derivative product that conveys the right to buy the underlying should ever be priced higher than the prevailing value of the underlying itself. In that case, a market participant could just purchase the underlying at the prevailing value rather than pay a larger amount for the call. Accordingly, pursuant to proposed Rule 6.17(d)(i)(B), the Exchange believes it is appropriate to reject bids or buy orders for call options with prices that are equal to or in excess of the value of the underlying. As an example, suppose a Participant submits Order 1 to buy an ABC call for \$8 and Order 2 to buy an ABC call for \$11 when the last sale price for stock ABC is \$10. Because the price to buy for Order 2 is greater than the last sale price of the underlying, the System will reject Order 2. The System will either execute or book Order 1 in accordance with C2's rules.

Pursuant to the proposed rule, with respect to equity and ETF options, the Exchange would use the consolidated last sale price of the underlying security, with respect to equity and ETF options, and the last disseminated value of the underlying index, with respect to index options. The Exchange notes that, in certain circumstances, the last sale price or index value, as applicable, may be from the close of the previous trading

day. These circumstances include during the pre-opening period or a delayed opening.

As an additional risk control feature, if a Market-Maker submits a quote in a series in which the Market-Maker already has a resting quote (thus, was attempting to update a quote) and the System rejects that quote pursuant to either of these proposed checks, the System will cancel the Market-Maker's resting quote<sup>8</sup> in the series. The Exchange believes it is appropriate to reject or cancel, as applicable, both sides of a quote (whether submitted as a two-sided quote or resting, respectively) because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting and cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

As an example, suppose a Market-Maker has a resting two-sided quote in Series 1 for stock ABC of 14.00 to 16.00. The options in Series 1 are puts with a strike price of \$18.00. The Market-Maker submits an updated two-sided quote of 18.00 to 19.00. Because the quote bid is the same as the strike price for Series 1, the System will reject the 18.00 quote bid and the 19.00 quote offer. Additionally, the System will cancel the Market-Maker's resting quote in Series 1 of 14.00 to 16.00. The Market-Maker then submits a new two-sided quote of 16.00 to 17.00, which the System accepts.

Proposed Rule 6.17(d)(ii) provides that the Exchange may determine not to apply to a class either the put check or the call check described above if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and orderly market.<sup>9</sup> Additionally, the call check does not apply to adjusted classes or if the data for the underlying is not available. As these price checks are

<sup>4</sup> See, e.g., Rules 6.13, Interpretation and Policy .04 (price check parameters for complex orders), 6.17(a) (market-width and drill-through price check parameters), 6.17(b) (limit order price parameters), and 8.12 (quote risk monitor).

<sup>5</sup> The "System" means the automated trading system used by the Exchange for the trading of options contracts. See Rule 1.1.

<sup>6</sup> The term quote includes both sides of a quote that is entered as a two-sided quote.

<sup>7</sup> These price checks would also apply to buy auction responses submitted in the various Exchange auctions, such as the Hybrid Agency Liaison ("HAL") and the Automated Improvement Mechanism ("AIM"). See proposed Rule 6.17(d)(iii). The Exchange believes responses can cause erroneous executions in the same manner as quotes and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions.

<sup>8</sup> This includes any quote on the same side and opposite side in the series.

<sup>9</sup> Pursuant to Exchange procedures, any decision to not apply the put check or call check, as well as the reason for the decision, will be documented and retained.

intended to assist with the maintenance of fair and orderly markets, the Exchange may believe it is appropriate to disable either of these checks in response to a market event (for example, if dissemination of data was delayed and resulting in unreliable underlying values). If the data for the underlying is not available (for example, if the underlying exchange is not disseminating data or if the applicable securities information processor is down), then the System cannot perform the check, which is why the check will not apply in that situation.

Additionally, the call check does not apply to options in an adjusted series, which is an option series for which, as a result of a corporate action by the issuer of the security underlying such option series, one option contract in the series represents the delivery of other than 100 shares of underlying stock or units. After a corporate action and subsequent adjustment to the existing options, the series receives a new symbol, while exchanges listing options on the underlying security that undergoes a corporate action resulting in an adjusted series will generally list a new standard option series for that underlying. Therefore, because trading of options in adjusted series may not accurately reflect the value of the underlying (as the new standard series would), the Exchange believes it appropriate to not apply these checks to options in these series.

To the extent a Participant submits a pair of orders to AIM<sup>10</sup> or the Solicitation Auction Mechanism ("SAM"),<sup>11</sup> these proposed checks will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. It is the intent of these paired orders to execute against each other. Thus, the Exchange believes it is appropriate to reject both orders if one does not satisfy the price checks to be consistent with the intent of the submitting Participant. Notwithstanding the foregoing, with respect to an AIM order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, if the contra-side order does not stop the agency order at the price required by Rule 6.51(a)(2)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System

rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check). The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Participant) to execute despite not entering an AIM auction pursuant to which the order may execute against a facilitation or solicitation order of the Participant. The Exchange believes the proposed rule change is consistent with that contingency.

#### Quote Inverting NBBO Check

Currently, the Exchange applies price reasonability checks to limit orders.<sup>12</sup> Proposed Rule 6.17(e) sets forth a national best bid or offer ("NBBO") price reasonability check that would apply to Market-Maker quotes. This check would similarly compare quote bids with the national best offer ("NBO") and quote offers with the national best bid ("NBB"). Specifically, if C2 is at the NBO (NBB), the System will reject a quote<sup>13</sup> back to a Market-Maker if the quote bid (offer) crosses the NBO (NBB)<sup>14</sup> by more than a number of ticks specified by the Exchange (which will be no less than three minimum increment ticks and announced to Participants by Regulatory Circular). If C2 is not at the NBO (NBB), the System rejects a quote back to a Market-Maker if the quote bid (offer) locks or crosses the NBO (NBB). The System will reject any inbound Market-Maker quotes that do not satisfy these parameters as presumptively erroneous. The Exchange believes that using specified tick distance is appropriate because that is the parameter used for the corresponding limit order reasonability check and because it provides Market-Makers a precise price protection.<sup>15</sup> While the limit order price check parameter indicates the Exchange may set the acceptable tick distance to be no less than five minimum increments, the Exchange believes it is reasonable to be able to set the acceptable tick distance to be tighter for the quote price reasonability check (no less than three minimum increments) to provide additional protection to Market-Makers given their unique role in the market, which could encourage Market-Makers to quote tighter and deeper markets. The Exchange believes having a minimum

tick distance of more than three would be ineffective.

As an additional risk control feature, if a Market-Maker submits a quote in a series in which the Market-Maker already has a resting quote (thus, was attempting to update a quote) and the System rejects that quote pursuant to this proposed check, the System will cancel the Market-Maker's resting quote<sup>16</sup> in the series. The Exchange believes it is appropriate to reject or cancel, as applicable, both sides of a quote (whether submitted as a two-sided quote or resting, respectively) because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting and cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

For example, suppose the Exchange has set a tick distance of three in a class. The minimum increment for that class is \$0.05 for series quoted below \$3 and \$0.10 for series quotes at \$3 and above,<sup>17</sup> and the NBBO is 3.10 to 3.40. Suppose a Market-Maker submits a bid of 3.80. Because this bid is more than three ticks above the NBO of 3.40, the System rejects the bid. Similarly, suppose a Market-Maker submits an offer of 2.85. Because this offer is more than three ticks below the NBB of 3.10, the System rejects the offer.

Proposed Rule 6.17(e)(ii) provides that the Exchange may determine not to apply this proposed check to quotes entered during the pre-opening, a trading rotation or a trading halt, which it will announce to Participants by Regulatory Circular. The Exchange believes it is appropriate to have the ability to not apply this check during the pre-open or opening rotation so that the check does not impact the determination of the opening price. However, the Exchange may determine that there is sufficient information during those times (such as if another exchange is disseminating pricing

<sup>12</sup> See Rule 6.17(b).

<sup>13</sup> See *supra* note 6.

<sup>14</sup> If the NBBO is unavailable, locked or crossed (and thus unreliable), then this check will compare the quote to the Exchange's best bid or offer ("BBO") (if available). See proposed Rule 6.17(e)(i).

<sup>15</sup> See *supra* note 12.

<sup>16</sup> This includes any quote on the same side and opposite side in the series.

<sup>17</sup> See Rule 6.4.

<sup>10</sup> See Rule 6.51 for a description of the AIM auction process.

<sup>11</sup> See Rule 6.52 for a description of the SAM auction process.

information) to apply the check. The Exchange also may not want to apply this check during halts, as pricing during that time may be volatile and inaccurate. Additionally, this check will not apply if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and orderly market.<sup>18</sup> The Exchange believes it is appropriate to have this flexibility to determine times when the check should not apply to respond to market events, such as times of extreme price volatility.

Proposed Rule 6.17(e)(iii) states that if the System accepts a quote that locks or crosses the NBBO (which may occur if the proposed check is not applied to a quote pursuant to the proposed rule or if a quote inverts the NBBO but by no more than the specified number of ticks), the System will execute the quote bid (offer) against quotes and orders in the book at a price(s) that is the same or better than the best price disseminated by away exchanges up to the size available on the Exchange. If there is any remaining size of the quote after this execution, the System either (i) cancels any remaining size of the quote, if the price of the quote locks or crosses the price disseminated by the away exchange(s) or (ii) books any remaining size of the quote, if the price of the quote does not lock or cross the price of the away exchange(s). While the Exchange believes Market-Makers are generally willing to accept executions of their quotes that exceed the NBBO to a certain extent, it also believes executions of quotes that exceed the NBBO by too much may be potentially erroneous executions. The Exchange believes blocking these potentially erroneous executions is consistent with expectations of Market-Makers and helps them manage their risk. Cancelling the remaining size of the quote after it partially executes against orders and quotes on the Exchange if the remaining size would be at a price that locks or crosses the best price disseminated from an away market is similarly intended to prevent trade-throughs and displays of crossed markets. Similarly, rejecting quotes that would lock or cross the NBBO if C2 is not at the NBBO is intended to prevent trade-throughs and displays of locked and crossed markets. Unlike orders that may be routed to other options exchanges for executions, quotes may only execute against quotes or orders on C2. Thus, if C2 is not at the NBBO, a quote may not execute against a quote or order that is at the NBBO.

For example, suppose the NBBO is 1.00 to 1.20, and a Market-Maker submits a quote bid for 100 contracts at 1.24. Assuming this class has a minimum increment of 0.01 and the Exchange set the tick distance for this check at five, the System accepts this quote because it only inverts the NBO by four ticks. C2 has an order to sell 10 at 1.20, an order to sell 20 at 1.21, an order to sell 10 at 1.22, an order to sell 20 at 1.23 and an order to sell 20 at 1.24 resting on the book. The best offer disseminated by an away exchange is 1.23. The incoming quote bid will execute against the order to sell at 1.20 (10 contracts), the order to sell at 1.21 (20 contracts), the order to sell at 1.22 (10 contracts) and the order to sell at 1.23 (10 contracts), for a total of 50 contracts. The quote will not execute against the order to sell at 1.24, because that would result in a trade-through of the best disseminated offer from an away exchange of 1.23. The System cancels the remaining 50 contracts, because the bid price of 1.23 would invert the best disseminated market from an away exchange. If, instead, the quote bid in the above example was for 1.22 rather than 1.24, it would execute against the order to sell at 1.20 (10 contracts), the order to sell at 1.21 (20 contracts) and the order to sell at 1.22 (10 contracts). The System would book the remaining 60 contracts of the quote at the bid price of 1.22, which would not lock or cross the best disseminated offer by an away exchange (1.23 in the above example). Alternatively, if in the above example the NBO of 1.20 was disseminated from an away exchange, the System would reject the quote bid of 1.24, because it would cross the best disseminated offer of an away exchange.

#### Debit/Credit Price Reasonability Checks

Current Rule 6.13, Interpretation and Policy .04(c) provides that the System will not automatically execute certain vertical and butterfly complex orders<sup>19</sup>

<sup>19</sup> The proposed rule change adds definitions for vertical and butterfly complex orders (or spreads) and proposes to use these terms for the various price checks in Interpretation and Policy .04, as applicable, as those are the common trading terms used by market participants in the industry that refer to these strategies. See, e.g., CBOE Options Dictionary, available at <http://www.cboe.com/LearnCenter/Glossary.aspx>; and NASDAQ Options Trading Glossary, available at [http://www.stocks-options-trading.com/glossary\\_options.asp](http://www.stocks-options-trading.com/glossary_options.asp). A "vertical" spread is a two-legged complex order with one leg to buy a number of calls (puts) and one leg to sell the same number of calls (puts) with the same expiration date but different exercise prices. A "butterfly" spread is a three-legged complex order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice as many calls (puts), all with the same expiration date but different exercise prices, and the exercise price of the middle leg is between the

that appear to be erroneously priced because the prices are inconsistent with particular complex order strategies.<sup>20</sup> Specifically, the System will not automatically execute a limit order with a net credit price when it clearly should have been entered at a net debit price, a limit order with a net debit price when it clearly should have been entered at a net credit price, or a market order that would be executed at a net debit price when it clearly should execute at a net credit price.<sup>21</sup>

The proposed rule change expands the applicability of this price check to all complex orders for which the System can determine whether they are debits (orders to buy) or credits (orders to sell). The proposed rule change simplifies the current rule text in subparagraphs (c)(1) and (2) and combines them into proposed subparagraph (c)(1) to state that the System will not automatically execute a limit order for a debit strategy with a net credit price, a limit order for a credit strategy with a net debit price, or a market order for a credit strategy that would be executed at a net debit price.<sup>22</sup> The System will reject back to the Participant any limit order, and cancel any market order (or remaining size after partial execution of the order), that does not satisfy this proposed check.<sup>23</sup>

exercise prices of the other legs. If the exercise price of the middle leg is halfway between the exercise prices of the other legs, it is a "true" butterfly; otherwise, it is a "skewed" butterfly.

<sup>20</sup> Pursuant to the introductory paragraph of Rule 6.13, Interpretation and Policy .04, the current debit/credit price reasonability check in subparagraph (c) does not apply to stock-option orders. The proposed debit/credit price reasonability check will apply to stock-option orders; therefore, the proposed rule change deletes the reference to subparagraph (c) from that introductory paragraph statement.

<sup>21</sup> A market order with a debit strategy that would result in an execution at a net credit price (*i.e.*, the net sale proceeds from the series being sold are more than the net purchase cost of the series being bought) but would normally execute at a net debit price (*i.e.*, the net sale proceeds from the series being sold are less than the net purchase cost of the series being bought) would be a favorable execution for the market order, and thus this price check would not block its execution.

<sup>22</sup> This proposed price check will apply to auction responses. See proposed subparagraph (c)(4). As discussed above, the Exchange believes these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. See *supra* note 7.

<sup>23</sup> See current and proposed subparagraph (c)(3). The proposed rule change amends this provision to indicate that the System rejects back the order rather than does not accept the order, as the proposed language more accurately reflects the System's actions, which is to send a reject message to the submitting Participant. Additionally, the language regarding partial executions in current subparagraph (c)(3) is included in proposed subparagraph (c)(3), with the change that the

<sup>18</sup> See *supra* note 9.

The System determines whether an order is a debit or credit based on general options volatility and pricing principles, which the Exchange understands are used by market participants in their option pricing models. With respect to options with the same underlying:

- If two calls have the same expiration date, the price of the call with the lower exercise price is more than the price of the call with the higher exercise price;
- if two puts have the same expiration date, the price of the put with the higher exercise price is more than the price of the put with the lower exercise price; and
- if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration.

The principles in the first two bullets are based on the standard trading principle of “buy low, sell high.” The ability to buy stock at a lower price is more valuable than the ability to buy stock at a higher price, and thus a call with a lower strike price has more value, and thus is more expensive, than a call with a higher strike price. Similarly, the ability to sell stock at a higher price is more valuable than the ability to sell stock at a lower price, and thus a put with a higher strike price has more value, and thus is more expensive, than a put with a lower strike price. The principle in the last bullet is based on the general concept that locking in a price further into the future involves more risk for the buyer and seller and thus is more valuable, making an option (call or put) with a farther expiration more expensive than an option with a nearer expiration. This is similar, for example, to interest rates for mortgages: In general, an interest rate on a 30-year mortgage is higher than the interest rate on a 15-year mortgage due to the risk of potential interest rate changes over the longer period of time to both the mortgagor and mortgagee.<sup>24</sup>

Based on these general rules, proposed subparagraph (c)(2) provides that the System will define a complex order as follows:

- A call butterfly spread for which the middle leg is to sell (buy) and twice

the exercise price of that leg is greater than or equal to the sum of the exercise prices of the buy (sell) legs is a debit (credit) (because the “aggregate” exercise price of the sell (buy) leg is the same or higher than the “aggregate” exercise price of the buy (sell) legs and thus the sell (buy) leg is for the less (more) expensive option);

- a put butterfly spread for which the middle leg is to sell (buy) and twice the exercise price of that leg is less than or equal to the sum of the exercise prices of the buy (sell) legs is a debit (credit) (because the “aggregate” exercise price of the sell (buy) leg is the same or less than the “aggregate” exercise price of the buy (sell) leg and thus the sell (buy) leg is for the less (more) expensive option); and
- an order for which all pairs and loners are debits (credits) is a debit (credit).

The Exchange believes that these categories are consistent with Participants’ expectations of pricing for these strategies.

A “pair” is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and both legs have the same expiration date but different exercise prices or, for all options except European-style index options, the same exercise price but different expiration dates. Based on the general option pricing rules described above, the System can determine whether a pair is a debit or credit. Being able to determine whether a pair of legs with the same exercise price but different expiration dates is a debit or credit is based on the general principle above that if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration. As discussed above, this principle does not apply to European-style index options. Therefore, legs of complex orders for European-style index options may be paired only if they have the same expiration date but different exercise prices (and meet the other pairing criteria described above), but not if they have the same exercise price but different expiration dates—the System will skip this pairing step for European-style index options—and instead will be loners. A “loner” is any leg in an order that the System cannot pair with another leg in the order (including, as noted earlier in this paragraph, legs in orders for European-style index options that have the same exercise price but

different expiration dates).<sup>25</sup> The System will first pair legs to the extent possible within each expiration date, pairing one leg with the leg that has the next highest exercise price. The System will then, for all options except European-style index options, pair legs to the extent possible with the same exercise price across expiration dates, pairing one leg with the leg that has the next nearest expiration date.

- A pair of calls is a credit (debit) if the exercise price of the buy (sell) is higher than the exercise price of the sell (buy) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).
- A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).
- A loner to buy is a debit.
- A loner to sell is a credit.

If the System cannot determine whether a complex order is a debit or credit based on these categories, it will not apply this proposed check to the order.

Based on this proposed provision, a vertical spread to buy one call (put) and sell one call (put) will have one pair. A vertical spread to buy more than one call (put) and sell more than one call (put) will have the same number of pairs as calls (puts) in each leg of the spread. For example, a vertical spread to buy three Jan 10 calls and three Jan 20 calls contains three identical pairs that each consist of a buy Jan 10 call and a sell Jan 20 call. Because the pairs are identical, they will all be debits or credits, and thus the System can define vertical spreads as debits or credits. The System would pair the orders in a vertical spread in accordance with the proposed provision set forth above to determine whether it is a credit or debit.

Below are a number of examples demonstrating how the System determines whether a complex order is a debit or credit, and whether the system will reject the order pursuant to the proposed check (for purposes of these examples, assume the orders are not for European-style index options).

#### Example #1—Limit Call Vertical Spread

A Participant enters a vertical spread to buy 10 Sept 30 XYZ calls and sell 10 Sept 20 XYZ calls at a net debit price

<sup>25</sup> The System treats the stock leg of a stock-option order as a loner.

remainder of the order that cannot execute is rejected rather than routed for manual handling and other nonsubstantive changes to simplify the language.

<sup>24</sup> The general principle described in the third bullet above does not necessarily apply to European-style index options, and thus the aspect of the proposed price check that is based on that general principle does not apply to those options, as described below. See proposed subparagraph (c)(2).

of –\$10.00. The System defines this order as a credit, because the buy leg is for the call with the higher exercise price (and is thus the less expensive leg). The System rejects the order back to the Participant because it is a limit order for a credit strategy that contains a net debit price.

#### Example #2—Limit Put Vertical Spread

A Participant submits a vertical spread to buy 20 Oct 30 XYZ puts and sell 20 Oct 20 XYZ puts at a net credit price of \$9.00. The System defines this order as a debit, because the buy leg is for the put with the higher exercise price (and is thus the more expensive leg). The System rejects the order back to the Participant because it is a limit order for a debit strategy that contains a net credit price.

#### Example #3—Market Call Vertical Spread

A Participant enters a market vertical spread to buy 30 Nov 20 XYZ calls and sell 30 Nov 10 XYZ calls. The System defines this order as a credit, because the buy leg is for the call with the higher exercise price (and is thus the less expensive leg). The current bid in the market for this strategy is a net debit price of –\$20.00. The System rejects the order back to the Participant because it is a market order for a credit strategy that would otherwise be executed at a net debit price.

#### Example #4—Market Put Vertical Spread

A Participant submits a market vertical spread to buy 10 Oct 20 XYZ puts and sell 10 Oct 10 XYZ put. The System defines this order as a debit, because the buy leg is for the put with the higher exercise price (and is thus the more expensive leg). The current offer in the market for this strategy is a net credit price of \$8.00. The order executes at a net credit price of \$8.00, because that is a more favorable execution for the Participant, and thus the price check would not block execution of this order.

#### Example #5—Limit Call Butterfly Spread (Sell 2 Outside Legs, Buy Middle Leg)

A Participant submits a butterfly spread to sell 5 Jul 20 XYZ calls, buy 10 Jul 30 XYZ calls and sell 5 Jul 40 XYZ calls at a net debit price of –\$15.00. The “aggregate” exercise price of the middle buy leg of 60 ( $2 \times 30$ ) is equal to the “aggregate” exercise price of the two outside sell legs of 60 ( $20 + 40$ ), and thus the System defines this order as a credit. The System rejects the order back to the Participant because it is a limit

order for a credit strategy with a net debit price.<sup>26</sup>

#### Example #6—Limit Call Butterfly Spread (Buy 2 Outside Legs, Sell Middle Leg)

A Participant submits a butterfly spread to buy 10 Feb 20 XYZ calls, sell 20 Feb 25 XYZ calls and buy 10 Feb 35 XYZ calls at a net credit price of \$20.00. The “aggregate” exercise price of the middle sell leg of 50 ( $2 \times 25$ ) is less than the “aggregate” exercise price of the two outside legs of 55 ( $20 + 35$ ), and thus the System cannot determine whether the order is to buy or sell. The System therefore does not block execution of this order based on this price check. If the exercise price of the middle leg was 30 (making the “aggregate” exercise price of that leg 60), the System would have defined this order as a debit and rejected the order back to the Participant, since it would be an order for a debit strategy with a net credit price.<sup>27</sup>

#### Example #7—Limit Put Butterfly Spread (Sell 2 Outside Legs, Buy Middle Leg)

A Participant submits a butterfly spread to sell 20 Aug 10 XYZ puts, buy 40 Aug 20 XYZ puts and sell 20 Aug XYZ 30 puts at a net debit price of –\$20.00. The “aggregate” exercise price of the middle buy leg of 40 ( $2 \times 20$ ) is equal to the “aggregate” exercise price of the two outside sell legs of 40 ( $10 + 30$ ), and thus the System defines this order as a credit. The System rejects the order back to the Participant because it is a limit order for a credit strategy with a net debit price.<sup>28</sup>

#### Example #8—Limit Put Butterfly Spread (Buy 2 Outside Legs, Sell Middle Leg)

A Participant submits a butterfly spread to buy 5 Apr 35 XYZ puts, sell 10 Apr 45 XYZ puts and buy 5 Apr 50 XYZ puts at a net credit price of \$25.00. The “aggregate” exercise price of the middle sell leg of 90 ( $2 \times 45$ ) is more than the “aggregate” exercise price of the two outside legs of 85 ( $35 + 50$ ), and thus the System cannot determine whether the order is a debit or credit. The System therefore does not block execution of this order based on this price check. If the exercise price of the middle leg was 40 (making the

<sup>26</sup> Similar to the result in Example #3, if this butterfly spread was a market order, the System would reject back to the Participant the order because it is a market order for a credit strategy that would otherwise be executed at a net debit price.

<sup>27</sup> Similar to the result in Example #4, if this alternative butterfly spread was a market order, the order would execute at a net credit price, because that is a more favorable execution for the Participant, and thus the price check would not block execution of the market order.

<sup>28</sup> See *supra* note 26.

“aggregate” exercise price of that leg 80), the System would have defined this order as a debit and rejected the order back to the Participant, since it would be a limit order for a debit strategy with a net credit price.<sup>29</sup>

#### Example #9—3-Legged Complex Order (Same Expiration, Different Strikes)

A Participant submits a complex order to buy 1 Jan 10 XYZ calls, sell 2 Jan 20 XYZ calls and buy 1 Jan 15 XYZ put at a net debit price of –\$8.00. The System pairs one of the sell Jan 20 calls with the buy Jan 10 call and defines it as a debit, because the buy leg is for the lower exercise price (and thus is more expensive). There are two loners remaining: the other sell Jan 20 call, which the System defines as a credit, and the buy Jan 15 put, which the System defines as a debit. Because not all pairs and loners are debits or credits (the pair and one loner are debits and the other loner is a credit), the System cannot determine whether the order is a debit or credit. The System therefore does not block execution of this order based on this price check.

#### Example #10—4-Legged Complex Order (Same Strike, Different Expirations)

A Participant submits a complex order to buy 1 Feb 15 XYZ call, to sell 1 Jan 15 XYZ call, to buy 1 Jun 15 XYZ put, and to sell 1 Apr 15 XYZ put at a net credit price of \$12.00. The System pairs the two calls, which the System defines a debit (because the buy leg is for the call with the farther expiration date and is thus more expensive), and the two puts, which the System defines as a debit (because the buy leg is for the call with the farther expiration date and is thus more expensive). There are no loners. Because all pairs are debits, the System defines this order as a debit. The System rejects the order back to the Participant, since it is a limit order for a debit strategy with a net credit price.

#### Example #11—7-Legged Complex Order<sup>30</sup> (Different Strikes and Expirations)

A Participant submits a complex order with the following legs:

- Sell 1 Apr 10 XYZ put;
- buy 1 Mar 20 XYZ call;
- buy 1 Mar 25 XYZ call;
- buy 2 Mar 30 XYZ put;
- sell 2 Mar 35 XYZ put;
- buy 2 Jun 20 XYZ calls; and

<sup>29</sup> See *supra* note 27.

<sup>30</sup> Currently, the System only accepts complex order with two, three or four legs. This example is included to demonstrate the pairing of orders. To the extent the Exchange determines to accept complex orders with more than four legs, the pairing in this example would apply.

- sell 2 Jul 20 XYZ calls.

The System pairs (i) the buy 1 Mar 20 call with one of the sell Jul 20 calls and (ii) one of the buy Jun 20 calls with the other sell Jul 20 calls (there are no call pairs with the same expiration date but different exercise prices). The System defines both of these call pairs as credits because the buy leg of each pair has the nearer expiration date and is thus less expensive. There are two loner calls remaining: The buy Mar 25 call and the other buy Jun 20 call, both of which the System defines as debits. The System then pairs (i) one of the buy Mar 30 puts with one of the sell Mar 35 puts and (ii) the other buy Mar 30 put with the other sell Mar 35 put. The System defines both of these put pairs as credits because the buy leg of each pair is for the lower exercise price (and is thus less expensive). The sell Apr 10 put is the remaining loner put, which the System defines as a credit. Because not all pairs and loners are debits or credits (four pairs and one loner are credits but two other loners are debits), the System cannot define the order as a debit or credit. The System therefore does not block execution of this order based on this price check.

To the extent a Participant submits a pair of orders to AIM or SAM, this proposed check will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. As discussed above, it is the intent of these paired orders to execute against each other. Thus, the Exchange believes it is appropriate to reject both orders if one does not satisfy the price checks to be consistent with the intent of the submitting Participant. Notwithstanding the foregoing, with respect to an AIM order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, if the contra-side order does not stop the agency order at the price required by Rule 6.51(a)(2)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check).<sup>31</sup> The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Participant) to execute despite not entering an AIM auction pursuant to which the order may execute against a

facilitation or solicitation order of the Participant. The Exchange believes the proposed rule change is consistent with that contingency.

#### Maximum Value Acceptable Price Range

Proposed Rule 6.13, Interpretation and Policy .04(h) adds an additional price check for vertical, true butterfly and box spreads.<sup>32</sup> These strategies have quantifiable maximum possible values, and the Exchange proposes to subject these strategies to a price check that would block executions at prices that exceed their maximum possible values by more than a reasonable amount. While the Exchange believes Participants are generally willing to accept executions at prices that exceed the maximum possible value of the applicable spread to a certain extent, executions that exceed the maximum possible value by too much may be erroneous. The Exchange believes blocking these potentially erroneous executions are consistent with expectations of Participants with respect to these strategies. This check is intended to be a second layer of protection to prevent executions of orders at potentially erroneous prices that were not on face erroneous (and thus not rejected pursuant to the proposed debit/credit check described above). For example, a limit order for a net credit price or net debit price will not be rejected pursuant to the proposed debit/credit check above; however, the net debit price may be too far above the maximum possible value of the order that it is potentially erroneous.

Specifically, proposed paragraph (h) states that if an order is a vertical, true butterfly or box spread, the System will not automatically execute a limit order for a net credit price or net debit price, or a market order for a debit strategy if it would execute at a net debit price, that is outside of an acceptable price range.<sup>33</sup> Pursuant to proposed

<sup>32</sup> See *supra* note 19 for definitions of vertical and true butterfly spreads. The proposed rule change also adds a definition for box spreads and proposes to use these terms for the various price checks in Interpretation and Policy .04, as applicable, it is also the common trading term used by market participants in the industry that refers to this strategy. See, e.g., CBOE Options Dictionary, available at <http://www.cboe.com/LearnCenter/Glossary.aspx>; and NASDAQ Options Trading Glossary, available at [http://www.stocks-options-trading.com/glossary\\_options.asp](http://www.stocks-options-trading.com/glossary_options.asp). A "box spread" is a four-legged complex order with one leg to buy calls and one leg to sell puts with one strike price, and one leg to sell calls and one leg to buy puts with another strike price, all of which have the same expiration date and are for the same number of contracts.

<sup>33</sup> This proposed price check will also apply to auction responses. See proposed subparagraph (h)(3). As discussed above, the Exchange believes

subparagraph (h)(1), the System determines the acceptable price range as follows:

- The maximum possible value of a vertical spread is the difference between the exercise prices of the two legs.
- The maximum possible value of a true butterfly spread is the difference between the exercise prices of the middle leg and the legs on either side.
- The maximum possible value of a box spread is the difference between the exercise prices of each pair of legs.
- The minimum possible value of the spread is zero.
- The System will calculate the amount that is a percentage of the maximum possible value of the spread (the "percentage amount"), which percentage the Exchange will determine and announce to Participants by Regulatory Circular.
- The acceptable price range is zero to the maximum possible value of the spread plus:
  - The percentage amount, if that amount is not outside a pre-set range (the Exchange will determine the pre-set range minimum and maximum amounts and announce them to Participants by Regulatory Circular);
  - the pre-set minimum, if the percentage amount is less than the pre-set minimum; or
  - the pre-set maximum, if the percentage amount is greater than the pre-set maximum.

The System will reject back to the Participant any limit order, and cancel any market order (or remaining size after partial execution of the order), that does not satisfy this proposed check.<sup>34</sup>

#### Example #1—Vertical Spread

Assume the pre-set range is 0.05 to 0.50 and the percentage is 5%. A Participant submits a complex order to buy 1 Aug 25 XYZ call and sell 1 Aug 30 XYZ call, which is a market order for a debit strategy. The maximum possible value of the vertical spread is \$5 (30 – 25), and the percentage amount is 0.25 (5% of \$5), which is within the pre-set range. Therefore, the acceptable price range is 0 to 5.25. The best net offer price is \$6.60. The System rejects the order back to the Participant, because the order would otherwise execute at a price that is outside of the acceptable price range. If the market changed so that the best net offer price is \$5.20 and the Participant resubmitted the order, the System would not block

these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. See *supra* note 7.

<sup>34</sup> See proposed subparagraph (h)(2).

<sup>31</sup> See proposed subparagraph (c)(5).

execution of the order, as the execution price would be within the acceptable price range.

#### Example # 2—Butterfly Spread

Assume the pre-set range is 0.30 to 0.90 and the percentage is 2%. A Participant submits a complex order to buy 1 Nov 10 XYZ put, sell 2 Nov 20 XYZ puts and buy 1 Nov 30 XYZ, which is an order for a debit strategy with a net debit price of \$7.00.<sup>35</sup> The maximum possible value of true butterfly spread is \$10 (20 – 10, 30 – 20) and the percentage amount is 0.2 (2% of \$10), which is less than the pre-set range minimum amount of 0.30. Therefore, the acceptable price range is 0 to 5.30. The System rejects the order back to the Participant, because the net debit price of \$7.00 is outside of the acceptable price range. If the Participant resubmitted the order with a net debit price of \$5.00, the System would not block execution of the order, as the limit price is within the acceptable price range.

#### Example # 3—Box Spread

Assume the pre-set range is 0.20 to 0.60 and the percentage is 3%. A Participant submits a complex order to buy 1 Mar 45 XYZ call, sell 1 Mar 45 XYZ put, sell 1 Mar 20 XYZ call and buy 1 Mar 20 XYZ put, which is an order for a credit strategy with a net credit price of \$28.00. The maximum possible value of the box spread is \$25 (45 – 20), and the percentage amount is 0.75 (3% of \$25), which is more than the pre-set range maximum amount of 0.60. Therefore, the acceptable price range is 0 to 25.60. The System rejects the order back to the Participant, because the net credit price of \$28.00 is outside of the acceptable price range. If the Participant resubmitted the order with a net credit price of \$24.00, the System would not block execution of the order, as the limit price is within the acceptable price range.

To the extent a Participant submits a pair of orders to AIM or SAM, this proposed check will apply to both orders in the pair. If the System rejects either order in the pair pursuant to the applicable check, then the System will also cancel the paired order. As discussed above, it is the intent of these paired orders to execute against each other. Thus, the Exchange believes it is appropriate to reject both orders if one does not satisfy the price checks to be consistent with the intent of the submitted Participant. Notwithstanding the foregoing, with respect to an AIM

order that instructs the System to process the agency order as an unpaired order if an AIM auction cannot be initiated (for example, if the contra-side order does not stop the agency order at the price required by Rule 6.51(a)(2)), if the System rejects the agency order pursuant to the applicable check, then the System will also reject the contra-side order. However, if the System rejects the contra-side order pursuant to the applicable check, the System will accept the agency order (assuming it satisfies the applicable check).<sup>36</sup> The purpose of the contingency to treat the agency order as an unpaired order provides the opportunity for that order (which is a customer of the submitting Participant) to execute despite not entering an AIM auction pursuant to which the order may execute against a facilitation or solicitation order of the Participant. The Exchange believes the proposed rule change is consistent with that contingency.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>37</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>38</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>39</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed price protection mechanisms will protect investors and the public interest and maintain fair and orderly markets by mitigating potential risks associated with market participants entering orders at clearly unintended prices and orders trading at prices that are extreme and potentially

erroneous, which may likely have resulted from human or operational error. The proposed put strike price and call underlying value checks of the reasonability of quotes and orders will assist in the maintenance of a fair and orderly market and protect investors by rejecting quotes and orders that exceed the corresponding benchmark (the strike price for puts and the value of the underlying for calls). The Exchange believes the additional risk control feature to reject a quote (both sides if entered as a two-sided quote) and cancel a Market-Maker's resting quote (on both sides) if the System rejects an updated/incoming quote in that series pursuant to this proposed price check is appropriate, because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting or cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless. The Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM and SAM orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those types of orders.

In addition, the Exchange believes it is appropriate to not apply the call price check if that value is unavailable, because the proposed call price check references the last value of the underlying, or to an adjusted series, because trading of options in adjusted series may not accurately reflect the value of the underlying (as the new standard series would). Without the current value of the underlying or with a potentially inaccurate underlying value, if the System continued to attempt to perform the check, there is risk that the System may reject appropriately priced orders, quotes or

<sup>35</sup> Generally, a net debit price is referred to as having a negative price (e.g., –\$7.00). For purposes of this proposed check, the absolute value of the net debit price (e.g., \$7.00) is used.

<sup>36</sup> See proposed subparagraph (h)(4).

<sup>37</sup> 15 U.S.C. 78f(b).

<sup>38</sup> 15 U.S.C. 78f(b)(5).

<sup>39</sup> *Id.*

responses, which could negatively impact market participants. The Exchange also believes it is appropriate to have the flexibility to disable the put or call check in response to a market event (for example, if dissemination of data was delayed and resulting in unreliable underlying values) to maintain a fair and orderly market. This will promote just and equitable principles of trade and ultimately protect investors.

The Exchange believes the quote inverting NBBO check will help mitigate the risks associated with the entry of quotes that are priced a specified number of ticks through the prevailing contra-side market, which the Exchange believes is evidence of an error with the quotes. By rejecting these quotes, the Exchange believes it is promoting just and equitable principles of trade by preventing potential price dislocation that could result from erroneous Market-Maker quotes sweeping through multiple price points resulting in executions that cross the NBBO. Specifically, the Exchange believes rejecting Market-Maker quotes that cross the NBBO (or the BBO when the NBBO is not available) by more than an acceptable tick distance will remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest because it would enable the Exchange to avoid the submission of erroneous quotes that otherwise may cause price dislocation before such quotes could cause harm to the market. Cancellation of any remaining size of a quote that would lock or cross the best disseminated price by an away exchange, and rejection of a quote that locks or crosses the NBBO if C2 is not at the NBBO prevents trade-throughs and the display of locked or crossed market, consistent with the options linkage plan.

The Exchange believes that using a specified tick distance is appropriate because that is the parameter used for the corresponding limit order reasonability check and because it provides Market-Makers a precise price protection. The Exchange believes it is reasonable to be able to set the acceptable tick distance to be tighter for the quote price reasonability check to provide additional protection to Market-Makers given their unique role in the market, which could encourage Market-Makers to quote tighter and deeper markets and thus enhance liquidity. The Exchange believes it is appropriate to execute quotes that are no more than the specified number of ticks away from the NBBO, because while the Exchange believes Market-Makers are generally

willing to accept executions of their quotes that exceed the NBBO to a certain extent, it also believes executions of quotes that exceed the NBBO by too much may be erroneous. The Exchange believes blocking these potentially erroneous executions is consistent with expectations of Market-Makers and helps them manage their risk, and thus benefits investors and promotes just and equitable principles of trade.

Similar to the put strike price and call underlying value check, the Exchange believes the additional risk control feature to reject a quote (both sides if entered as a two-sided quote) and cancel a Market-Maker's resting quote (on both sides) if the System rejects an updated/incoming quote in that series pursuant to this proposed price check is appropriate, because Market-Makers generally submit two-sided quotes, as their trading strategies and risk profiles are based in part on the spreads of their quotes, and rejecting or cancelling, as applicable, quotes on both sides of the series is consistent with this practice. The Exchange believes this operates as an additional safeguard that causes the Market-Maker to re-evaluate its quotes in the series before attempting to update its quotes again. Additionally, when a Market-Maker submits a new quote, that Market-Maker is implicitly instructing the Exchange to cancel any resting quote in the same series. Thus, even if the new quote is rejected as a result of this proposed check, the Market-Maker's implicit instruction to cancel the resting quote remains valid nonetheless.

The Exchange believes it is appropriate to have the flexibility to determine not to apply this proposed check to quotes entered during the pre-opening, a trading rotation or a trading halt (and to apply this check to a quote entered during those times after trading opens or resumes, as applicable, and prior to their entry into the Book) so that the check does not impact the determination of the opening price or the entry of quotes during times when pricing may be volatile and inaccurate. Additionally, this check will not apply if a senior official at the Exchange's Help Desk determines it should not apply in the interest of maintaining a fair and orderly market. Similarly, the Exchange believes it is appropriate to have this flexibility to determine times when the check should not apply to respond to market events, such as times of extreme price volatility. This assists the Exchange's maintenance of a fair and orderly market, which ultimately removes impediments to and perfects the mechanism of a free and open

market and protects investors and the public interest.

The proposed debit and credit price reasonability checks expand the applicability of the current check to additional complex orders for which the Exchange can determine whether the order is a debit or credit. By expanding the orders to which these checks apply, the Exchange can further assist with the maintenance of a fair and orderly market by mitigating the potential risks associated with additional complex orders trading at prices that are inconsistent with their strategies (which may result in executions at prices that are extreme and potentially erroneous), which ultimately protects investors. The Exchange believes the methodology the System will use to determine whether an order is a debit or credit is consistent with general option and volatility pricing principles, which the Exchange understands are used by market participants in their option pricing models and promote just and equitable principles of trade. Because one of these principles does not necessarily apply to European-style index options, the Exchange believes it is reasonable to not apply the aspect of this proposed price check based on that principle to those options classes. In addition, the Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM and SAM orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those pairs of orders. The nonsubstantive changes to this provision and the addition of defined strategies clarify the applicability of the price check using terms generally used throughout the industry, which will benefit investors.

The proposed maximum value acceptable price range will further assist with the maintenance of a fair and orderly market by helping to mitigate the potential risks associated with orders that have strategies with quantifiable maximum possible values trading at prices that are extreme or "too far away" from that value and thus that are potentially erroneous. While the Exchange believes Participants are generally willing to accept executions at prices that exceed the maximum possible value of the applicable spread to a certain extent, executions that exceed the maximum possible value by



too much may be erroneous. The Exchange believes the methodology to determine the acceptable price range is reasonable because using a percentage amount provides Participants with precise protection, while the pre-set range amounts ensure that, with respect to strategies with larger or smaller maximum values, the acceptable price range cannot be too wide or narrow to the point that the price check would become ineffective. The Exchange believes blocking these potentially erroneous executions are consistent with expectations of Participants with respect to these strategies and will thus protect investors. As discussed above, the Exchange believes it is appropriate to apply this check to auction responses, as these responses can cause erroneous executions in the same manner as bids and orders and thus should be subject to this proposed price protection to further help prevent potentially erroneous executions. The Exchange also believes the proposed rule change regarding how the proposed check will apply to AIM and SAM orders is reasonable, as the proposed rule change is consistent with the contingencies attached to those pairs of orders.

Three of the proposed price checks are substantially similar to those included in other options exchanges' rules:

- The put strike price and call underlying value checks are substantially similar to NYSE Arca, Inc. ("NYSE Arca") Rule 6.61(a)(2) and (3) (note that C2's proposed checks apply to orders and quotes (as well as auction responses) while NYSE Arca's checks apply only to quotes);

- the quote price reasonability check is substantially similar to NYSE Arca Rule 6.61(a)(1) (note that NYSE Arca uses percentage and dollar thresholds, which is consistent with the parameters used in its limit order price check, while the proposed rule uses tick distance, which is consistent with the parameters used in C2's limit order price check); and

- the maximum value acceptable price range is substantially similar to NASDAQ OMX PHLX, Inc. ("PHLX") Rule 1080, Interpretation and Policy .07(g) (note that the PHLX rule applies to vertical and time spreads, while the proposed rule applies to vertical, true butterfly and box spreads).

The fourth price check is an expansion of the applicability of a price check already included in C2's rules.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

C2 does not believe that the proposed rule change will impose any burden on

competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change adds price protection mechanisms for orders and quotes of all Participants submitted to C2 to help further prevent potentially erroneous executions, which benefits all market participants. The price checks apply to all incoming orders and quotes of all Participants in the same manner. The quote price reasonability check applies only to Market-Maker quotes, because the Rules currently have a similar price check that applies to orders. Additionally, the Exchange believes this type of protection for Market-Makers is appropriate given their unique role in the market and may encourage Market-Makers to quote tighter and deeper markets, which will increase liquidity and enhance competition, given the additional protection these price checks provide. The Exchange believes the proposed rule change would provide market participants with additional protection from anomalous or erroneous executions.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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-C2-2015-033 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-C2-2015-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-C2-2015-033 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>40</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015-31280 Filed 12-10-15; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>40</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76586; File No. SR-NASDAQ-2015-147]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Nasdaq Rule 7018

December 8, 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 30, 2015, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 the Substance of the Proposed Rule Change

Nasdaq is proposing changes to amend Nasdaq Rule 7018(a), governing fees and credits assessed for execution and routing of securities.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on December 1, 2015.

The text of the proposed rule change is available at [nasdaq.cchwallstreet.com](http://nasdaq.cchwallstreet.com), at Nasdaq’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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities listed on Nasdaq,<sup>3</sup> listed on the New York Stock Exchange (“NYSE”) <sup>4</sup> and listed on exchanges other than Nasdaq and NYSE <sup>5</sup> (collectively, the “Tapes”).

The purpose of the proposed rule change is to increase a current credit tier for all three Tapes from \$0.0029 per share executed to \$0.00295 per share executed. Specifically, this credit tier is available to members for displayed quotes/orders (other than supplemental orders or designated retail orders) that provide liquidity and, as stated in Nasdaq Rule 7018(a)(1), (2) and (3), “Adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry ADV in the customer clearing range for Equity and ETF option contracts per day in a month on the Nasdaq Options Market”.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>8</sup> Likewise, in *NetCoalition*

v. *NYSE Arca, Inc.*, 615 F.3d 525 (D.C. Cir. 2010), (“*NetCoalition*”) the DC Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.<sup>9</sup> As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”<sup>10</sup>

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>11</sup> Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Nasdaq believes that the proposed rule change to Nasdaq Rule 7018(a)(1), (2) and (3) is reasonable because it is competitive with the credits of other exchanges and also may result in increased participation in the marketplace. Currently, for all three Tapes a member receives a credit of \$0.0029 per share executed for displayed quotes/orders (other than supplemental orders or designated retail orders) that provide liquidity and, as stated in Nasdaq Rule 7018(a)(1), (2) and (3), the member “Adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.15% or more of total industry ADV in the customer clearing range for Equity and ETF option contracts per day in a month on the Nasdaq Options Market”. Under the proposal, the credit will increase to \$0.00295 per share executed.

The Exchange also believes that the proposed rule change is an equitable allocation and is not unfairly discriminatory because the Exchange will provide the same credit to all similarly situated members and is available across all Tapes.

<sup>9</sup> See *NetCoalition*, at 534.

<sup>10</sup> *Id.* at 537.

<sup>11</sup> *Id.* at 539 (quoting ArcaBook Order, 73 FR at 74782–74783).

<sup>3</sup> Nasdaq Rule 7018(a)(1).

<sup>4</sup> Nasdaq Rule 7018(a)(2).

<sup>5</sup> Nasdaq Rule 7018(a)(3).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> Exchange Act Release No. 34-51808 (June 9, 2005) (“Regulation NMS Adopting Release”).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.<sup>12</sup> In terms of inter-market competition, 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, or credit opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed change to the credits provided for all three Tapes to member firms for displayed quotes/orders (other than supplemental orders or designated retail orders) that provide liquidity, does not impose a burden on competition because the Exchange's execution services are voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

### *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 change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>13</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.

### **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-NASDAQ-2015-147 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-NASDAQ-2015-147. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-

NASDAQ-2015-147, and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31282 Filed 12-10-15; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76579; File No. SR-NYSEMKT-2015-100]

### **Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rules To Establish the Securities Trader and Securities Trader Principal Registration Categories**

December 8, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 24, 2015, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Exchange Rules to (1) prescribe the Securities Traders examination (Series 57) (the "Series 57 Examination") as the qualifying examination for registered Market Makers, Market Maker Authorized Traders ("MMATs"), and Floor Brokers, (2) eliminate reference to the S501 Program as a continuing education requirement, and (3) rename the category "Proprietary Trader" as "Securities Trader" in Exchange rules without making any substantive change to the definition of such term. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 15 U.S.C. 78a.

<sup>4</sup> 17 CFR 240.19b-4.

<sup>12</sup> 15 U.S.C. 78f(b)(8).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend Exchange Rules 921NY, 921.1NY and 931NY to prescribe the Series 57 Examination as the qualifying examination for registered Market Makers, MMATs, and Floor Brokers.

Exchange Rule 921NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Market Maker. Exchange Rule 921.1NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a MMAT. And Exchange Rule 931NY currently specifies that an applicant must pass an examination prescribed by the Exchange in order to register as a Floor Broker. For purposes of these rules, NYSE Amex Options has currently prescribed the successful completion of the Proprietary Trader Qualification Examination ("Series 56 Examination") as the qualifying exam for Market Makers, MMATs and Floor Brokers. In addition, individuals currently engaged solely in proprietary trading, who are not registered as Market Makers, MMATs or Floor Brokers, may qualify for registration by successful completion of the Series 56 Examination or the General Securities Representative Qualification Examination ("Series 7 Examination").

The Exchange proposes to change the prescribed examination for Market Makers, MMATs and Floor Brokers from the Series 56 Examination to the Series 57 Examination. With this proposed rule change, Market Makers, MMATs, Floor Brokers and individuals engaged solely in proprietary trading will qualify

for registration by passing the Series 57 Examination.<sup>4</sup>

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. ("FINRA") in consultation with industry and exchange representatives. The Series 57 examination will be based on the current job functions of securities traders and will include elements of the Series 55 Equity Trader Qualification Examination (which is required to engage in over-the-counter securities trading) and the current Series 56 Registered Proprietary Traders Examination (which is required for associated persons engaged in securities trading).<sup>5</sup> The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 examination will cover, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>6</sup> As such, the Exchange believes that an applicant who has passed the Series 57 Examination is shown to be qualified to act in the capacity of a Market Maker, Floor Broker, MMAT or engage solely in proprietary trading on NYSE Amex Options.

While NYSE Amex Options will no longer be offering the Series 56 Examination as a qualifying exam to new applicants, the Exchange will continue to recognize individuals who have passed that exam as having successfully completed a qualifying exam. Individuals who have taken the Series 56 Examination and have registered in Web CRD<sup>7</sup> as proprietary

traders will have their registration converted in Web CRD on January 4, 2016 to a securities trader. Additionally, individuals currently engaged solely in proprietary trading, who currently qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. Individuals presently registered as Market Makers, MMATs, Floor Brokers or those that engage solely in proprietary trading on NYSE Amex Options, who have previously passed a qualifying exam will not be required to take the Series 57 Examination as a condition of their continued registration. However, the registration of individuals who have taken the Series 56 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals will be required to take the Series 57 Examination in order to register as securities traders. In addition, individuals registered as proprietary traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as securities traders without having to take any additional examinations, provided that no more than two years have passed between the date the individual last registered as a proprietary trader and the date the individual registers as a securities trader.<sup>8</sup>

The Exchange also proposes to amend Exchange Rules 341 and 341A. Under the proposed rule change, the Exchange would rename the category "Proprietary Trader" as "Securities Trader" in Rule 341 without making any substantive change to the definition of such term. A Securities Trader, similar to what is currently required for a Proprietary Trader, would be required to register as such on Web CRD and pass the Series 57 Examination described above, but would not be permitted to function in an agency capacity or otherwise conduct a public business in securities. Additionally, Rule 341 requires that an individual associated with an Exchange member with supervisory responsibility over proprietary trading activities qualify and register as a Proprietary Trader Principal. Under the proposed rule change, the Exchange would replace references in Rule 341 to Proprietary Trader Principal with Securities Trader Principal.

<sup>4</sup> Currently, individuals engaged solely in proprietary trading can alternatively take the Series 7 Examination as a qualifying exam. After implementation of the Series 57 Examination, an individual engaged solely in proprietary trading will be required to take the Series 57 Examination as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading.

<sup>5</sup> While the Series 56 Examination is required for associated persons engaged in proprietary trading, Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they may only engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>6</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

<sup>7</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

<sup>8</sup> See Rule 341A, Commentary .03.

Further, registered persons are required under Rule 341A to comply with the Exchange's continuing education requirements. Specifically, under Rule 341A(a)(1), individuals engaged solely in proprietary trading are required to complete the S501 Program to fulfill the Regulatory Element of their continuing education requirement. With the transition to the Series 57 Examination, the S501 Program will no longer be required; such individuals will instead be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

The Exchange notes that in order to qualify as a Proprietary Trader Principal, an associated person currently must pass the Series 56 Examination or the Series 7 Examination, and the Series 24 Examination. Once the Exchange has adopted the Series 57 Examination as the qualifying exam for a Securities Trader, associated persons would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is registered as a Securities Trader Principal and a General Securities Principal.

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),<sup>9</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>10</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>11</sup> of the Act, in particular, in that it is designed, among other things, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the

public interest. The Exchange believes that prescribing the Series 57 Examination for Market Makers, MMATs, Floor Brokers and for individuals engaged solely in proprietary trading is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>12</sup> Accordingly, adopting the Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>17</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2015-100 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEMKT-2015-100. 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

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(c)(3)(iii).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> See *supra*, note 6.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> 15 U.S.C. 78s(b)(2)(B).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2015-100 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2015-31278 Filed 12-10-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76566; File No. SR-CBOE-2015-108]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.54

December 7, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 23, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to extend its program that allows transactions to take

place at a price that is below \$1 per option contract through January 5, 2017. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.54, *Accommodation Liquidations (Cabinet Trades)*, which sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of \$1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of \$1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a PAR Official/OBO, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the PAR Official/OBO cabinet book (which resting cabinet book orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at \$1 per option contract.

The Exchange has temporarily amended the procedures through January 5, 2015 [sic] to allow

transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option contract.<sup>3</sup> These lower priced transactions are traded pursuant to the same procedures applicable to \$1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also available for trading in option classes participating in the Penny Pilot Program.<sup>4</sup> The Exchange believes that allowing a price of at least \$0 but less than \$1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to market conditions which may result in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of \$100 and the underlying stock might now be trading at \$30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the \$1 cabinet price

<sup>3</sup> See Securities Exchange Act Release Nos. 59188 (December 30, 2008), 74 FR 480 (January 6, 2009) (SR-CBOE-2008-133) (adopting the amended procedures on a temporary basis through January 30, 2009), 59331 (January 30, 2009), 74 FR 6333 (February 6, 2009) (extending the amended procedures on a temporary basis through May 29, 2009), 60020 (June 1, 2009), 74 FR 27220 (June 8, 2009) (SR-CBOE-2009-034) (extending the amended procedures on a temporary basis through June 1, 2010), 62192 (May 28, 2010), 75 FR 31828 (June 4, 2010) (SR-CBOE-2010-052) (extending the amended procedures on a temporary basis through June 1, 2011); 64403 (May 4, 2011), 76 FR 27110 (May 10, 2011) (SR-CBOE-2011-048) (extending the amended procedures on a temporary basis through December 30, 2011); 65872 (December 2, 2011), 76 FR 76788 (December 8, 2011) (SR-CBOE-2011-113) (extending the amended procedures on a temporary basis through June 29, 2012) 67144 (June 6, 2012), 77 FR 35095 (June 12, 2012) (SR-CBOE-2012-053) (extending the amended procedures on a temporary basis through June 28, 2013), and 69854 (June 25, 2013), 78 FR 39424 (July 1, 2013) (SR-CBOE-2013-063); 69893 (June 28, 2013), 78 FR 40539 (July 5, 2013) (both extending the amended procedures on a temporary basis through January 5, 2014) and 71090 (December 17, 2013), 78 FR 77532 (December 23, 2013) (SR-CBOE-2013-118) (extending the amended procedures on a temporary basis through January 5, 2015), and 73974 (December 31, 2014), 80 FR 911 (January 7, 2015) (SR-CBOE-2014-093) (extending the amended procedures on a temporary basis through January 5, 2016).

<sup>4</sup> Currently the \$1 cabinet trading procedures are limited to options classes traded in \$0.05 or \$0.10 standard increment. The \$1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

(e.g., the series might be quoted no bid).<sup>5</sup>

The purpose of the instant rule change is to extend the operation of these temporary procedures through January 5, 2017, so that the procedures can continue without interruption while CBOE considers whether to seek permanent approval of the temporary procedures.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that allowing for liquidations at a price less than \$1 per option contract better

facilitates the closing of options positions that are worthless or not actively trading. Further, the Exchange believes the proposal is consistent with the Act because the proposed extension is of appropriate length to allow the Exchange and the Commission to continue to assess the impact of the Exchange's authority to allow transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option in accordance with its attendant obligations and conditions, including the process for submitting such transactions to OCC for clearing.

### B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that allowing for liquidations at a price less than \$1 per option contract better facilitates the closing of options positions that are worthless or not actively trading. The Exchange believes this promotes fair and orderly markets, as well as assists the Exchange in its ability to effectively attract order flow and liquidity to its market, and ultimately benefit all CBOE Trading Permit Holders ("TPHs") and all investors.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change does not make any changes to Exchange rules, but simply extends an existing temporary program. Further, the program is available to all market participants through CBOE TPHs. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, again, the proposed rule change does not make any changes to Exchange rules, but simply extends an existing temporary program. Moreover, to the extent that the program makes CBOE a more attractive marketplace, as noted above, the program is available to all market participants through CBOE TPHs.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,<sup>9</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2015-108 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-CBOE-2015-108. This file

<sup>5</sup> As with other accommodation liquidations under Rule 6.54, transactions that occur for less than \$1 are not to be disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.54, the transactions are exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 6.24, *Required Order Information*. However, the Exchange maintains quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than \$1 must be reported to the Exchange following the close of each business day. The rule also provides that transactions for less than \$1 will be reported for clearing utilizing forms, formats and procedures established by the Exchange from time to time. In this regard, the Exchange initially intends to have clearing firms directly report the transactions to The Options Clearing Corporation ("OCC") using OCC's position adjustment/transfer procedures. This manner of reporting transactions for clearing is similar to the procedure that CBOE currently employs for on-floor position transfer packages executed pursuant to Exchange Rule 6.49A, *Transfer of Positions*.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> *Id.*

<sup>9</sup> The Exchange has fulfilled this requirement.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2015-108, and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2015-31177 Filed 12-10-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76577; File No. SR-NYSEARCA-2015-116]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 2.23 To Establish the Securities Trader and Securities Trader Principal Registration Categories

December 8, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on

November 24, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Rule 2.23 to (1) prescribe the Securities Traders examination (Series 57) (the "Series 57 Examination") as the qualifying examination for registered Market Makers, Market Maker Authorized Traders ("MMATs"), Floor Brokers and Securities Traders, (2) eliminate reference to the S501 Program as a continuing education requirement, and (3) rename the category "Proprietary Trader" as "Securities Trader" in Exchange rules without making any substantive change to the definition of such term. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend NYSE Arca Rule 2.23 to prescribe the Series 57 Examination as the qualifying examination for registered Market Makers, MMATs, Floor Brokers and Securities Traders and eliminate reference to the S501 Program as a continuing education requirement.

NYSE Arca Rule 2.23 currently specifies that the successful completion

of the Proprietary Trader Qualification Examination ("Series 56 Examination") is required in order to register as a Market Maker, a MMAT, or a Floor Broker.<sup>4</sup> In addition, individuals currently engaged solely in proprietary trading, who are not required to register as Market Makers, MMATs or Floor Brokers, may qualify for registration by successful completion of the Series 56 Examination or the General Securities Representative Qualification Examination ("Series 7 Examination").<sup>5</sup>

The Exchange proposes to change the prescribed examination for Market Makers, MMATs, and Floor Brokers from the Series 56 Examination to the Series 57 Examination and also proposes to replace the Series 56 Examination with the Series 57 Examination for individuals engaged solely in proprietary trading. With this proposed rule change, Market Makers, MMATs, Floor Brokers and individuals engaged solely in proprietary trading will qualify for registration by passing the Series 57 Examination.

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. ("FINRA") in consultation with industry and exchange representatives. The Series 57 Examination will be based on the current job functions of securities traders and will include elements of the Series 55 Equity Trader Qualification Examination (which is required to engage in over-the-counter securities trading) and the current Series 56 Registered Proprietary Traders Examination (which is required for associated persons engaged in proprietary trading).<sup>6</sup> The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 Examination will cover, among other things, recordkeeping and

<sup>4</sup> Under the current rule, Market Makers, MMATs and Floor Brokers are also required to successfully complete an orientation program for the prescribed examination.

<sup>5</sup> Currently, individuals engaged solely in proprietary trading can alternatively take the Series 7 Examination as a qualifying exam. After implementation of the Series 57 Examination, an individual engaged solely in proprietary trading will be required to take the Series 57 Examination as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading.

<sup>6</sup> While the Series 56 Examination is required for associated persons engaged in proprietary trading, Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they may only engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.



recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>7</sup> As such, the Exchange believes that an applicant who has passed the Series 57 Examination is shown to be qualified to act in the capacity of a Market Maker, Floor Broker, MMAT or engage solely in proprietary trading on NYSE Arca.

While NYSE Arca will no longer be offering the Series 56 Examination as a qualifying exam to new applicants, the Exchange will continue to recognize individuals who have passed that exam as having successfully completed a qualifying exam. Individuals who have taken the Series 56 Examination and have registered in Web CRD<sup>8</sup> as proprietary traders will have their registration converted in Web CRD on January 4, 2016 to a securities trader. Additionally, individuals currently engaged solely in proprietary trading, who currently qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. Individuals presently registered as Market Makers, MMATs, Floor Brokers or those engaged solely in proprietary trading on NYSE Arca, who have previously passed a qualifying exam will not be required to take the Series 57 Examination as a condition of their continued registration. However, the registration of individuals who have taken the Series 56 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals will be required to take the Series 57 Examination in order to register as securities traders. In addition, individuals registered as proprietary traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as securities traders without having to take any additional examinations, provided that no more than two years have passed between the date the individual last registered as a proprietary trader and the date the

individual registers as a securities trader.<sup>9</sup>

Under the proposed rule change, the Exchange would rename the category "Proprietary Trader" as "Securities Trader" in Rule 2.23 without making any substantive change to the definition of such term. A Securities Trader, similar to what is currently required for a Proprietary Trader, would be required to register as such on Web CRD and pass the Series 57 Examination described above, but would not be permitted to function in an agency capacity or otherwise conduct a public business in securities. Additionally, Rule 2.23 requires that an individual associated with an Exchange member with supervisory responsibility over proprietary trading activities qualify and register as a Proprietary Trader Principal. Under the proposed rule change, the Exchange would replace references in Rule 2.23 to Proprietary Trader Principal with Securities Trader Principal.

Further, registered persons are required under Rule 2.23(d) to comply with the Exchange's continuing education requirements. Specifically, under Rule 2.23(d)(1)(A), individuals engaged solely in proprietary trading are required to complete the S501 Program to fulfill the Regulatory Element of their continuing education requirement. With the transition to the Series 57 Examination, the S501 Program will no longer be required; such individuals will instead be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

The Exchange notes that in order to qualify as a Proprietary Trader Principal, an associated person currently must pass the Series 56 Examination or the Series 7 Examination, and the Series 24 Examination. Once the Exchange has adopted the Series 57 Examination as the qualifying exam for a Securities Trader, associated persons would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities Trader. Thus, a General Securities Principal may not supervise a Securities Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is registered as a Securities

Trader Principal and a General Securities Principal.

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),<sup>10</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>11</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>12</sup> of the Act, in particular, in that it is designed, among other things, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that prescribing the Series 57 Examination for Market Makers, MMATs, Floor Brokers and for individuals engaged solely in proprietary trading is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Market Makers, MMATs, Floor Brokers and for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>13</sup> Accordingly, adopting the Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 Examination in order to continue in their present duties, so the proposed rule change is not expected to

<sup>7</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

<sup>8</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

<sup>9</sup> See Rule 2.23, Commentary .03.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See *supra*, note 7.

disadvantage current registered persons relative to new entrants in this regard.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>18</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-116 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2015-116. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2015-116 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76587; File No. SR-NYSE-2015-64]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rules To Prescribe the Securities Traders Examination as the Qualifying Examination for Persons Associated With a Member Organization Engaged Solely in Proprietary Trading, and Amend Continuing Education Requirement Applicable to Such Members**

December 8, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 23, 2015, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Exchange rules to prescribe the Securities Traders examination (Series 57) (the "Series 57 Examination") as the qualifying examination for persons associated with a member organization ("Member") engaged solely in proprietary trading, and amend Exchange rules regarding continuing education requirement applicable to such Members. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>18</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 345 currently states that no Member shall permit any natural person to perform the duties customarily performed by a securities lending representative or a direct supervisor of such, unless such person is registered with, qualified by and is acceptable to the Exchange. The rule further states that Members shall comply with NASD Rule 1031 concerning the registration and approval of registered representatives and their supervisors. Under the current rule, each associated person of a Member who is included within the definition of "representative" in NASD Rule 1031 is required to appropriately register with the Exchange if such person is engaged in proprietary trading or directly supervises such activity. In order to engage in proprietary trading on the Exchange, an associated person must be registered as a General Securities Representative (Series 7) as the NYSE does not recognize the Series 56 Examination as an acceptable qualification standard for associated persons engaged in equities proprietary trading.<sup>4</sup>

The Exchange proposes to amend Rule 345 to recognize a new category of limited representative registration for a Securities Trader and allow such individual to register in Web CRD<sup>5</sup> as a Securities Trader in order to engage in proprietary trading. As proposed, a Securities Trader would be any person engaged in the purchase or sale of securities or other similar instruments for the account of a member organization with which such person is associated, as an employee or otherwise, and who does not transact any business

with the public.<sup>6</sup> Under the proposed rule, a Securities Trader must be registered as such on Web CRD and pass an appropriate qualification examination as prescribed by the Exchange. With this proposed rule change, persons associated with a member organization engaged solely in proprietary trading, or who supervise such activity, would qualify for registration by passing the Series 57 Examination.

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. ("FINRA") in consultation with industry and exchange representatives. The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 examination will cover, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>7</sup> The Exchange believes that acceptance of the Series 57 Examination will benefit both the Exchange and the applicable proprietary traders affected by the proposal because the examination would allow an individual who wishes to transact business on NYSE in a limited capacity to qualify by passing an examination tailored to that limited capacity.

Individuals currently engaged solely in proprietary trading, who currently qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. However, the registration of individuals who have taken the Series 7 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals would be required to take the Series 57 Examination in order to register as Securities Traders as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading on the Exchange. In addition, individuals registered as

Proprietary Traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date the individual last registered as a Proprietary Trader and the date the individual registers as a Securities Trader.<sup>8</sup>

In addition, the Exchange proposes to amend Rule 345 to create a new category of limited representative Principal—the Securities Trader Principal. Registration as a Securities Trader Principal would be restricted to individuals whose supervisory responsibilities are limited to Securities Traders, as defined in amended Supplementary Material .10 to Rule 345. As proposed, a supervisor of a Securities Trader must satisfy its registration requirements under Supplementary Material .10 by registering and qualifying as a Securities Trader Principal in Web CRD if (a) such supervisor's supervisory responsibilities are limited solely to supervising Securities Traders; (b) such supervisor is qualified to be so registered by passing the General Securities Principal Qualification Examination—Series 24; and (c) such supervisor is registered pursuant to Exchange Rules as a Securities Trader. Under the proposed rule change, a Securities Trader Principal would not be qualified to function in a Principal or supervisory capacity with responsibility over any area of business other than that involving proprietary trading.<sup>9</sup>

The Exchange notes that in order to currently qualify as a Proprietary Trader Principal, an associated person must pass the Series 7 Examination and the Series 24 Examination. Once the Series 57 Examination becomes the qualifying exam for a Securities Trader, associated persons would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is appropriately registered as a Securities Trader Principal and a General Securities Principal.

<sup>4</sup> While the Series 7 Examination is required for associated persons engaged in proprietary trading, Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they only may engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>5</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

<sup>6</sup> The proposed definition is similar to NYSE MKT LLC Rule 341, Commentary .01(c) and NYSE Arca, Inc. Rule 2.23(b)(2)(C).

<sup>7</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

<sup>8</sup> See Rule 345A, Commentary .30.

<sup>9</sup> The proposed rule is similar to NYSE MKT LLC Rule 341, Commentary .01(e) and NYSE Arca, Inc. Rule 2.23(b)(3)(B).

Further, registered persons are required under Rule 345A to comply with the Exchange's continuing education requirements. Specifically, under Rule 345A(a)(1), no Member may permit any registered person to continue to, and no registered person may continue to, perform duties as a registered person, unless such person has complied with the Exchange's continuing education requirements. The Exchange proposes to amend the rule to specifically require each registered person who is qualified solely as a Securities Trader to comply with the continuing education requirements appropriate for the Series 57.<sup>10</sup>

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),<sup>11</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>12</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>13</sup> of the Act, in particular, in that it is designed, among other things, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change to make the Series 57 Examination the qualifying exam for individuals engaged solely in proprietary trading is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>14</sup> Accordingly, adopting the Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

<sup>10</sup> Registered persons will be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See *supra*, note 7.

## B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

Commission shall institute proceedings under Section 19(b)(2)(B)<sup>19</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2015-64 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2015-64. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2015-64 and should be submitted on or before January 4, 2016.

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31283 Filed 12-10-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76578; File No. SR-NYSEARCA-2015-117]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rules To Prescribe the Securities Traders Examination as the Qualifying Examination for Employees of ETP Holders Engaged Solely in Proprietary Trading, and Amend Continuing Education Requirement Applicable to Such Members

December 8, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 23, 2015, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange rules to prescribe the Securities Traders examination (Series 57) (the “Series 57 Examination”) as the qualifying examination for employees of ETP Holders<sup>4</sup> (“Member”) engaged solely in proprietary trading, and amend Exchange rules regarding continuing education requirement applicable to such Members. The proposed rule

change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Rule 2.21 currently requires each employee of an ETP Holder compensated directly or indirectly for the solicitation or handling of business in securities, including trading in securities for the account of the ETP Holder to be appropriately registered in Web CRD. The rule further states that in order to satisfy the registration requirement, among other things, a Member must satisfy applicable examination requirements as prescribed by the Exchange. In order to engage in proprietary trading on the Exchange, or directly supervise such activity, employees of ETP Holders must be registered as a General Securities Representative (Series 7) as NYSE Arca does not recognize the Series 56 Examination as an acceptable qualification standard for employees of ETP Holders engaged in equities proprietary trading.<sup>5</sup>

The Exchange proposes to amend Rule 2.21 to recognize a new category of limited representative registration for a Securities Trader and allow such individual to register in Web CRD<sup>6</sup> as a

Securities Trader in order to engage in proprietary trading. As proposed, a Securities Trader would be any person engaged in the purchase or sale of securities or other similar instruments for the account of an ETP Holder with which such person is associated, as an employee or otherwise, and who does not transact any business with the public.<sup>7</sup> Under the proposed rule, a Securities Trader must be registered as such on Web CRD and pass an appropriate qualification examination as prescribed by the Exchange. With this proposed rule change, a Member engaged solely in proprietary trading, or who supervises such activity, would qualify for registration by passing the Series 57 Examination.

The Series 57 Examination is being developed by the Financial Industry Regulatory Authority, Inc. (“FINRA”) in consultation with industry and exchange representatives. The Series 57 Examination will be based on industry rules applicable to trading of equity securities and listed options contracts. The Series 57 examination will cover, among other things, recordkeeping and recording requirements; types and characteristics of securities and investments; trading practices; and display, execution, and trading systems.<sup>8</sup> The Exchange believes that acceptance of the Series 57 Examination will benefit both the Exchange and the applicable proprietary traders affected by the proposal because the examination would allow an individual who wishes to transact business on NYSE Arca in a limited capacity to qualify by passing an examination tailored to that limited capacity.

Individuals currently engaged solely in proprietary trading, who currently qualify for registration by passing the Series 7 Examination and have registered in Web CRD as Proprietary Traders will have their registration converted in Web CRD on January 4, 2016 to a Securities Trader without having to take any additional examinations and without having to take any other actions. However, the registration of individuals who have taken the Series 7 Examination will not be converted to a Securities Trader if they have not registered as a Proprietary Trader in Web CRD by December 28, 2015. After that date, these individuals

<sup>20</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> Pursuant to NYSE Arca Equities Rule 1.1(n), the term “ETP Holder” refers to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an ETP. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. NYSE Arca Equities Rule 1.1(m) defines “ETP” as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

<sup>5</sup> While the Series 7 Examination is required for employees of ETP Holders engaged in proprietary trading, Exchange rules do not require such individuals to work at a proprietary trading firm only. These individuals can work at any type of firm. However, they only may engage in proprietary trading at the firm where they are employed. For example, an individual engaged in proprietary trading at a full service firm, who is registered solely to engage in proprietary trading, may not act as a registered representative for that firm.

<sup>6</sup> Web CRD is the central licensing and registration system for the U.S. securities industry and its regulators.

<sup>7</sup> The proposed definition is similar to NYSE MKT LLC Rule 341, Commentary .01(c) and NYSE Arca, Inc. Rule 2.23(b)(2)(C) [sic].

<sup>8</sup> See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (SR-FINRA-2015-017) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories).

would be required to take the Series 57 Examination in order to register as Securities Traders as the Series 7 Examination would no longer serve as a qualifying exam to engage solely in proprietary trading on the Exchange. In addition, individuals registered as Proprietary Traders in Web CRD prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date the individual last registered as a Proprietary Trader and the date the individual registers as a Securities Trader.<sup>9</sup>

In addition, the Exchange proposes to amend Rule 2.21 to create a new category of limited representative Principal—the Securities Trader Principal. Registration as a Securities Trader Principal would be restricted to individuals whose supervisory responsibilities are limited to Securities Traders, as defined in amended Commentary .03 to Rule 2.21. As proposed, a supervisor of a Securities Trader must satisfy its registration requirements under Commentary .03 to Rule 2.21 by registering and qualifying as a Securities Trader Principal in Web CRD if (a) such supervisor's supervisory responsibilities are limited solely to supervising Securities Traders; (b) such supervisor is qualified to be so registered by passing the General Securities Principal Qualification Examination—Series 24; and (c) such supervisor is registered pursuant to Exchange Rules as a Securities Trader. Under the proposed rule change, a Securities Trader Principal would not be qualified to function in a Principal or supervisory capacity with responsibility over any area of business other than that involving proprietary trading.<sup>10</sup>

The Exchange notes that in order to currently qualify as a Proprietary Trader Principal, an individual must pass the Series 7 Examination and the Series 24 Examination. Once the Series 57 Examination becomes the qualifying exam for a Securities Trader, such individuals would need to pass the Series 57 Examination and the Series 24 Examination in order to register as a Securities Trader Principal. Only those individuals who are registered as such would be qualified to supervise a Securities Trader. Individuals registered as a General Securities Principal would not be qualified to supervise a Securities

Trader, nor would a Securities Trader Principal be able to act as a General Securities Principal, unless the individual is appropriately registered as a Securities Trader Principal and a General Securities Principal.

Further, registered persons are required under Rule 2.21(d) to comply with the Exchange's continuing education requirements. Specifically, under Rule 2.21(d), no Member may permit any registered person to continue to, and no registered person may continue to, perform duties as a registered person, unless such person has complied with the Exchange's continuing education requirements. The Exchange proposes to amend the rule to specifically require each registered person who is qualified solely as a Securities Trader to comply with the continuing education requirements appropriate for the Series 57.<sup>11</sup>

Within 30 days of filing the proposed rule change, the Exchange will issue a Regulatory Bulletin announcing the operative date of the rule change, which will not be sooner than January 4, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),<sup>12</sup> in general, and furthers the objectives of Section 6(c)(3)(B)<sup>13</sup> of the Act, pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons, and Section 6(b)(5)<sup>14</sup> of the Act, in particular, in that it is designed, among other things, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change to make the Series 57 Examination the qualifying exam for individuals engaged solely in proprietary trading is appropriate because the Series 57 Examination addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for such individuals to appropriately register under Exchange rules. In addition, the Series 57 Examination is expected to be shared by other exchanges and become the industry standard.<sup>15</sup> Accordingly, adopting the

Series 57 Examination will help to promote consistency in examination requirements and uniformity across markets.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>18</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>19</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

<sup>11</sup> Registered persons will be required to complete the S101 Program to fulfill the Regulatory Element of their continuing education requirement.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See *supra*, note 8.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> See Rule 2.21, Commentary .04.

<sup>10</sup> The proposed rule is similar to NYSE MKT LLC Rule 341, Commentary .01(e) and NYSE Arca, Inc. Rule 2.23(b)(3)(B).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>20</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-117 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEARCA-2015-117. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only

information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2015-117 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2015-31277 Filed 12-10-15; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76567; File No. SR-CBOE-2015-109]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

December 7, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 24, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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 Fees Schedule.<sup>3</sup> Specifically, the Exchange proposes to increase the Customer Priority Surcharge fee assessed to contracts executed in VIX volatility index options ("VIX options") and weekly S&P 500 options ("SPXW options"). Currently, the VIX Customer Priority Surcharge ("VIX Surcharge") is assessed on all Customer (C) VIX contracts executed electronically that are Maker and not Market Turner. Additionally, the VIX Surcharge is only assessed on such contracts that have a premium of \$0.11 or greater. The Exchange proposes to increase the VIX Surcharge from \$0.10 per contract to \$0.20 per contract on such contracts that have a premium of \$0.11 or greater. The SPXW Customer Priority Surcharge ("SPXW Surcharge") is currently assessed on all Customer (C) SPXW contracts executed electronically.<sup>4</sup> The Exchange also proposes to increase the SPXW Surcharge from \$0.05 per contract to \$0.10 per contract.

The Exchange also proposes to amend the Fees Schedule with respect to the Qualified Contingent Cross ("QCC") Orders Rate Table. By way of background, the Fees Schedule currently provides for a "QCC Rate Table" which sets forth a transaction fee and credit for QCC transactions. In addition, the "Notes" section of the QCC Rate Table includes the definition of a QCC transaction. Specifically the "Notes" section currently provides that "A QCC transaction is comprised of an 'initiating order' to buy (sell) at least 1,000 contracts, coupled with a contra-side order to sell (buy) an equal number of contracts . . ." The Exchange notes that it recently amended its QCC rules to expand the availability of QCC orders

<sup>3</sup> The Exchange initially filed the proposed fee change on November 2, 2015 (SR-CBOE-2015-101). On November 24, 2015, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> The SPXW Surcharge is not assessed to contracts executed by a floor broker using a PAR terminal or orders in SPXW options in SPXW electronic book that are executed during opening rotation on the final settlement day of VIX options and futures which have the expiration that contribute to the VIX settlement calculation.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

by permitting multiple contra-parties on a QCC order.<sup>5</sup> As such, the definition of QCC Orders in CBOE Rule 6.53 has been amended. The Exchange proposes to similarly amend the Fees Schedule to incorporate this new definition to maintain consistency in the Rules and Fees Schedule and avoid potential confusion.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>8</sup> which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

The Exchange believes that the SPXW and VIX Customer Priority Surcharge increases are reasonable because the amount of the new fees are within the range of surcharges assessed for customer transactions in other CBOE proprietary products (for example customers are currently assessed a \$0.20 Hybrid 3.0 Execution Surcharge (which essentially acts as a customer priority surcharge) in SPX options).

The Exchange believes that it is equitable and not unfairly discriminatory to assess the SPXW and VIX Priority Surcharges to Customers and not other market participants because Customers are not subject to additional costs for effecting transactions in SPXW and VIX which are applicable to other market participants, such as license surcharges. Additionally, Customers are not subject

to fees applicable to other market participants such as connectivity fees and fees relating to Trading Permits, and are not subject to the same obligations as other market participants, including regulatory and compliance requirements and quoting obligations.

The Exchange notes that the VIX Surcharge was adopted to minimize the cost differentials between manual and electronic executions (as Floor Brokers assess a commission on customer executions). As such, the Exchange believes it's equitable and not unfairly discriminatory to assess the VIX Surcharge to Makers and not Takers because electronic Maker orders are analogous to customer orders represented by Floor Brokers in open outcry (as compared to Takers that immediately remove liquidity and do not rest in the book). The Exchange believes it's equitable and not unfairly discriminatory to assess only Makers in VIX and both Makers and Takers in SPXW because the SPX product group has reached a mature and established level since its introduction while VIX has not and the Exchange therefore wants to incentivize liquidity in VIX and not discourage trading. The Exchange also notes that another S&P 500 product (SPX) also charges a surcharge to both Makers and Takers (*i.e.*, the Hybrid 3.0 Surcharge). The Exchange believes that it is equitable and not unfairly discriminatory to only assess the VIX Surcharge to Maker Non-Turners because the Exchange wants to encourage improving the market ("turning").

The Exchange believes that it is equitable and not unfairly discriminatory to only assess the VIX Surcharge when the contract premium is at least \$0.11 because the Exchange wants to reduce costs on low priced VIX options to encourage Customers to close and roll over positions close to expiration at low premium levels. Currently, such Customers are less likely to do this because the transaction fee is closer to the premium level. The Exchange believes that maintaining lowered fees overall for VIX options trading with a premium of \$0.00–\$0.10 will encourage the trading of such options. As such, the Exchange does not wish to assess the VIX Surcharge on such options in order to keep the costs low.

Finally, the Exchange believes that codifying the amended definition of a QCC transaction in the Fees Schedule (in addition to the Exchange's Rules, where it is currently provided for), will alleviate potential confusion and maintain clarity in the Fees Schedule, which serves to remove impediments to

and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

## B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different electronic transaction fees are assessed to different market participants, different market participants have different obligations and circumstances as noted above. The Exchange believes that the proposal to increase the surcharge amount assessed to Customers for executions in SPXW and VIX contracts will not cause an unnecessary burden on intermarket competition because SPXW and VIX are only traded on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

Additionally, the proposed change to codify in the Fees Schedule the revised definition of a QCC order is not intended for competitive reasons and only applies to CBOE. The Exchange notes that no rights or obligations of Trading Permit Holders are affected by this particular change.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

## 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>9</sup> and paragraph (f) of Rule 19b-4<sup>10</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 will institute proceedings to determine whether the proposed rule

<sup>5</sup> See Securities Exchange Act Release No. 75756 (August 25, 2015), 80 FR 168 (August 31, 2015) (SR-CBOE-2015-073).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).



change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2015-109 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-CBOE-2015-109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2015-109, and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015-31178 Filed 12-10-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76576; File No. SR-EDGX-2015-59]

### Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Rule 22.10, Limitation on Dealings, Related to the EDGX Options Market

December 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 1, 2015, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal for the EDGX Options Market ("EDGX Options") to adopt a principles-based approach to prohibit the misuse of material nonpublic information by Market Makers by deleting Rule 22.10 (Limitations on Dealings). The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>5</sup>

The text of the proposed rule change is available at the Exchange's Web site at [www.batstrading.com](http://www.batstrading.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(6)(iii).

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

##### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

###### 1. Purpose

The Exchange proposes to adopt a principles-based approach to prohibit the misuse of material non-public information by Market Makers by deleting Rule 22.10 (Limitations on Dealings). In doing so, the Exchange, with regard to EDGX Options, would harmonize its rules governing Market Makers and Options Members that are not Market Makers relating to the protection against misuse of material, non-public information. The Exchange believes that Rule 22.10 is no longer necessary because all Options Members, including Market Makers, are subject to the Exchange's generally applicable principles-based requirements governing the protection against the misuse of material, non-public information, pursuant to Rule 5.5 (Prevention of the Misuse of Material, Non-Public Information), which obviates the need for separately prescribed requirements for a subset of Exchange participants. Additionally, there is no separate regulatory purpose served by having separate rules for Market Makers. The Exchange notes that this proposed rule change will not decrease the protections against the misuse of material, non-public information; instead, it is designed to provide more flexibility to Options Members. This is a competitive filing that is based on a proposal recently submitted by NYSE MKT LLC ("NYSE MKT") and approved by the Commission.<sup>6</sup>

###### Background

The Exchange has two classes of EDGX Options participants.

<sup>6</sup> See Securities Exchange Act Release No. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving SR-NYSEMKT-2015-23).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

Specifically, pursuant to Rule 16.1(a)(38), the term “Options Member” means a firm or organization that is registered with the Exchange pursuant to Chapter XVII of the Rules for the purposes of participating in options trading on EDGX Options either as an “Options Order Entry Firm” or as an “Options Market Maker.” Pursuant to Rule 16.1(a)(36), the terms “Options Order Entry Firm” or “Order Entry Firm” or “OEF” mean those Options Members representing as agent Customer Orders on EDGX Options and those non-Market Maker Members conducting proprietary trading. Pursuant to Rule 16.1(a)(37), the term “Options Market Maker” or “Market Maker” means an Options Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter XXII of the Rules.

Rule 22.5 (Obligations of Market Makers) describes the obligations of Market Makers. Rule 22.6 (Market Maker Quotations) sets forth quoting obligations of Market Makers.<sup>7</sup> Rule 22.10 (Limitations on Dealings) requires Market Makers to maintain information barriers that are reasonably designed to prevent the misuse of material, non-public corporate or markets information in the possession of persons on one side of the information barrier by persons on the other side of the information barrier.

#### Proposed Rule Change

The Exchange believes that the particularized guidelines for Market Makers in Rule 22.10 are no longer necessary and proposes to delete Rule 22.10. The Exchange believes that Rule 5.5 (Prevention of the Misuse of Material, Nonpublic Information), which governs the misuse of material, non-public information and applies to all Members (including Options Members), provides an appropriate, principles-based approach to prevent the market abuses that Rule 22.10 seeks to address. Specifically, Rule 5.5 requires every Member (including Options Members) to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such Member or persons associated with such Member. For purposes of Rule 5.5, the misuse of material, non-public information

includes, but is not limited to, the following:

(1) Trading in any securities issued by a corporation, or in any related securities or related options or other derivative securities, while in possession of material, non-public information concerning that issuer;

(2) Trading in a security or related options or other derivative securities, while in possession of material, non-public information concerning imminent transactions in the security or related securities; and

(3) Disclosing to another person or entity any material nonpublic information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of facilitating the possible misuse of such material nonpublic information.

Because Options Members are already subject to the requirements of Rule 5.5, the Exchange does not believe that it is necessary to separately require particularized limitations on Market Makers. Deleting Rule 22.10, with its particularized limitations would provide Market Makers with the flexibility to adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market in a manner similar to how Options Members on the Exchange currently operate in conformity with Rule 5.5.

As noted above, Market Makers are distinguished under Exchange rules from other Options Members only to the extent that Market Makers have heightened quoting obligations. However, such heightened quoting obligations do not afford different or greater access to nonpublic information than any other Options Member of the Exchange.<sup>8</sup> Therefore, because Market Makers do not have any trading advantages over Order Entry Firms on EDGX Options, the Exchange believes that they should be subject to the same rules regarding the protection against the misuse of material non-public information, which in this case, is existing Rule 5.5.

The Exchange notes that its proposed approach to use a principles-based

<sup>8</sup> The Exchange notes that by deleting Rule 22.10, the Exchange would no longer require specific information barriers for Market Makers; however, as is the case currently with Options Members, information barriers of new participants would be subject to review as part of a new firm application. Moreover, the policies and procedures of Market Makers, including those relating to any information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

approach to protecting against the misuse of material non-public information for all of its registered Options Members is consistent with recently approved rule changes for NYSE MKT and recently filed changes for the options platform of BATS Exchange, Inc. (“BATS Options”), the International Securities Exchange LLC (“ISE”), and the Boston Options Exchange LLC (“BOX”).<sup>9</sup> Each of these exchanges has moved to a principles-based approach to protecting against the misuse of material non-public information. In connection with approving those rule changes, the Commission found that, with adequate oversight by the exchanges of their members, eliminating prescriptive information barrier requirements should not reduce the effectiveness of exchange rules requiring its members to establish and maintain systems to supervise the activities of its members, including written procedures reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange.<sup>10</sup>

The Exchange believes that a principles-based rule applicable to members of options markets would be effective in protecting against the misuse of material non-public information. Indeed, Exchange Rule 5.5 is currently applicable to Options Members and already requires policies and procedures reasonably designed to prevent the misuse of material nonpublic information. The Exchange believes that Rule 5.5 provides appropriate protection against the misuse of material nonpublic information by Options Members and that there is no longer a need for prescriptive information barrier requirements set forth in Rule 22.10.

<sup>9</sup> See Securities Exchange Act Release No. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section (f) of Rule 927.5NY); See also Securities Exchange Act Release Nos. 76327 (November 2, 2015), 80 FR 68884 (November 6, 2015) (SR-BATS-2015-93) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Rule 22.10, Limitations on Dealings); 75792 (August 31, 2015), 80 FR 53601 (September 4, 2015) (SR-ISE-2015-26) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Principles-Based Approach To Prohibit the Misuse of Material, Non-Public Information by Market Makers by Deleting Rule 810); 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR-BOX-2015-31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Principles-Based Approach To Prohibit the Misuse of Material Nonpublic Information by Market Makers).

<sup>10</sup> *Id.*

<sup>7</sup> Rule 22.6 generally requires that Market Makers provide firm, two-sided, continuous quotations, in minimum size, for the options series to which it is registered.

The Exchange notes that even with this proposed rule change and the elimination of the requirement that the Exchange pre-approve a Member's policies and procedures, pursuant to Rule 5.5, an Options Member would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to achieve compliance with applicable federal securities law and regulations, including Section 15(g) of the Act,<sup>11</sup> and with applicable Exchange rules, including being reasonably designed to protect against the misuse of material, non-public information. Thus, the Exchange does not believe there will be any material change to Member's information barriers as a result of the Exchange's pre-approval no longer being required. In fact, the Exchange anticipates that the lack of such pre-approval would facilitate Market Maker's ability to more quickly implement changes to their information barrier as necessary to protect against the misuse of material, non-public information.

The Exchange is not proposing to change what is considered to be material, non-public information and, thus, would not expect there to be any changes to the types of information that an affiliated brokerage business of a Market Maker could share with such Market Maker. In addition, the Exchange notes that the proposed rule change would not permit the affiliates of a Market Maker to have access to any non-public order or quote information of the Market Maker, including information regarding the non-displayed size of reserve orders.<sup>12</sup> Affiliates of Market Makers would only be permitted to have access to orders and quotes that are publicly available to all market participants.

While information barriers would not specifically be required under the proposal, Rule 5.5 already requires that an Options Member consider its business model or business activities in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

The Exchange believes that the proposed reliance on the principles-based Rule 5.5 would ensure that an Options Member would be required to protect against the misuse of any material non-public information. As noted above, Rule 5.5 already requires that Members refrain from trading while in possession of material non-public information concerning imminent transactions in the security or related product. The Exchange believes that moving to a principles-based approach rather than prescribing particularized information barriers applicable to Market Makers would provide Market Makers with flexibility when managing risk across a firm, including integrating options positions with other positions of the firm or, as applicable, by the respective independent trading unit.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>13</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>14</sup> because it is designed to prevent fraudulent and manipulative acts and practices, would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles-based approach to permit an Options Member to maintain and enforce policies and procedures to, among other things, prohibit the misuse of material non-public information and provide flexibility on how a Market Maker structures its operations. The Exchange notes that the proposed rule change is based upon an approved rule of the Exchange to which Options Members are subject—Rule 5.5—and the proposed change harmonizes the rules governing Options Members. Moreover, Market Makers would continue to be subject to federal and Exchange requirements for protecting material non-public order information.<sup>15</sup> The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free

and open market because it would harmonize the Exchange's approach to protecting against the misuse of material nonpublic information and no longer subject Market Makers to particularized prescriptive requirements. The Exchange does not believe that the existing prescriptive requirements applicable to Options Market Makers are narrowly tailored to their respective role because Market Makers do not have access to Exchange trading information in a manner different from any other Options Member that is not a Market Maker.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to Options Members the type of conduct that is prohibited by the Exchange. While the proposal eliminates certain prescriptive requirements relating to the misuse of material non-public information, Market Makers would remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material, nonpublic information. Additionally, the policies and procedures of Market Makers, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange.<sup>16</sup>

The Exchange notes that the proposed rule change would still require that Market Makers maintain and enforce policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Even though there would no longer be particularized Market Maker information barriers, any Market Maker written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of prescribed requirements should not reduce the effectiveness of the Exchange rules to protect against the misuse of material non-public information. Rather, all Options Members will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover, while particularized information barriers may no longer be required, an

<sup>11</sup> 15 U.S.C. 78o(g).

<sup>12</sup> The Exchange notes that, like NYSE MKT, the Exchange does not offer reserve orders, which are orders with a displayed price and size as well as a non-displayed size.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See 15 U.S.C. 78o(g) and Rule 5.5.

<sup>16</sup> See *supra*, note 8.

Options Member's business model or business activities may dictate that an information barrier or functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to Market Makers, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material non-public information.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by NYSE MKT that was recently approved by the Commission.<sup>17</sup> The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

The Exchange believes that the proposal will enhance competition by allowing Market Makers to comply with applicable Exchange rules in a manner best suited to their business models, business activities, and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon Market Makers.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (A) Significantly affect

the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>19</sup> the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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-EDGX-2015-59 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGX-2015-59. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EDGX-2015-59 and should be submitted on or before January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-31275 Filed 12-10-15; 8:45 am]

**BILLING CODE 8011-01-P**

**DEPARTMENT OF STATE**

**[Public Notice: 9375]**

**Notice of Public Meeting**

The Department of State will conduct an open meeting at 9:00 a.m. on Wednesday, 6 January 2016, in Conference Room 4 of the Department of Transportation Headquarters Conference Center, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590. The primary purpose of the meeting is to prepare for the third Session of the International Maritime Organization's (IMO) Sub-Committee on Ship Design and Construction to be held at the IMO headquarters, London, United Kingdom, January 18-22, 2016.

The agenda items to be considered include:

- Amendments to SOLAS regulations II-1/6 and II-1/8-1
- Computerized stability support for the master in case of flooding for existing passenger ships
- Guidelines on safe return to port for passenger ships

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4.

<sup>20</sup> 17 CFR 200.30-3(a)(1A).

<sup>17</sup> See *supra*, note 6.

- Finalization of second-generation intact stability criteria
- Amendments to part B of the 2008 IS Code on towing, lifting and anchor handling operations
- Amendments to SOLAS and FSS Code to make evacuation analysis mandatory for new passenger ships and review of the Recommendation on evacuation analysis for new and existing passenger ships
- Amendments to SOLAS chapter II-1 and associated guidelines on damage control drills for passenger ships
- Revision of section 3 of the Guidelines for damage control plans and information to the master (MSC.1/Circ.1245) for passenger ships
- Classification of offshore industry vessels and a review of the need for a non-mandatory code for offshore construction support vessels
- Guidelines for wing-in-ground craft
- Amendments to the 2011 ESP Code
- Unified interpretation to provisions of IMO safety, security, and environment-related Conventions
- Revised SOLAS regulation II-1/3-8 and associated guidelines (MSC.1/Circ.1175) and new guidelines for safe mooring operations for all ships
- Mandatory Instrument and/or provisions addressing safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages
- Guidelines for use of Fibre Reinforced Plastic (FRP) within ship structures

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LT Joshua Kapusta, by email at [Joshua.A.Kapusta@uscg.mil](mailto:Joshua.A.Kapusta@uscg.mil), by phone at (202) 372-1428, by fax at (202) 372-1925, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593-7509 not later than Wednesday, 30 December 2015, 7 days prior to the meeting. A call-in number option will be available upon RSVP. Requests made after 30 December 2015, might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Department of Transportation Headquarters. This location is accessible by taxi, privately owned conveyance, and public transportation (located near the Navy Yard Metro Station). Additional information regarding this and other IMO public meetings may be found at: [www.uscg.mil/imo](http://www.uscg.mil/imo).

Dated: November 12, 2015.

**Jonathan W. Burby,**

*Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2015-31269 Filed 12-10-15; 8:45 am]

**BILLING CODE 4710-09-P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Determination of Trade Surplus in Certain Sugar and Syrup Goods and Sugar-Containing Products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia, and Panama

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** In accordance with relevant provisions of the Harmonized Tariff Schedule of the United States (HTS), the Office of the United States Trade Representative (USTR) is providing notice of its determination of the trade surplus in certain sugar and syrup goods and sugar-containing products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia, and Panama. As described below, the level of a country's trade surplus in these goods relates to the quantity of sugar and syrup goods and sugar-containing products for which the United States grants preferential tariff treatment under (i) the United States-Chile Free Trade Agreement (Chile FTA); (ii) the United States-Morocco Free Trade Agreement (Morocco FTA); (iii) the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR); (iv) the United States-Peru Trade Promotion Agreement (Peru TPA); (v) the United States-Colombia Trade Promotion Agreement (Colombia TPA), and (vi) the United States-Panama Trade Promotion Agreement (Panama TPA).

**DATES:** *Effective Date:* January 1, 2016.

**ADDRESSES:** Inquiries may be mailed or delivered to Ronald Baumgarten, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Ronald Baumgarten, Office of Agricultural Affairs, telephone: (202) 395-9582 or facsimile: (202) 395-4579.

**SUPPLEMENTARY INFORMATION:**

*Chile:* Pursuant to section 201 of the United States-Chile Free Trade Agreement Implementation Act (Pub. L.

108-77; 19 U.S.C. 3805 note), Presidential Proclamation No. 7746 of December 30, 2003 (68 FR 75789) implemented the Chile FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Chile FTA.

Note 12(a) to subchapter XI of HTS chapter 99 provides that USTR is required to publish annually in the **Federal Register** a determination of the amount of Chile's trade surplus, by volume, with all sources for goods in Harmonized System (HS) subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.20, 1702.30, 1702.40, 1702.60, 1702.90, 1806.10, 2101.12, 2101.20, and 2106.90, except that Chile's imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Chile FTA are not included in the calculation of Chile's trade surplus. (HS subheading 1701.11 was reclassified as 1701.13 and 1701.14 by Proclamation 8771 of December 29, 2011, 77 FR 413.)

Note 12(b) to subchapter XI of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Chile entered under subheading 9911.17.05 in any calendar year (beginning in calendar year 2015) shall be the quantity of goods equal to the amount of Chile's trade surplus in subdivision (a) of the note.

During calendar year (CY) 2014, the most recent year for which data is available, *Chile's* imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 554,753 metric tons according to data published by the *Servicio Nacional de Aduana (Chile Customs)*. Based on this data, USTR determines that Chile's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) and U.S. Note 12(c) to subchapter XI of HTS chapter 99, goods of Chile are not eligible to enter the United States duty-free under subheading 9911.17.05 or at preferential tariff rates under subheading 9911.17.10 through 9911.17.85 in CY 2016.

*Morocco:* Pursuant to section 201 of the United States-Morocco Free Trade Agreement Implementation Act (Pub. L. 108-302; 19 U.S.C. 3805 note), Presidential Proclamation No. 7971 of December 22, 2005 (70 FR 76651) implemented the Morocco FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Morocco FTA.

Note 12(a) to subchapter XII of HTS chapter 99 provides that USTR is required to publish annually in the **Federal Register** a determination of the

amount of Morocco's trade surplus, by volume, with all sources for goods in HS subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.40, and 1702.60, except that Morocco's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Morocco FTA are not included in the calculation of Morocco's trade surplus. (HS subheading 1701.11 was reclassified as 1701.13 and 1701.14 by Proclamation 8771 of December 29, 2011, 77 FR 413.)

Note 12(b) to subchapter XII of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.05 in an amount equal to the lesser of Morocco's trade surplus or the specific quantity set out in that note for that calendar year.

Note 12(c) to subchapter XII of HTS chapter 99 provides preferential tariff treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.10 through 9912.17.85 in an amount equal to the amount by which Morocco's trade surplus exceeds the specific quantity set out in that note for that calendar year.

During CY 2014, the most recent year for which data is available, Morocco's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 766,540 metric tons according to data published by its customs authority, the *Office des Changes*. Based on this data, USTR determines that Morocco's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) and U.S. Note 12(c) to subchapter XII of HTS chapter 99, goods of Morocco are not eligible to enter the United States duty-free under subheading 9912.17.05 or at preferential tariff rates under subheading 9912.17.10 through 9912.17.85 in CY 2015.

**CAFTA-DR:** Pursuant to section 201 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109-53; 19 U.S.C. 4031), Presidential Proclamation No. 7987 of February 28, 2006 (71 FR 10827), Presidential Proclamation No. 7991 of March 24, 2006 (71 FR 16009), Presidential Proclamation No. 7996 of March 31, 2006 (71 FR 16971), Presidential Proclamation No. 8034 of June 30, 2006 (71 FR 38509), Presidential Proclamation No. 8111 of February 28, 2007 (72 FR 10025), Presidential Proclamation No. 8331 of December 23, 2008 (73 FR 79585), and Presidential Proclamation No. 8536 of June 12, 2010

(75 FR 34311) implemented the CAFTA-DR on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the CAFTA-DR.

Note 25(b)(i) to subchapter XXII of HTS chapter 98 provides that USTR is required to publish annually in the **Federal Register** a determination of the amount of each CAFTA-DR country's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that each CAFTA-DR country's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 and its imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the CAFTA-DR are not included in the calculation of that country's trade surplus.

U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of each CAFTA-DR country entered under subheading 9822.05.20 in an amount equal to the lesser of that country's trade surplus or the specific quantity set out in that note for that country and that calendar year.

During CY 2014, the most recent year for which data is available, Costa Rica's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 110,338 metric tons according to data published by the *Costa Rican Customs Department, Ministry of Finance*. Based on this data, USTR determines that Costa Rica's trade surplus is 110,338 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Costa Rica for CY 2016 is 13,200 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Costa Rica that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 13,200 metric tons (*i.e.*, the amount that is the lesser of Costa Rica's trade surplus and the specific quantity set out in that note for Costa Rica for CY 2016).

During CY 2014, the most recent year for which data is available, the *Dominican Republic's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 27,413 metric tons according to data published by the *National Direction of Customs (DGA)*. Based on this data, USTR determines that the Dominican Republic's trade surplus is 27,413 metric tons. The specific quantity set

out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for the Dominican Republic for CY 2016 is 12,000 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of the Dominican Republic that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 12,000 metric tons (*i.e.*, the amount that is the lesser of the Dominican Republic's trade surplus and the specific quantity set out in that note for the Dominican Republic for CY 2016).

During CY 2014, the most recent year for which data is available, *El Salvador's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 286,304 metric tons according to data published by the *Central Bank of El Salvador*. Based on this data, USTR determines that El Salvador's trade surplus is 286,304 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for El Salvador for CY 2016 is 32,860 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of El Salvador that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 32,860 metric tons (*i.e.*, the amount that is the lesser of El Salvador's trade surplus and the specific quantity set out in that note for El Salvador for CY 2016).

During CY 2014, the most recent year for which data is available, *Guatemala's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 1,796,904 metric tons according to data published by the *Asociación de Azucareros de Guatemala (ASAZGUA)*. Based on this data, USTR determines that Guatemala's trade surplus is 1,796,904 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Guatemala for CY 2016 is 44,520 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Guatemala that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 44,520 metric tons (*i.e.*, the amount that is the lesser of Guatemala's trade surplus and the specific quantity set out in that note for Guatemala for CY 2016).

During CY 2014, the most recent year for which data is available, *Honduras's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 128,410 metric tons according to data published by the *Central Bank of Honduras*. Based on this data, USTR determines that

Honduras' trade surplus is 128,410 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Honduras for CY 2016 is 9,600 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Honduras that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 9,600 metric tons (*i.e.*, the amount that is the lesser of Honduras' trade surplus and the specific quantity set out in that note for Honduras for CY 2016).

During CY 2014, the most recent year for which data is available, *Nicaragua's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 384,051 metric tons according to data published by the *Ministry of Development, Industry and Trade (MIFIC)*. Based on this data, USTR determines that Nicaragua's trade surplus is 384,051 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Nicaragua for CY 2016 is 26,400 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Nicaragua that may be entered duty-free under subheading 9822.05.20 in CY 2016 is 26,400 metric tons (*i.e.*, the amount that is the lesser of Nicaragua's trade surplus and the specific quantity set out in that note for Nicaragua for CY 2016).

*Peru*: Pursuant to section 201 of the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110-138; 19 U.S.C. 3805 note), Presidential Proclamation No. 8341 of January 16, 2009 (74 FR 4105) implemented the Peru TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Peru TPA.

Note 28(c) to subchapter XXII of HTS chapter 98 provides that USTR is required to publish annually in the **Federal Register** a determination of the amount of Peru's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that Peru's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that are originating goods under the Peru TPA and Peru's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 are not included in the calculation of Peru's trade surplus.

Note 28(d) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Peru entered under subheading 9822.06.10 in an amount equal to the lesser of Peru's

trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2014, the most recent year for which data is available, *Peru's* imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 48,603 metric tons according to data published by the *Superintendencia Nacional de Administracion Tributaria (SUNAT)*. Based on this data, USTR determines that Peru's trade surplus is negative. Therefore, in accordance with U.S. Note 28(d) to subchapter XXII of HTS chapter 98, goods of Peru are not eligible to enter the United States duty-free under subheading 9822.06.10 in CY 2016.

*Colombia*: Pursuant to section 201 of the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42; 19 U.S.C. 3805 note), Presidential Proclamation No. 8818 of May 14, 2012 (77 FR 29519) implemented the Colombia TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Colombia TPA.

Note 32(b) to subchapter XXII of HTS chapter 98 provides that USTR is required to publish annually in the **Federal Register** a determination of the amount of Colombia's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Colombia's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Colombia TPA and Colombia's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Colombia's trade surplus.

Note 32(c)(i) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Colombia entered under subheading 9822.08.01 in an amount equal to the lesser of Colombia's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2014, the most recent year for which data is available, *Colombia's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 594,746 metric tons according to data published by *Global Trade Atlas*. Based on this data, USTR determines that Colombia's trade surplus is 594,746 metric tons. The specific quantity set out in U.S. Note 32(c)(i) to subchapter XXII of HTS chapter 98 for Colombia for CY 2016 is 53,000 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Colombia that may

be entered duty-free under subheading 9822.08.01 in CY 2016 is 53,000 metric tons (*i.e.*, the amount that is the lesser of Colombia's trade surplus and the specific quantity set out in that note for Colombia for CY 2016).

*Panama*: Pursuant to section 201 of the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112-43; 19 U.S.C. 3805 note), Presidential Proclamation No. 8894 of October 29, 2012 (77 FR 66505) implemented the Panama TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Panama TPA.

Note 35(a) to subchapter XXII of HTS chapter 98 provides that USTR is required to publish annually in the **Federal Register** a determination of the amount of Panama's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Panama's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Panama TPA and Panama's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Panama's trade surplus.

Note 35(c) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Panama entered under subheading 9822.09.17 in an amount equal to the lesser of Panama's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2014, the most recent year for which data is available, *Panama's* exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 30,280 metric tons according to data published by *National Institute of Statistics and Census, Office of the General Comptroller of Panama*. Based on this data, USTR determines that Panama's trade surplus is 30,280 metric tons. The specific quantity set out in U.S. Note 35(c) to subchapter XXII of HTS chapter 98 for Panama for CY 2016 is 525 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Panama that may be entered duty-free under subheading 9822.09.17 in CY 2016 is 525 metric tons (*i.e.*, the amount that is the lesser of Panama's trade surplus and

the specific quantity set out in that note for Panama for CY 2016).

**Darci L. Vetter,**

*Chief Agricultural Negotiator, Office of the United States Trade Representative.*

[FR Doc. 2015–31192 Filed 12–10–15; 8:45 am]

BILLING CODE 3290–F6–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0065]

#### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 44 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on September 12, 2015. The exemptions expire on September 12, 2017.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](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. Background

On August 12, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 44 individuals and requested comments from the public (80 FR 48396). The public comment period closed on September 11, 2015, and 3 comments were received.

FMCSA has evaluated the eligibility of the 44 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

##### *Diabetes Mellitus and Driving Experience of the Applicants*

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that “A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control” (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency’s July 2000 study entitled “A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.” The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 44 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly

monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 12, 2015, **Federal Register** notice and they will not be repeated in this notice.

##### III. Discussion of Comments

FMCSA received 3 comments in this proceeding. Jamie Savarese and Louis Savarese believe that Jackson A. Savarese should be granted an exemption. While Donald R. Meckley, Jr. stated that his name was spelled incorrectly in the request for comments. The spelling has been corrected in this notice.

##### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants’ ITDM and vision, and reviewed the treating endocrinologists’ medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

##### V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual



provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Conclusion

Based upon its evaluation of the 44 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Larry J. Afseth (MN)  
 Reyando R. Amaro (TX)  
 Brandon C. Bair (NV)  
 Karl A. Brown (MA)  
 Margaret K. Chezum (IA)  
 James K. Copley (WV)  
 Francis C. Coryea (NY)  
 Richard L. Corzine (IL)  
 Kevin D. Crouse (CA)  
 Thomas A. Draper (CA)  
 Tyler J. Emmert (MN)  
 Wade A. Firm (MN)  
 John J. Fortman (ND)  
 Jamey M. George (MO)  
 Matthew Harkanson (PA)  
 Kenneth P. Hazel (NM)  
 Tracy D. Henderson (NM)  
 Gary H. Jacobs (VT)  
 Jack L. Lane, Jr. (KS)  
 Thomas J. Leffingwell (NY)  
 Jordan S. Leventhal (CT)  
 Travis C. McMonagle (CA)  
 Donald R. Meckley, Jr. (MD)  
 Jeffrey K. Moore (KY)  
 Michael A. Moore, Sr. (MA)  
 Fernando A. Munoz (TX)  
 Sidney T. Nalley Jr. (GA)  
 Jason B. Nolte (IN)  
 Kenneth H. Owens (GA)  
 James G. Pruitt (MO)  
 Thomas V. Ransom (ID)  
 Raymond D. Reber (IN)  
 Frank L. Rice (IL)  
 Bernard L. Robinson (VA)  
 Jackson A. Savarese (TX)  
 Richard A. Sawyer (ME)  
 Bruno T. Schizzano (NY)  
 Christopher S. Seago (NE)  
 Jamie A. Solem (MN)  
 Joseph W. Sprague (NM)  
 Cory M. Vance (IN)  
 Derrick L. Vaughn (TX)  
 Anthony J. Vicario (NY)  
 Henry D. Yeska, III (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for

two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 2, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015-31266 Filed 12-10-15; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Limitation on Claims Against a Proposed Public Transportation Project

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for a project in Bellevue, WA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject project and to activate the limitation on any claims that may challenge these final environmental actions.

**DATES:** By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before May 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353-2577 or Terence Plaskon, Environmental Protection Specialist, Office of Environmental Programs, (202) 366-0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation

project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at <http://www.fta.dot.gov>.

This notice applies to all 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, NEPA [42 U.S.C. 4321-4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401-7671q]. 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**. The project and actions that are the subject of this notice are:

*Project name and location:* Link Light Rail Operations and Maintenance Satellite Facility, Bellevue, WA. *Project sponsor:* Central Puget Sound Regional Transit Authority (Sound Transit). *Project description:* The proposed project would provide service and inspection functions to support approximately 90 light rail vehicles and would be used to store, maintain, and dispatch vehicles for daily service. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no historic properties affected; project-level air quality conformity; and Record of Decision, dated November 4, 2015. *Supporting documentation:* Final Environmental Impact Statement, dated September 25, 2015.

**Lucy Garliauskas,**

*Associate Administrator Planning and Environment.*

[FR Doc. 2015-31225 Filed 12-10-15; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA–2015–0078; Notice 2]

**Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance**

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

**ACTION:** Grant of petition.

**SUMMARY:** Bridgestone Americas Tire Operations, LLC (BATO), has determined that certain Bridgestone bus tires do not fully comply with paragraph S6.5(e) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles With a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles*. BATO has filed an appropriate report dated July 7, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BATO submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the BATO's petition was published, with a 30-day public comment period, on October 2, 2015 in the **Federal Register** (80 FR 59850). No substantive comments were received. To view the petition, comments and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA–2015–0078."

**II. Tires Involved:** Affected are approximately 328 Bridgestone R192GZ size 12R22.5 bus tires sold in the U.S. territory of Guam and manufactured between January 1, 2004 and April 30, 2015.

**III. Noncompliance:** BATO explains that the noncompliance is that the sidewall of the subject tires clearly

states the speed restriction in km/h, however, omits the English units in mph as required by paragraph S6.5(e) of FMVSS No. 119.

**IV. Rule Text:** Paragraph S6.5 of FMVSS No. 119 requires in pertinent part:

S6.5 *Tire Markings*. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. . . .

(e) The speed restriction of the tire, if 90 km/h (55 mph) or less, shown as follows: Max speed \_\_\_ km/h (\_\_\_ mph). . . .

**V. Summary of BATO's Petition:** BATO states that Guam does not have interstate highways and that the speed limits throughout Guam (35 mph rural, 15 mph urban and 15–25 in school zones) are significantly lower than the speed restriction of the subject tires (55 mph), thus, BATO, believes that there is no risk of drivers consistently driving faster than the speed restriction on the tires, even if a driver is unfamiliar with metric units.

BATO also believes that most professional drivers would understand the speed restriction as stated in metric units. Since the subject tires cannot be used in a passenger vehicle application, and will be serviced and driven by professionals who understand the difference between English and metric units; it is unlikely an unqualified driver would mistakenly drive these tires faster than the speed restriction.

BATO notes that they have not received any complaints, claims, or warranty adjustments related to the subject tires and that these tires, meet all other performance requirements of FMVSS No. 119.

BATO has additionally informed NHTSA that it has corrected the noncompliance so that all future production of the subject tires complies with FMVSS No. 119.

In summation, BATO believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt BATO from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**NHTSA'S Decision**

**NHTSA's Analysis:** The agency agrees with BATO that the subject noncompliance is inconsequential to motor vehicle safety. The true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliances on the operational safety of the vehicles on which these tires are mounted.

The subject speed-restricted tires are correctly stamped with the speed restriction in km/h. As BATO explained in its petition, omitting the English unit does not cause a safety concern in this case since the vehicles on which the subject tires are mounted are serviced and driven by professionals in U.S. territory of Guam (Guam) who understand the difference between English (mph) and Metric (kmh) speed units.

Furthermore, NHTSA has confirmed that Guam has no interstate highways and has maximum speed restriction of 35 mph on its road network which is significantly less than the 55 mph speed restriction intended for the subject tires.

For the above reasons, it is very unlikely that the subject vehicles will be driven faster than 55 mph for any sustained periods of time in Guam.

**NHTSA's Decision:** In consideration of the foregoing, NHTSA has decided that BATO has met its burden of persuasion that the FMVSS No. 119 noncompliance is inconsequential to motor vehicle safety. Accordingly, BATO's petition is hereby granted and BATO is exempted from the obligation of providing notification of, and remedy for the subject noncompliance.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that BATO no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after BATO notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Jeffrey M. Giuseppe,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2015–31167 Filed 12–10–15; 8:45 am]

**BILLING CODE 4910–59–P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****[Docket No. FD 35980]****Reading Blue Mountain & Northern Railroad Company—Trackage Rights Exemption—Norfolk Southern Railway Company**

Norfolk Southern Railway Company (NSR), pursuant to two amendments to an existing trackage rights agreement (the Base Agreement), has agreed to grant Reading Blue Mountain & Northern Railroad Company (RBMN) additional trackage rights over approximately 6.1 miles of rail line (the Line), between milepost JW 147.4 at Oneida Jct., Pa., and milepost JW 141.3 ± at Ashmore, Jct., Pa.<sup>1</sup> The two amendments grant RBMN limited local and additional overhead trackage rights, in addition to the overhead trackage rights originally granted in the Base Agreement, for RBMN to provide service over the Line at two different intermediate points. Specifically, Amendment No. 2 provides RBMN with the right to enter and exit the Line at milepost JW 143.7 to serve a coal customer; Amendment No. 3 will provide RBMN with the right to enter and exit the Line at a point shown on the map attached to the notice and use NSR's connecting industrial track to milepost KA 150± (the RBMN/NSR property line) at Humboldt Industrial Park to provide service to customers in a connected industrial park.<sup>2</sup>

RBMN may consummate the transaction on or after December 25, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

<sup>1</sup> The Base Agreement was between East Mahanoy and Hazleton Railroad Company (EMHR) and Consolidated Rail Corporation (Conrail); it granted EMHR overhead trackage rights (authorized as incidental trackage rights) over the Line. See *E. Mahanoy & Hazleton R.R.—Acquis. & Operation Exemption—Consolidated Rail Corp.*, FD 32076 (ICC served July 15, 1992). The Base Agreement was first amended by a letter agreement in 1997. RBMN is the successor to EMHR, and NSR is the successor-in-interest to Conrail.

<sup>2</sup> Amendment No. 2 was signed and dated on December 11, 2011, but RBMN states that it has yet to use these additional trackage rights, as the switch was installed last month, and the sidetrack to the customer is still under construction. RBMN states that Amendment No. 3 has not yet been executed.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by December 18, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35980, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market St., Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our Web site at "[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV)."

Decided: December 8, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Kenyatta Clay,**  
*Clearance Clerk.*

[FR Doc. 2015-31258 Filed 12-10-15; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF VETERANS AFFAIRS****[OMB Control No. 2900-0465]****Proposed Information Collection (Student Verification of Enrollment) Activity: Comment Request**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA) Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before February 9, 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 Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to "OMB Control No. 2900-0465" in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632-8924 or FAX (202) 632-8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-21), 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, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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:* Student Verification of Enrollment, VA Form 22-8979.

*OMB Control Number:* 2900-0465.

*Type of Review:* Revision.

*Abstract:* VA Form 22-8979 contains a student's certification of actual attendance and verification of the student's continued enrollment in courses leading to a standard college degree or in non-college degree programs. VA uses the data collected to determine the student's continued entitlement to benefits. Students are required to submit verification on a monthly basis to allow for frequent, periodic release of payment.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 12,961.

*Estimated Average Burden per Respondent:* 1 minute.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 777,688.

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. 2015-31229 Filed 12-10-15; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0691]

### Proposed Information Collection (Learner's Perceptions Survey (LPS)); Activity: Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA) 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 needed to identify areas for improvement in clinical training programs.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before February 9, 2016.

**ADDRESSES:** Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov); or to Brian McCarthy, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: [Brian.McCarthy4@va.gov](mailto:Brian.McCarthy4@va.gov). Please refer to "OMB Control No. 2900-0691" in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Brian McCarthy at (202) 461-6345.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from 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.

#### Titles

1. Learners' Perceptions Survey PR, VA Form 10-0439.

2. Learners' Perceptions Survey AH, VA Form 10-0439.

*OMB Control Number:* 2900-0691.

*Type of Review:* Revision.

#### Abstracts

Under the authority of Federal Law 38 U.S.C. Part V, Chapter 73, Section 7302, the Department of Veterans Affairs (VA) provides education and training to over 120,000 national cohort of health care trainees per year to assist in providing an adequate supply of health personnel for VA and the Nation. VA is further required to evaluate this program on a continuing basis and determine its effectiveness in achieving its goals (Federal Law, 38 U.S.C. Part I, Chapter 5, Section 527). In addition, the Government Performance and Results Act (GPRA) of 1993, requires Federal agencies to set goals, measure performance, and report on the accomplishments.

*Affected Public:* Individuals or households.

#### Estimated Annual Burden

a. Learners' Perceptions Survey PR, VA Form 10-0439—3,750 hours.

b. Learners' Perceptions Survey AH, VA Form 10-0439—3,750 hours.

#### Estimated Average Burden per Respondent

a. Learners' Perceptions Survey PR, VA Form 10-0439—15 minutes.

b. Learners' Perceptions Survey AH, VA Form 10-0439—15 minutes.

*Frequency of Response:* Annually.

#### Estimated Annual Responses

a. Learners' Perceptions Survey PR, VA Form 10-0439—15,000.

b. Learners' Perceptions Survey AH, VA Form 10-0439—15,000.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015-31160 Filed 12-10-15; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0648]

### Agency Information Collection (Foreign Medical Program Application and Claim Cover Sheet)

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published a collection of information notice in a **Federal Register** on August 14, 2015. The 30-day **Federal Register** Notice published 11 days after the 60-day **Federal Register** Notice published. This document corrects the errors by resubmitting a new 30-day **Federal Register** Notice.

**FOR FURTHER INFORMATION CONTACT:** Brian McCarthy at (202) 461-6345.

#### Correction

## DEPARTMENT OF VETERANS AFFAIRS

Billing Code 8320-01

[OMB Control No. 2900-0648]

### Agency Information Collection (Foreign Medical Program Application and Claim Cover Sheet) 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 [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). Please refer to “OMB Control No. 2900–0648” 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. 2900–0648 (Foreign Medical Program Application and Claim Cover Sheet)” 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:*

1. Foreign Medical Program (FMP) Registration Form.
2. Claim Cover Sheet—Foreign Medical Program (FMP).

*OMB Control Number:* 2900–0648.

*Type of Review:* Revision of a currently approved collection.

*Abstracts:* This information collection is needed to carry out the health care benefits allowed by the Foreign Medical Program (FMP). It is a federal health benefits program for Veterans administered by the Department of Veterans Affairs (VA) Veterans Health Administration (VHA). FMP is a Fee for Service (indemnity plan) program. FMP provides reimbursement for VA adjudicated service-connected conditions. Title 38 CFR 17.35 states

that the VA will provide coverage for the Veteran’s service-connected disability when the Veteran is residing or traveling overseas.

VA Form 10–7959f–1, Foreign Medical Program (FMP) Registration Form, is used to register into the Foreign Medical Program those Veterans with service-connected disabilities that are living or traveling overseas. Title 38 CFR 17.125(d) states that requests for consideration of claim reimbursement from approved health care providers and Veterans are to be mailed to VHA Health Administration Center (HAC). The VA Form 10–7959f–2, Claim Cover Sheet—Foreign Medical Program streamlines the claims submission process for claimants or physicians while also reducing the time spent by VA on processing FMP claims. The cover sheet will allow foreign providers/Veterans with a better understanding of basic information required for the processing and payment of claims.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 46104 on August 3, 2015.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:*

a. Foreign Medical Program (FMP) Registration Form—fill, VA Form 10–7959f–1—111 hours.

b. Claim Cover Sheet—Foreign Medical Program (FMP)—fill, VA Form 10–7959f–2—3,652 hours.

*Estimated Average Burden per Respondent:*

a. Foreign Medical Program (FMP) Registration Form—fill, VA Form 10–7959f–1—4 minutes.

b. Claim Cover Sheet—Foreign Medical Program (FMP)—fill, VA Form 10–7959f–2—11 minutes.

*Frequency of Response:*

a. Foreign Medical Program (FMP) Registration Form—fill, VA Form 10–7959f–1—Annually.

b. Claim Cover Sheet—Foreign Medical Program (FMP)—fill, VA Form 10–7959f–2—12 times a year.

*Estimated Annual Responses:*

a. Foreign Medical Program (FMP) Registration Form—fill, VA Form 10–7959f–1—1,660.

b. Claim Cover Sheet—Foreign Medical Program (FMP)—fill, VA Form 10–7959f–2—19,920.

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. 2015–31235 Filed 12–10–15; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

[OMB Control No. 2900–0465]

**Agency Information Collection Activity Under OMB Review—Student Verification of Enrollment**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA) Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before February 9, 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 Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to “OMB Control No. 2900–0465” in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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, VBA invites comments on: (1) Whether the proposed

collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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:* Student Verification of Enrollment, VA Form 22-8979.

*OMB Control Number:* 2900-0465.

*Type of Review:* Revision.

*Abstract:* VA Form 22-8979 contains a student's certification of actual attendance and verification of the student's continued enrollment in courses leading to a standard college degree or in non-college degree programs. VA uses the data collected to determine the student's continued entitlement to benefits. Students are required to submit verification on a

monthly basis to allow for frequent, periodic release of payment.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 12,961.

*Estimated Average Burden per*

*Respondent:* 1 minute.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 777,688.

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. 2015-31224 Filed 12-10-15; 8:45 am]

**BILLING CODE 8320-01-P**

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## DEPARTMENT OF VETERANS AFFAIRS

### Commission on Care

**ACTION:** Notice.

**SUMMARY:** The Commission on Care submitted to the President, through the Secretary of Veterans Affairs, its interim report as required under Section 202 of the Veterans Access, Choice, and

Accountability Act of 2014. This Notice announces the public release of the report, entitled "Commission on Care Interim Report", on the Commission on Care Web site.

**ADDRESSES:** The complete copy of the "Commission on Care Interim Report" is available on the following Web site: <https://commissiononcare.sites.usa.gov/>.

**SUPPLEMENTARY INFORMATION:** The purpose of the Commission on Care, 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.

Dated: December 7, 2015.

**Sharon Gilles,**

*Designated Federal Officer, Commission on Care.*

[FR Doc. 2015-31223 Filed 12-10-15; 8:45 am]

**BILLING CODE 8320-01-P**



# FEDERAL REGISTER

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Part II

Department of the Interior

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Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Migratory Bird Hunting Regulations; Proposed Rule

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

[Docket No. FWS-HQ-MB-2015-0034;  
FF09M21200-167-FXMB1231099BPP0]

RIN 1018-BA70

**Migratory Bird Hunting; Proposed Frameworks for Migratory Bird Hunting Regulations**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; supplemental.

**SUMMARY:** The U.S. Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 2016–17 hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

**DATES:** You must submit comments on the proposed migratory bird hunting frameworks by January 11, 2016.

**ADDRESSES:** *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-MB-2015-0034.

- *U.S. mail or hand delivery:* Public Comments Processing, Attn: FWS-HQ-MB-2015-0034; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Review of Public Comments and Flyway Council Recommendations section, below, for more information).

**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041-3803; (703) 358-1967.

**SUPPLEMENTARY INFORMATION:** As part of DOI's retrospective regulatory review, we developed a schedule for migratory game bird hunting regulations that is more efficient and will provide dates much earlier than was possible under the old process. This will facilitate

planning for the States and all parties interested in migratory bird hunting. Beginning with the 2016–17 hunting season, we are using a new schedule for establishing our annual migratory game bird hunting regulations. We will combine the current early- and late-season regulatory actions into a single process, based on predictions derived from long-term biological information and harvest strategies, to establish migratory bird hunting seasons much earlier than the system we have used for many years. Under the new process, we will develop proposed hunting season frameworks for a given year in the fall of the prior year. We will finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer.

**Regulations Schedule for 2016**

On August 6, 2015, we published in the **Federal Register** (80 FR 47388) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2016–17 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the August 6, 2015, proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Those headings are:

1. Ducks
  - A. General Harvest Strategy
  - B. Regulatory Alternatives
  - C. Zones and Split Seasons
  - D. Special Seasons/Species Management
    - i. September Teal Seasons
    - ii. September Teal/Wood Duck Seasons
    - iii. Black ducks
    - iv. Canvasbacks
    - v. Pintails
    - vi. Scaup
    - vii. Mottled ducks
    - viii. Wood ducks
    - ix. Youth Hunt
    - x. Mallard Management Units
    - xi. Other
2. Sea Ducks
3. Mergansers
4. Canada Geese
  - A. Special Seasons
  - B. Regular Seasons
  - C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots

11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Doves
17. Alaska
18. Hawaii
19. Puerto Rico
20. Virgin Islands
21. Falconry
22. Other

Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

The August 6 proposed rule also provided detailed information on the proposed 2016–17 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On October 20–21, 2015, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2016–17 regulations for these species.

This document deals specifically with proposed frameworks for the migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits.

We have considered all pertinent comments received through October 23, 2015, on the August 6, 2015, proposed rulemaking document in developing this document. In addition, new proposals for certain regulations are provided for public comment. The comment period is specified above under **DATES**. We will publish final regulatory frameworks for migratory game bird hunting in the **Federal Register** on or around February 28, 2016.

**Population Status and Harvest**

The following paragraphs provide information on the status and harvest of migratory game birds excerpted from various reports. Due to the overlapping nature this first year of the new regulatory process for establishing the annual migratory game bird hunting regulations, most all of this information was previously reported in the July 21, 2015, and August 25, 2015, proposed rules for the 2015–16 migratory game bird hunting seasons (80 FR 43266 and 80 FR 51658). However, as an aid to the reader, we are providing it again here. We are also providing updated status information for the Mid-Continent



Population of sandhill cranes from the March, 2015 surveys.

For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at <http://www.fws.gov/migratorybirds/NewsPublicationsReports.html>.

#### *Waterfowl Breeding Population and Habitat Survey*

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate habitat conditions. These surveys are conducted using fixed-wing aircraft, helicopters, and ground crews and encompass principal breeding areas of North America, covering an area over 2.0 million square miles. The traditional survey area comprises Alaska, western Canada, and the north central United States, and includes approximately 1.3 million square miles. The eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

Despite an early spring over most of the survey area, habitat conditions during the 2015 Waterfowl Breeding Population and Habitat Survey (WBPHS) were similar to or poorer than last year. With the exception of portions of southern Saskatchewan and central latitudes of eastern Canada, in many areas the decline in habitat conditions was due to average to below-average annual precipitation. The total pond estimate (Prairie Canada and United States combined) was  $6.3 \pm 0.2$  million, which was 12 percent below the 2014 estimate of  $7.2 \pm 0.2$  million but 21 percent above the long-term average of  $5.2 \pm 0.03$  million. The 2015 estimate of ponds in Prairie Canada was  $4.2 \pm 0.1$  million. This estimate was 10 percent below the 2014 estimate of  $4.6 \pm 0.2$  million but 19 percent above the long-term average ( $3.5 \pm 0.02$  million). The 2015 pond estimate for the north central United States was  $2.2 \pm 0.09$  million, which was 16 percent below the 2014 estimate of  $2.6 \pm 0.1$  million and 28 percent above the long-term average ( $1.7 \pm 0.02$  million).

Additional details of the 2015 Survey were provided in the July 21, 2015, **Federal Register** and are available from our Web site at <http://www.fws.gov/migratorybirds>.

#### *Breeding Population Status*

In the traditional survey area, which includes strata 1–18, 20–50, and 75–77,

the total duck population estimate (excluding scoters [*Melanitta* spp.], eiders [*Somateria* spp. and *Polysticta stelleri*], long-tailed ducks [*Clangula hyemalis*], mergansers [*Mergus* spp. and *Lophodytes cucullatus*], and wood ducks [*Aix sponsa*]) was  $49.5 \pm 0.8$  [SE] million birds. This estimate is similar to the 2014 estimate of  $49.2 \pm 0.8$  million, and is 43 percent higher than the long-term average (1955–2014). This year also marks the highest estimates in the time series for mallards (*Anas platyrhynchos*) and green-winged teal (*A. crecca*). Estimated mallard abundance was  $11.6 \pm 0.4$  million, which was similar to the 2014 estimate of  $10.9 \pm 0.3$  million, and 51 percent above the long-term average of  $7.7 \pm 0.04$  million. Estimated abundance of gadwall (*A. strepera*;  $3.8 \pm 0.2$  million) and American wigeon (*A. americana*;  $3.0 \pm 0.2$  million) were similar to last year's estimates, and were 100 percent and 17 percent above their long-term averages of  $1.9 \pm 0.02$  million and  $2.6 \pm 0.02$  million, respectively. The estimated abundance of green-winged teal was  $4.1 \pm 0.3$  million, which was 19 percent above the 2014 estimate of  $3.4 \pm 0.2$  million and 98 percent above the long-term average ( $2.1 \pm 0.02$  million). Estimated blue-winged teal (*A. discors*;  $8.5 \pm 0.4$  million) abundance was similar to the 2014 estimate, and 73 percent above the long-term average of  $4.9 \pm 0.04$  million.

#### *Estimated Abundance of Northern Shovelers*

(*A. clypeata*;  $4.4 \pm 0.2$  million) was 17 percent below the 2014 estimate but 75 percent above the long-term average of  $2.5 \pm 0.02$  million. Northern pintail abundance (*A. acuta*;  $3.0 \pm 0.2$  million) was similar to the 2014 estimate and 24 percent below the long-term average of  $4.0 \pm 0.04$  million. Abundance estimates for redheads (*Aythya americana*;  $1.2 \pm 0.1$  million) and canvasbacks (*A. valisineria*;  $0.8 \pm 0.06$  million) were similar to their 2014 estimates and were 71 percent and 30 percent above their long-term averages of  $0.7 \pm 0.01$  million and  $0.6 \pm 0.01$  million, respectively. Estimated abundance of scaup (*A. affinis* and *A. marila* combined;  $4.4 \pm 0.3$  million) was similar to the 2014 estimate and 13 percent below the long-term average of  $5.0 \pm 0.05$  million.

The eastern survey area was restratified in 2005, and is now composed of strata 51–72. In the eastern survey area, estimated abundance of American black ducks (*Anas rubripes*) was  $0.5 \pm .04$  million, which was 11 percent below last year's estimate and 13 percent below the 1990–2014 average. The estimated abundance of

mallards ( $0.4 \pm 0.1$  million) and mergansers ( $0.4 \pm 0.04$  million) were similar to the 2014 estimates and their 1990–2014 averages. Abundance estimates of green-winged teal ( $0.2 \pm 0.04$  million) and goldeneyes (common and Barrow's [*Bucephala clangula* and *B. islandica*],  $0.4 \pm 0.4$  million) were similar to their 2014 estimates, and were 14 percent and 15 percent below their 1990–2014 averages of  $0.3 \pm 0.04$  million and  $0.4 \pm 0.07$  million, respectively. The abundance estimate of ring-necked ducks (*Aythya collaris*,  $0.5 \pm 0.07$  million) was similar to the 2014 estimate and the 1990–2014 average.

#### *Status of Geese and Swans*

We provide information on the population status and productivity of North American Canada geese (*Branta canadensis*), brant (*B. bernicla*), snow geese (*Chen caerulescens*), Ross's geese (*C. rossii*), emperor geese (*C. canagica*), white-fronted geese (*Anser albifrons*), and tundra swans (*Cygnus columbianus*). Production of arctic-nesting geese depends heavily upon the timing of snow and ice melt, and spring and early-summer temperatures.

In 2015, conditions in the Arctic and boreal areas important for geese were variable. Compared to last year, snow and ice conditions were less extensive in the western Arctic, more extensive in the central Arctic, and similar in the eastern Arctic. Breeding conditions were good on Bylot Island in the eastern Arctic, and an average to above-average fall flight was expected for greater snow geese. Biologists reported later-than-average spring phenology at Southampton Island, the northern and western coastal areas of the Hudson Bay, and the southern portion of Baffin Island. Atlantic brant have had 3 years of low production, and below-average production was expected again this year. Habitat conditions across Atlantic Canada were generally good, except for a more persistent spring snow pack and ice coverage in higher elevation areas in Newfoundland and Labrador. Nesting conditions were below average on the Ungava Peninsula, and lakes and ponds along the eastern Hudson Bay coast remained frozen in mid-June. North Atlantic Population and Atlantic Population Canada goose numbers were similar to recent averages, and average fall flights were expected. Of the Canada goose populations that migrate through the Mississippi Flyway, Eastern Prairie Population numbers were similar to last year, and average to above-average production was expected; Southern James Bay Population and Mississippi Valley Population breeding numbers were down relative to recent years, with

average and below-average fall flights predicted, respectively. Ice breakup and nesting phenology in the Queen Maud Gulf region of the central Arctic were similar to long-term averages, and nesting conditions and habitat were good to above average in the western Arctic and Northwest Territories. Thus, average to above-average production was expected for Ross's, mid-continent snow, mid-continent white-fronted, and lesser and Central Flyway Arctic nesting Canada geese.

Alaska experienced an early spring and mild breakup of ice with minimal flooding on the Yukon-Kuskokwim Delta and other interior areas of the State. With less persistent ice and snow cover and favorable breeding conditions in the western Arctic and Alaska, the outlook for goose and swan populations nesting in these areas was good to excellent. With the exception of cackling Canada geese, indices for geese and swans that breed on the Yukon-Kuskokwim Delta were lower this year compared to last year, though later survey timing relative to the early spring conditions may have contributed to lower counts. Record high counts were observed this year for the Wrangel Island Population of lesser snow geese and dusky Canada geese, and the spring index for emperor geese was the highest recorded in over three decades.

Across much of the Canadian and U.S. prairies, spring phenology was early. Habitat conditions were generally rated good to fair on the Canadian prairies and fair to poor on the U.S. prairies. Southern and central portions of the western United States were exceptionally dry, and habitat conditions there were generally poor. However, production of temperate-nesting Canada geese over most of their North American range is expected to be average, and similar to previous years.

Of the 28 goose and swan populations included in the report, 6 had significant positive trends during the most recent 10-year period ( $P < 0.05$ ): Western Prairie and Great Plains Population, dusky, and Aleutian Canada geese; and mid-continent, Western Central Flyway, and Western Arctic and Wrangel Island light geese. Three populations, Atlantic brant, and the Atlantic and Southern James Bay Populations of Canada geese, showed a statistically significant negative 10-year trend. Of the 13 populations for which primary indices included variance estimates, Ross's geese statistically significantly increased and 2 populations statistically significantly decreased (Southern James Bay Population and Mississippi Valley Population Canada geese) in 2015 compared to 2014. Of the 15

populations for which primary indices did not include variance estimates, 8 populations were higher than last year, and 7 populations were lower.

#### *Waterfowl Harvest and Hunter Activity*

National surveys of migratory bird hunters were conducted during the 2013–14 and 2014–15 hunting seasons. More than 1 million waterfowl hunters harvested 13,716,400 ( $\pm 6$  percent) ducks and 3,360,400 ( $\pm 6$  percent) geese in 2013, and more than 1 million waterfowl hunters harvested 13,267,800 ( $\pm 4$  percent) ducks and 3,321,100 ( $\pm 11$  percent) geese in 2014. Mallard, green-winged teal, gadwall, blue-winged/cinnamon teal, and wood duck (*Aix sponsa*) were the five most-harvested duck species in the United States, and Canada goose was the predominant goose species in the goose harvest.

#### *Sandhill Cranes*

The annual indices to abundance of the Mid-Continent Population (MCP) of sandhill cranes (*Grus canadensis*) have been relatively stable since 1982, but have shown more inter-annual variability in recent years. The spring 2015 estimate of sandhill cranes in the Central Platte River Valley (CPRV), Nebraska, was 452,616 birds. This estimate is 31 percent lower than the estimate from March 2014. The 3-year average for photo-corrected counts (which are more accurate than ocular estimates because they account for birds present but not seen by aerial crews) for 2013–15 was 623,812, which is above the established population-objective range of 349,000–472,000 cranes. All Central Flyway States, except Nebraska, allowed crane hunting in portions of their States during 2014–15. An estimated 7,825 Central Flyway hunters participated in these seasons, which was 24 percent lower than the number that participated in the previous season. Hunters harvested 15,776 MCP cranes in the U.S. portion of the Central Flyway during the 2014–15 seasons, which was 27 percent lower than the harvest for the previous year but 6 percent higher than the long-term average. The retrieved harvest of MCP cranes in hunt areas outside of the Central Flyway (Arizona, Pacific Flyway portion of New Mexico, Minnesota, Alaska, Canada, and Mexico combined) was 13,221 during 2014–15. The preliminary estimate for the North American MCP sport harvest, including crippling losses, was 32,666 birds, which was a 19 percent decrease from the previous year's estimate. The long-term (1982–2012) trends for the MCP indicate that harvest has been increasing at a higher rate than population growth.

The fall 2014 pre-migration survey for the Rocky Mountain Population (RMP) resulted in a count of 19,668 cranes. The 3-year average was 18,482 sandhill cranes, which is within the established population objective of 17,000–21,000 for the RMP. Hunting seasons during 2014–15 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming resulted in a harvest of 624 RMP cranes, an 8 percent decrease from the previous year's harvest.

The Eastern Population (EP) sandhill crane fall survey index (83,479) increased by 30 percent in 2014, and a combined total of 401 cranes were harvested in Kentucky's fourth hunting season and Tennessee's second season.

#### *Woodcock*

The American woodcock (*Scolopax minor*) is managed as two management regions, the Eastern and the Central. Singing Ground and Wing-collection Surveys are conducted to assess population status. The Singing Ground Survey is intended to measure long-term changes in woodcock population levels.

Singing Ground Survey data for 2015 indicate that the number of singing male woodcock per route in the Eastern and Central Management Regions was unchanged from 2014. There was a statistically significant, declining 10-year trend in woodcock heard for the Eastern Management Region during 2005–15, while the 10-year trend in the Central Management Region was not significant. This marks the second year in a row that the 10-year trend in the Eastern Management Region has shown a decline. Both management regions have a long-term (1968–2015) declining trend (–1.1 percent per year in the Eastern Management Region and –0.7 percent per year in the Central Management Region).

The Wing-collection Survey provides an index to recruitment. Wing-collection Survey data indicate that the 2014 recruitment index for the U.S. portion of the Eastern Region (1.49 immatures per adult female) was 6.9 percent less than the 2013 index, and 8.9 percent less than the long-term (1963–2013) average. The recruitment index for the U.S. portion of the Central Region (1.39 immatures per adult female) was 9.7 percent less than the 2013 index and 10.6 percent less than the long-term (1963–2013) average.

During the 2014–15 seasons, hunters in the Eastern Region harvested 58,600 birds, which was 6.2 percent below the number for the previous season and 31.4 percent below the long-term (1999–2013) average. In the Central Region, 141,500 woodcock were harvested, 21.4

percent less than in 2013 and 36.5 percent less than the long-term average.

#### *Band-Tailed Pigeons*

Two subspecies of band-tailed pigeon (*Columba fasciata*) occur north of Mexico, and are managed as two separate populations: Interior and Pacific Coast. Information on the abundance and harvest of band-tailed pigeons is collected annually in the United States and British Columbia. Abundance information comes from the Breeding Bird Survey (BBS) and the Mineral Site Survey (MSS, specific to the Pacific Coast Population). Harvest and hunter participation are estimated from the Migratory Bird Harvest Information Program (HIP).

The BBS provided evidence that the abundance of Pacific Coast band-tailed pigeons decreased (–1.8 percent per year) over the long term (1968–2014). No trends in abundance were evident during the recent 10- and 5-year periods for both the BBS and MSS. Harvest estimates indicate that 2,900 active hunters took 12,000 pigeons and spent 8,800 days afield in 2014. Composition of harvest was 25 percent hatching-year pigeons.

For Interior band-tailed pigeons, the BBS provided evidence that abundance decreased (–5.5 percent per year) over the long term (1968–2014). Similar to Pacific Coast birds, no trends in abundance were evident during the recent 10- and 5-year periods. An estimated 1,500 hunters harvested 1,500 pigeons and spent 3,300 days afield in 2014.

#### *Mourning Doves*

Doves in the United States are managed in three management units, Eastern (EMU), Central (CMU), and Western (WMU). We annually summarize information collected in the United States on survival, recruitment, abundance, and harvest of mourning doves (*Zenaida macroura*). We report on trends in the number of doves heard and seen per route from the all-bird BBS, and provide absolute abundance estimates based on band recovery and harvest data. Harvest and hunter participation are estimated from the HIP.

BBS data suggested that the abundance of mourning doves over the last 49 years increased in the Eastern Management Unit (EMU) and decreased in the Central (CMU) and Western (WMU) Management Units. Estimates of absolute abundance are available only since 2003 and indicate that there are about 274 million doves in the United States. Predicted abundances for 2015 (and lower 70 percent credible intervals

[CI]) are 79.3 million birds (64.3) for the EMU, 139.5 million (124.3) for the CMU, and 52.6 million (45.0) for the WMU.

Current (2014) HIP estimates for mourning dove total harvest, active hunters, and total days afield in the United States were 13,809,500 birds, 839,600 hunters, and 2,386,700 days afield. Harvest and hunter participation at the unit level were: EMU, 4,889,800 birds, 310,200 hunters, and 791,300 days afield; CMU, 7,654,700 birds, 427,100 hunters, and 1,333,600 days afield; and WMU, 1,265,000 birds, 102,300 hunters, and 261,800 days afield.

#### **Review of Public Comments and Flyway Council Recommendations**

The preliminary proposed rulemaking, which appeared in the August 6, 2015, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and discussed the regulatory alternatives for the 2016–17 duck hunting season. Comments are summarized below and numbered in the order used in the August 6, 2015, proposed rule. We have included only the numbered items pertaining to issues for which we received written comments. Consequently, the issues do not follow in successive numerical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the August 6, 2015, proposed rule.

#### **General**

*Written Comments:* A commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and status and habitat data on which the migratory bird hunting regulations are based.

*Service Response:* Our long-term objectives continue to include providing opportunities to harvest portions of

certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway-Council system of migratory game bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

#### **1. Ducks**

##### *A. General Harvest Strategy*

*Council Recommendations:* The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended the adoption of the “liberal” regulatory alternative.

*Service Response:* We propose to continue using adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2016–17 season. AHM permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use AHM to evaluate four alternative regulatory levels for duck hunting based on the population status of mallards. (We enact other hunting regulations for species of special concern, such as canvasbacks, scaup, and pintails).

The prescribed regulatory alternative for the Atlantic, Mississippi, Central, and Pacific Flyways is based on the status of mallard populations that contribute primarily to each Flyway. In the Atlantic Flyway, we set hunting regulations based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region). In the Central and Mississippi Flyways, we set hunting regulations based on the status and dynamics of mid-continent mallards. Mid-continent mallards are those breeding in central North America (Federal survey strata 13–18, 20–50, and 75–77, and State surveys in Minnesota,

Wisconsin, and Michigan). In the Pacific Flyway, we set hunting regulations based on the status and dynamics of western mallards. Western mallards are those breeding in Alaska and the northern Yukon Territory (as based on Federal surveys in strata 1–12), and in California and Oregon (as based on State-conducted surveys).

For the 2016–17 season, we recommend continuing to use independent optimization to determine the optimal regulatory choice for each mallard stock. This means that we would develop regulations for eastern mallards, mid-continent mallards, and western mallards independently, based upon the breeding stock that contributes primarily to each Flyway. We detailed implementation of this AHM decision framework for western and mid-continent mallards in the July 24, 2008, **Federal Register** (73 FR 43290) and for eastern mallards in the July 20, 2012, **Federal Register** (77 FR 42920). We further documented how adjustments were made to these decision frameworks in order to be compatible with the new regulatory schedule (<http://www.fws.gov/migratorybirds/pdf/management/AHM/SEIS&AHMReportFinal.pdf>).

For the 2016–17 hunting season, we are continuing to consider the same regulatory alternatives as those used last year. The nature of the “restrictive,” “moderate,” and “liberal” alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the “moderate” and “liberal” regulatory alternatives since 2002 (67 FR 47224; July 17, 2002).

The optimal AHM strategies for mid-continent, eastern, and western mallards for the 2016–17 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2016–17 regulatory alternatives (see further discussion below under B. Regulatory Alternatives); and (3) current population models and associated weights. Based on “liberal” regulatory alternatives selected for the 2015 hunting season, the 2015 survey results of 11.79 million mid-continent mallards (traditional survey area minus Alaska and the Old Crow Flats area of the Yukon Territory, plus Minnesota, Wisconsin, and Michigan) and 4.15 million ponds in Prairie Canada, 0.73 million eastern mallards (0.19 million and 0.54 million respectively in northeast Canada and the northeastern United States), and 0.73 million western mallards (0.26 million in California-Oregon and 0.47 million in Alaska), the optimal regulatory choice for all four Flyways is

the “liberal” alternative. Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the “liberal” regulatory alternative for the 2016–17 season and propose to adopt the “liberal” regulatory alternative, as described in the August 6, 2015, **Federal Register**.

#### B. Regulatory Alternatives

**Council Recommendations:** The Atlantic and Mississippi Flyway Councils recommended that the framework closing date for ducks be extended to January 31 in the “moderate” and “liberal” regulatory alternatives.

**Service Response:** We do not support the Councils’ recommendation to extend the duck season framework closing date to January 31 at this time. We note that the current framework opening and closing dates were developed through a cooperative effort between all four Flyway Councils and that framework dates are only one of several components that comprise the regulatory packages utilized in AHM. Regulatory packages also consider season length, daily bag limits, and shooting hours. We believe the current regulatory packages in the Atlantic and Mississippi Flyways should remain unchanged until revisions to the AHM protocols have been completed. Those efforts will include examination of duck harvest management objectives, model updates, and revisions to regulatory packages, including framework dates. We prefer that the issue of framework dates and any other component of the regulatory packages be addressed through this cooperative process and would prefer a comprehensive approach to revising regulatory packages rather than making incremental changes.

#### D. Special Seasons/Species Management

##### i. September Teal Seasons

For the 2016–17 season, we will utilize the 2015 breeding population estimate of 8.3 million blue-winged teal from the traditional survey area and the criteria developed for the teal season harvest strategy. Thus, a 16-day September teal season in the Atlantic, Central, and Mississippi Flyways is appropriate for the 2016 season.

##### iii. Black Ducks

**Council Recommendations:** The Atlantic and Mississippi Flyway Councils recommended that the Service continue to follow the International Black Duck AHM Strategy for the 2016–17 season.

**Service Response:** In 2012, we adopted the International Black Duck AHM Strategy (77 FR 49868; August 17, 2012). The formal strategy is the result of 14 years of technical and policy decisions developed and agreed upon by both Canadian and U.S. agencies and waterfowl managers. The strategy clarifies what harvest levels each country will manage for and reduces conflicts over country-specific regulatory policies. Further, the strategy allows for attainment of fundamental objectives of black duck management: Resource conservation, perpetuation of hunting tradition, and equitable access to the black duck resource between Canada and the United States while accommodating the fundamental sources of uncertainty, partial controllability and observability, structural uncertainty, and environmental variation. The underlying model performance is assessed annually, with a comprehensive evaluation of the entire strategy (objectives and model set) planned after 6 years.

A copy of the strategy is available at the address indicated under **FOR FURTHER INFORMATION CONTACT**, or from our Web site at <http://www.fws.gov/migratorybirds/NewsPublicationsReports.html>.

For the 2016–17 season, the optimal country-specific regulatory strategies were calculated using: (1) The black duck harvest objective (98 percent of long-term cumulative harvest); (2) 2016–17 country-specific regulatory alternatives; (3) current parameter estimates for mallard competition and additive mortality; and (4) 2015 survey results of 0.54 million breeding black ducks and 0.41 million breeding mallards in the core survey area. The optimal regulatory choices for the 2016–17 season are the “moderate” package in Canada and the “restrictive” package in the United States.

##### iv. Canvasbacks

**Council Recommendations:** The Mississippi, Central, and Pacific Flyway Councils recommended a full season for canvasbacks with a 2-bird daily bag limit. The Atlantic Flyway Council recommended a full season for canvasbacks with a 1-bird daily bag limit. Season lengths would be 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

**Service Response:** Since 1994, we have followed a canvasback harvest strategy whereby if canvasback population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the

entire length of the regular duck season, while still attaining an objective of 500,000 birds the following spring, the season on canvasbacks should be opened. A partial season would be allowed if the estimated allowable harvest was below that associated with a 1-bird daily bag limit for the entire season. If neither of these conditions can be met, the harvest strategy calls for a closed season on canvasbacks nationwide. In 2008 (73 FR 43290; July 24, 2008), we announced our decision to modify the canvasback harvest strategy to incorporate the option for a 2-bird daily bag limit for canvasbacks when the predicted breeding population the subsequent year exceeds 725,000 birds.

As we discussed in the August 6, 2015, proposed rule, the current harvest strategy relies on information that is not yet available under this new regulatory process. Thus, the current canvasback harvest management strategy is no longer usable for the 2016–17 season and beyond. We further stated that we do not yet have a new harvest strategy to propose for use in the future and that we would review the most recent information on canvasback populations, habitat conditions, and harvests with the goal of compiling the best information available for use in making a harvest management decision for the 2016–17 season.

As such, we support the Mississippi, Central, and Pacific Flyways' recommendation for a 2-canvasback daily bag limit for the 2016–17 season and will offer the opportunity to all four Flyways. This past year's spring survey resulted in an estimate of 757,000 canvasbacks and 4.15 million Canadian ponds. The former canvasback harvest strategy predicts a 2016 canvasback breeding population of 727,000 birds under the current 2015–16 "liberal" duck season with a 2-canvasback daily bag limit. Our analysis indicates that the expected harvest associated with a 2-bird bag limit during the 2016 season poses a very small possibility of the spring 2017 canvasback abundance falling below 500,000 birds given the current abundance of canvasbacks. However, we also recognize that in previous years where 2 canvasbacks per day were allowed in the daily bag limit, the following year required a more restrictive daily bag limit, and we are prepared to recommend restrictions for the 2017–18 season if necessary. Thus, we strongly encourage the Flyways to begin working with Service staff to develop a process for informing canvasback harvest management decisions prior to the Flyway meetings next March.

#### v. Pintails

*Council Recommendations:* The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for pintails, consisting of a 2-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, a 74-day season in the Central Flyway, and a 107-day season in the Pacific Flyway.

*Service Response:* The current derived pintail harvest strategy was adopted by the Service and Flyway Councils in 2010 (75 FR 44856; July 29, 2010). For the 2016–17 season, an optimal regulatory strategy for pintails was calculated with: (1) An objective of maximizing long-term cumulative harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives and associated predicted harvest; and (3) current population models and their relative weights. Based on a "liberal" regulatory alternative with a 2-bird daily bag limit in 2015, the 2015 survey results of 3.04 million pintails observed at a mean latitude of 55.9 and a latitude-adjusted breeding population of 4.16 million birds, the optimal regulatory choice for all four Flyways for the 2016–17 hunting season is the "liberal" alternative with a 2-bird daily bag limit.

#### vi. Scaup

*Council Recommendations:* The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended use of the "moderate" regulation package, consisting of a 60-day season with a 2-bird daily bag in the Atlantic Flyway and a 3-bird daily bag in the Mississippi Flyway, a 74-day season with a 3-bird daily bag limit in the Central Flyway, and an 86-day season with a 3-bird daily bag limit in the Pacific Flyway.

*Service Response:* In 2008, we adopted and implemented a new scaup harvest strategy (73 FR 43290 on July 24, 2008, and 73 FR 51124 on August 29, 2008) with initial "restrictive," "moderate," and "liberal" regulatory packages adopted for each Flyway.

For scaup, optimal regulatory strategies for the 2016–17 season were calculated using: (1) An objective to achieve 95 percent of long-term cumulative harvest, (2) current scaup regulatory alternatives, and (3) updated model parameters and weights. Based on a "moderate" regulatory alternative selected in 2015 and the 2015 survey results of 4.40 million scaup, the optimal regulatory choice for the 2016–17 season for all four Flyways is the "moderate" regulatory alternative.

#### ix. Youth Hunt

*Council Recommendations:* The Atlantic Flyway Council recommended allowing the States to use their definitions of age for youth hunters as the age requirement for participation in youth hunting days.

The Mississippi and Central Flyway Councils recommended that we allow States to use their established definitions of age for youth hunters as the age requirement for participation in youth hunting days, not to include anyone over the age of 17.

The Pacific Flyway Council recommended striking the participation restriction that youth hunters must be 15 years of age or younger and allowing each State to use their established definition for the age of youth hunters as long as it is 17 years of age or younger. The Council further recommended retaining other participation restrictions requiring that an adult at least 18 years of age must accompany the youth hunter into the field.

*Service Response:* Since its inception in 1996, the Special Youth Waterfowl Days have fostered greater involvement of youth in waterfowl hunting and conservation. However, we recognize that many States allow individuals 17 years and younger to participate in youth hunting seasons other than those for waterfowl, whereas the current Federal framework for the Youth Waterfowl Hunt is 15 years and younger. We further recognize that this difference has caused some confusion and frustration from youth hunters, especially those between the ages of 15 and 17. Thus, we agree that allowing individual States to have a common definition of youth age for all of their different youth hunting seasons would simplify the issue for many States. States would still have the option to adopt an age restriction younger than 17 if they so choose. For those youth hunters 16 years of age and older, the requirement to possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp) would remain in effect, as would the requirement that any youth hunter must be accompanied by an adult at least 18 years of age.

#### 2. Sea Ducks

*Council Recommendations:* The Atlantic Flyway Council recommended that sea ducks in the Atlantic Flyway be exposed to no more than 60 days of hunting in any Special Sea Duck Area, or regular duck hunting area or zone. They further recommended that in "Special Sea Duck Areas," the bag limit

for sea ducks would be 5, to include no more than 4 eiders, 4 scoters, or 4 long-tailed ducks. In regular duck season areas and in States with no special sea duck areas, sea ducks would count toward the total bag of 6 ducks, which could include no more than 4 eiders, 4 scoters, and 4 long-tailed ducks. Splits would be allowed in the Special Sea Duck Area if the sea duck season is set concurrently with the regular duck season; otherwise, season dates in the Special Sea Duck Area could not be split. Lastly, the Council recommended that the taking of crippled waterfowl under power be allowed to continue in Special Sea Duck Areas as they are currently delineated (50 CFR 20.105) (regardless of whether a special sea duck season is held).

*Service Response:* We agree with the Atlantic Flyway Council's recommendations to reduce the harvest of sea ducks. The recent Sea Duck Harvest Potential Assessment indicates that the likelihood of overharvest of scoter, Atlantic common eider, and long-tailed duck populations ranges from 48 percent (Eastern black scoter) to 95 percent (long-tailed duck). Further, sea ducks have a low reproduction rate normally offset by the longevity of adults. As such, hunting mortality is almost entirely additive. One of the incentives for sea duck hunting has been the opportunity for hunters to achieve a high daily bag limit (7 ducks). The Atlantic Flyway Council believes, and we concur, that reducing the general daily bag limit to 5 will reduce that incentive, but still allow special sea duck hunting opportunity. They further estimate that the recommended changes in season length, daily bag limits, and area restrictions are expected to achieve an approximate harvest reduction of 25 percent.

#### 4. Canada Geese

##### A. Special Early Seasons

*Council Recommendations:* The Pacific Flyway Council recommended generalizing the special early Canada goose season frameworks in the Pacific Flyway to apply to all States except Alaska. Specifically, the Council recommended a Canada goose season of up to 15 days during September 1–20 with a daily bag limit of not more than 5 Canada geese, except in Pacific County, Washington, where the daily bag limit could not exceed 15 Canada geese. The Council recommended that all areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

*Service Response:* We agree with the Pacific Flyway Council's recommendation to generalize the special early Canada goose season framework to apply to all Pacific Flyway States except Alaska. The special early Canada goose hunting season is generally designed to reduce or control overabundant resident Canada goose populations. Early Canada goose seasons are currently allowed in 6 of 11 Pacific Flyway States excluding Alaska. Allowing a general season length of up to 15 days during September 1–20 and a bag limit of up to 5 Canada geese in all of the Pacific Flyway States except Alaska will simplify and standardize the early Canada goose season framework among Pacific Flyway States and provide a tool to help reduce or control the abundance of resident Canada geese in all Pacific Flyway States. The Flyway-wide framework is more consistent with the frameworks for other species and the special early Canada goose season frameworks in other Flyways.

##### B. Regular Seasons

*Council Recommendations:* The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016. They also recommended that the frameworks for Canada geese in the Mississippi Flyway, beginning in 2016, allow 107 days with up to a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons could be split into 4 segments.

*Service Response:* As we have previously indicated (77 FR 58448, September 20, 2012), we support the Mississippi Flyway Council recommendations to move from State-specific frameworks to Flyway-wide Canada goose frameworks. Management of Canada geese in the Mississippi Flyway is complicated by the need to balance potentially conflicting objectives for arctic, subarctic, and temperate (resident) breeding populations. Increased abundance of temperate-breeding Canada geese has caused conflicts with people and human activities, and regulations have been gradually liberalized to increase harvest of such birds to reduce those conflicts. The Council believes that hunting is an important means of controlling goose populations in the Mississippi Flyway, but notes that Canada goose harvest has declined since 2006, even with recent liberalizations enacted in the flyway.

The Council believes the recommended season structure will allow State managers additional flexibility in days, dates, and bag limits to meet management needs and the desires of goose hunters in their State, and we concur.

We also agree with the Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. The Council's recommendation to change the goose framework opening date from the Saturday nearest September 24 to September 1 is compatible with the recent change in our regulatory schedule that combines the early and late season regulations processes (see also 5. White-fronted Geese and 7. Snow and Ross's (Light) Geese, below).

Lastly, we note that the Council is developing a general Canada Goose Management Plan for the flyway, which will incorporate aspects of existing management plans for migrant populations (Eastern Prairie Population (EPP), Mississippi Valley Population (MVP), and Southern James Bay Population (SJB)) and the temperate-nesting Giant Canada Goose population. Although the Flyway no longer recognizes zones for EPP, MVP and SJB populations, we note that portions of the SJB population migrate to the Atlantic Flyway. Therefore, we urge the Mississippi Flyway Council to consult with the Atlantic Flyway Council as the general Canada goose management plan is being developed for the Mississippi Flyway.

#### 5. White-Fronted Geese

*Council Recommendations:* The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016.

*Service Response:* We agree with the Mississippi Flyway Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. Currently, framework dates for white-fronted geese are from the Saturday nearest Sept. 24 to the Sunday nearest Feb. 15. Adjusting the framework dates for other geese (snow and white-fronted geese) will allow States flexibility to open and/or close all goose seasons on the same date. Since the numbers of white-fronted geese present in the Mississippi Flyway in September are low, we expect no impacts from this change.

## 6. Brant

*Council Recommendations:* The Atlantic Flyway Council recommends that the 2016–17 season for Atlantic brant follow the Atlantic Flyway Brant Hunt plan pending the results of the 2016 Atlantic Flyway mid-winter waterfowl survey. The Council also recommended that if the results of the 2016 mid-winter survey are not available, then the results of the most recent mid-winter survey should be used.

*Service Response:* As we discussed in the August 6, 2015, proposed rule, the current harvest strategy used to determine the Atlantic brant season frameworks does not fit well within the new regulatory process, similar to the RMP sandhill crane issue discussed below under 9. Sandhill Cranes. In developing the annual proposed frameworks for Atlantic brant in the past, the Atlantic Flyway Council and the Service used the number of brant counted during the Mid-winter Waterfowl Survey (MWS) in the Atlantic Flyway, and took into consideration the brant population's expected productivity that summer. The MWS is conducted each January, and expected brant productivity is based on early-summer observations of breeding habitat conditions and nesting effort in important brant nesting areas. Thus, the data under consideration were available before the annual Flyway and SRC decision-making meetings took place in late July. Although the former regulatory alternatives for Atlantic brant were developed by factoring together long-term productivity rates (observed during November and December productivity surveys) with estimated observed harvest under different framework regulations, the primary decision-making criterion for selecting the annual frameworks was the MWS count.

Under the new regulatory schedule for the 2016–17 migratory bird hunting regulations, neither the expected 2016 brant production information (available summer 2016) nor the 2016 MWS count (conducted in January 2016) is yet available. However, the 2016 MWS will be completed and winter brant data will be available by the expected publication of the final frameworks (late February 2016). Therefore, in the September 24, 2015, **Federal Register** (80 FR 57664), we adopted the Atlantic Flyway's changes to the then-current Atlantic brant hunt plan strategies. Current harvest packages (strategies) for Atlantic brant hunting seasons are now as follows:

- If the mid-winter waterfowl survey (MWS) count is <100,000 Atlantic brant, the season would be closed.

- If the MWS count is between 100,000 and 115,000 brant, States could select a 30-day season with a 1-bird daily bag limit.

- If the MWS count is between 115,000 and 130,000 brant, States could select a 30-day season with a 2-bird daily bag limit.

- If the MWS count is between 130,000 and 150,000 brant, States could select a 50-day season with a 2-bird daily bag limit.

- If the MWS count is between 150,000 and 200,000 brant, States could select a 60-day season with a 2-bird daily bag limit.

- If the MWS count is >200,000 brant, States could select a 60-day season with a 3-bird daily bag limit.

Under all the above open-season alternatives, seasons would be between the Saturday nearest September 24 and January 31. Further, States could split their seasons into 2 segments.

When we acquire the 2016 MWS brant count in January 2016, we will select the appropriate Atlantic brant hunting season for 2016–17 from the above Atlantic brant hunt strategies and publish the result in the final frameworks rule.

## 7. Snow and Ross's (Light) Geese

*Council Recommendations:* The Mississippi Flyway Council recommended that the opening and closing framework dates for all geese in the Mississippi Flyway be September 1 to February 15 beginning in 2016.

*Service Response:* As we stated above under 5. White-fronted Geese, we agree with the Mississippi Flyway Council's recommendation to adjust the opening and closing framework dates for all geese in the Mississippi Flyway to September 1 through February 15 beginning in 2016. Currently, framework dates for snow geese are from the Saturday nearest Sept. 24 to the Sunday nearest Feb. 15. Adjusting the framework dates for other geese (snow and white-fronted geese) will allow States flexibility to open and/or close all goose seasons on the same date. Since there are low numbers of snow geese present in the Mississippi Flyway in September, we expect no impacts from this change.

## 9. Sandhill Cranes

*Council Recommendations:* The Mississippi Flyway Council recommended that Tennessee be allowed an additional year (2016–17) of their experimental sandhill crane

hunting season under harvest guidelines set for their experimental season.

The Central and Pacific Flyway Council's recommended (1) the addition of a new Rocky Mountain Population (RMP) sandhill crane hunting unit in Carbon County Montana, (2) a new hunt area for RMP sandhill cranes in Sheridan, Johnson, and Natrona Counties, Wyoming, and (3) that allowable harvest be determined based on the formula described in the Pacific and Central Flyway Management Plan for RMP sandhill cranes.

*Service Response:* We agree with the Mississippi Flyway Council to allow Tennessee an additional year under the existing experimental season. The Council notes that harvest during the first 2 years of the experiment was well below the permitted number, 342 and 393 cranes, respectively, in 2013 and 2014. The approved Tennessee sandhill crane hunt plan allows Tennessee to issue 775 hunters a total of 2,325 permits (3 per person). This permit allocation was based on a peak number of cranes observed in Tennessee (23,334 during 2009–13), so the continued allotment of permits would still fall within guidelines set by the Eastern Population Crane Management Plan. While the 2015–16 season marks the completion of Tennessee's experimental 3-year sandhill crane season, Tennessee will collect and analyze population and hunter data during the 2015–16 season and prepare a final report on the experimental season for distribution at the late summer 2016 Flyway meeting. We expect a proposal for an operational season will likely be made at that time.

We also agree with the Central and Pacific Flyway Council's recommendation for new RMP sandhill crane hunting areas in Montana (Carbon County) and Wyoming (Sheridan, Johnson, and Natrona Counties). The new hunt areas are consistent with the Pacific and Central Flyway Council's RMP sandhill crane management plan hunting area requirements.

Regarding the RMP crane harvest, as we discussed in the August 6, 2015, proposed rule, the current harvest strategy used to calculate the allowable harvest of the RMP of sandhill cranes does not fit well within the new regulatory process, similar to the Atlantic brant issue discussed above under 6. Brant. Currently, results of the fall survey of RMP sandhill cranes, upon which the annual allowable harvest is based, will continue to be released between December 15 and January 31 each year, which is after the date for which proposed frameworks will be formulated in the new regulatory process. If the usual procedures for

determining allowable harvest were used, data 2–4 years old would be used to determine the annual allocation for RMP sandhill cranes. Due to the variability in fall survey counts and recruitment for this population, and their impact on the annual harvest allocations, we agree that relying on data that is 2–4 years old is not ideal.

Thus, we agree that the formula to determine the annual allowable harvest for RMP sandhill cranes should be used under the new regulatory schedule and propose to utilize it as such. That formula uses information on abundance and recruitment collected annually through operational monitoring programs, as well as constant values based on past research or monitoring for survival of fledglings to breeding age and harvest retrieval rate. The formula is:

$$H = C \times P \times R \times L \times f$$

Where:

H = total annual allowable harvest;

C = the average of the three most recent, reliable fall population indices;

P = the average proportion of fledged chicks in the fall population in the San Luis Valley during the most recent 3 years for which data are available;

R = estimated recruitment of fledged chicks to breeding age (current estimate is 0.5);

L = retrieval rate of 0.80 (allowance for an estimated 20 percent crippling loss based on hunter interviews); and

f =  $(C/16,000)^3$  (a variable factor used to adjust the total harvest to achieve a desired effect on the entire population)

A final estimate for the allowable harvest would be available to publish in the final rule, allowing us to use data that is 1–3 years old as is currently practiced.

#### 14. Woodcock

In 2011, we implemented a harvest strategy for woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for woodcock season length and bag limit while we work to improve monitoring and assessment protocols for this species. Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated confidence intervals fall within the “moderate package” for both the Eastern and Central Management Regions. As such, a “moderate season” for both management regions for the 2016–17 season is appropriate.

Specifics of the harvest strategy can be found at <http://www.fws.gov/migratorybirds/NewsPublicationsReports.html>.

#### 16. Doves

*Council Recommendations:* The Atlantic and Mississippi Flyway Councils recommended use of the “standard” season framework comprising a 90-day season and 15-bird daily bag limit for States within the Eastern Management Unit. The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination.

The Mississippi and Central Flyway Councils recommended the use of the “standard” season package of a 15-bird daily bag limit and a 90-day season for the 2016–17 mourning dove season in the States within the Central Management Unit.

The Pacific Flyway Council recommended use of the “standard” season framework for States in the Western Management Unit (WMU) population of mourning doves. In Idaho, Nevada, Oregon, Utah, and Washington, the season length would be no more than 60 consecutive days with a daily bag limit of 15 mourning and white-winged doves in the aggregate. In Arizona and California, the season length would be no more than 60 consecutive days, which could be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit would be 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit would be 15 mourning doves. In California, the daily bag limit would be 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

*Service Response:* Based on the harvest strategies and current population status, we agree with the recommended selection of the “standard” season frameworks for doves in the Eastern, Central, and Western Management Units for the 2016–17 season.

#### 17. Alaska

*Council Recommendations:* The Pacific Flyway Council recommended increasing the daily bag limit for brant from 2 to 3, and increasing the daily bag limit for light geese from 4 to 6.

*Service Response:* We agree with the Pacific Flyway Council’s recommendation to increase the daily bag limit in Alaska from 2 to 3 brant. The Flyway management plan for Pacific brant allows harvest to increase by two times the current level if the 3-year average population index exceeds

135,000 brant based on the mid-winter waterfowl survey. The 3-year (2013–2015) average is 157,700 brant, and is near the population objective of 162,000 brant. Increasing the daily bag limit from 2 to 3 brant will allow additional hunting opportunity while maintaining the season length at the maximum of 107 days for brant, and is not expected to increase harvest appreciably from that anticipated with a 2-brant daily bag limit.

We also agree with the Pacific Flyway Council’s recommendation to increase the light goose daily bag limit from 4 to 6 light geese in Alaska. Two populations of light geese occur in Alaska, and both are above Flyway management plan objectives based on the most recent breeding population indices. The population estimate for the Western Arctic Population (WAP) of lesser snow geese was 451,000 in 2013 (most recent estimate), which is above the objective of 200,000 geese. Most of WAP lesser snow geese nest in the Egg River colony on Banks Island, Canada, but there are small, but growing, nesting colonies along the Arctic Coastal Plain of Alaska. In 2015, biologists noted high lesser snow goose nest survival (>95%) on the Colville River Delta and Ikpikpuk colonies on the Alaskan Arctic Coastal Plain. Biologists also noted earlier gosling development than any prior documented instance at the later colony. Favorable nesting conditions were also observed across much of the North Slope of Alaska and western Arctic. The population estimate for Wrangel Island snow geese was 240,000 in 2015, which is above the objective of 120,000 geese.

#### Public Comments

The Department of the Interior’s policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post all comments in their entirety—including your personal



identifying information—on <http://www.regulations.gov>. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, Virginia.

We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preambles of any final rules.

#### Required Determinations

Based on our most current data, we are affirming our required determinations made in the August 6 proposed rule; for descriptions of our actions to ensure compliance with the following statutes and Executive Orders, see our August 6, 2015, proposed rule (80 FR 47388):

- National Environmental Policy Act (NEPA) Consideration;
- Endangered Species Act Consideration;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act of 1995
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, and 13563.

#### List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2016–17 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: December 2, 2015.

**Michael J. Bean,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

#### Proposed Regulations Frameworks for 2016–17 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following proposals for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting migratory game birds between the dates of September 1, 2016, and March 10, 2017. These frameworks are summarized below.

#### General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by sport hunters, or both. In many cases (*e.g.*, tundra swans, some sandhill crane populations), the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

#### Flyways and Management Units

##### Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

##### Duck Management Units

High Plains Mallard Management Unit: roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Columbia Basin Mallard Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

##### Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

##### Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana,

Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

### Definitions

For the purpose of hunting regulations listed below, the collective terms "dark" and "light" geese include the following species:

*Dark geese:* Canada geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

*Light geese:* Snow (including blue) geese and Ross's geese.

*Area, Zone, and Unit Descriptions:* Geographic descriptions related to regulations are contained in a later portion of this document.

*Area-Specific Provisions:* Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

### Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting is prohibited Statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

### Special Youth Waterfowl Hunting Days

*Outside Dates:* States may select 2 days per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

*Daily Bag Limits:* The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

*Shooting Hours:* One-half hour before sunrise to sunset.

*Participation Restrictions:* States may use their established definition of age for youth hunters. However, youth hunters may not be over the age of 17. In addition, an adult at least 18 years of

age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Tundra swans may only be taken by participants possessing applicable tundra swan permits.

### Special September Teal Season

*Outside Dates:* Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

*Atlantic Flyway:* Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

*Mississippi Flyway:* Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The seasons in Iowa, Michigan, and Wisconsin are experimental.

*Central Flyway:* Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas. The season in the northern portion of Nebraska is experimental.

*Hunting Seasons and Daily Bag Limits:* Not to exceed 16 consecutive hunting days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

*Shooting Hours:*

*Atlantic Flyway:* One-half hour before sunrise to sunset, except in South Carolina, where the hours are from sunrise to sunset.

*Mississippi and Central Flyways:* One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, where the hours are from sunrise to sunset.

### Special September Duck Seasons

*Florida, Kentucky, and Tennessee:* In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day experimental teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

*Iowa:* In lieu of an experimental special September teal season, Iowa may hold up to 5 days of its regular duck

hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 17). The daily bag and possession limits will be the same as those in effect during the remainder of the regular duck season. The remainder of the regular duck season may not begin before October 10.

### Waterfowl

#### Atlantic Flyway

Ducks, Mergansers, and Coots

*Outside Dates:* Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

*Hunting Seasons and Duck Limits:* 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which can be females), 1 black duck, 2 pintails, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks.

*Closures:* The season on harlequin ducks is closed.

*Merganser Limits:* The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

*Coot Limits:* The daily bag limit is 15 coots.

*Lake Champlain Zone, New York:* The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

*Connecticut River Zone, Vermont:* The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

*Zoning and Split Seasons:* Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, Virginia, and West Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont may select hunting seasons by zones and may split their seasons into two segments in each zone.

Scoters, Eiders, and Long-Tailed Ducks  
Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South

Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoter, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

**Outside Dates:** Between September 15 and January 31.

**Special Sea Duck Seasons and Daily Bag Limits:** 60 consecutive hunting days, with a daily bag limit of 5, singly or in the aggregate, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. If the regular duck season is open in the Special Sea Duck Area, other ducks may be taken in the Special Sea Duck Area(s), but the total daily bag limit cannot exceed 6 ducks in these areas, including no more than 5 sea ducks. At no time or place are special sea duck daily bag limits considered to be in addition to daily bag limits for regular ducks.

**Special Sea Duck Areas:** In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.170, 80.501, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

#### Canada Geese

##### Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–15 may be selected for the Eastern Unit of

Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

**Daily Bag Limits:** Not to exceed 15 Canada geese.

**Shooting Hours:** One-half hour before sunrise to sunset, except that during any special early Canada goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

##### Regular Canada Goose Seasons

**Season Lengths, Outside Dates, and Limits:** Specific regulations for Canada geese are shown below by State. These seasons may also include white-fronted geese in an aggregate daily bag limit. Unless specified otherwise, seasons may be split into two segments.

###### *Connecticut:*

**North Atlantic Population (NAP) Zone:** Between October 1 and February 15, a 70-day season may be held with a 3-bird daily bag limit.

**Atlantic Population (AP) Zone:** A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

**South Zone:** A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

**Resident Population (RP) Zone:** An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

**Delaware:** A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

**Florida:** An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

**Georgia:** An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

**Maine:** A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

###### *Maryland:*

**RP Zone:** An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

**AP Zone:** A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

###### *Massachusetts:*

**NAP Zone:** A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

**AP Zone:** A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

**New Hampshire:** A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

###### *New Jersey:*

**AP Zone:** A 50-day season may be held between the fourth Saturday in October (October 22) and February 5, with a 3-bird daily bag limit.

**RP Zone:** An 80-day season may be held between the fourth Saturday in October (October 22) and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

**Special Late Goose Season Area:** A special season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

###### *New York:*

**NAP Zone:** Between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in both the High Harvest and Low Harvest areas.

**Special Late Goose Season Area:** A special season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Suffolk County.

**AP Zone:** A 50-day season may be held between the fourth Saturday in October (October 22), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 3-bird daily bag limit.

**Western Long Island RP Zone:** A 107-day season may be held between the Saturday nearest September 24 (September 24) and March 10, with an 8-bird daily bag limit. The season may be split into 3 segments.

**Rest of State RP Zone:** An 80-day season may be held between the fourth Saturday in October (October 22) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

###### *North Carolina:*

**SJBP Zone:** A 70-day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

**RP Zone:** An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

**Northeast Hunt Unit:** A 14-day season may be held between the Saturday prior to December 25 (December 24) and January 31, with a 1-bird daily bag limit.

*Pennsylvania:*

SJBP Zone: A 78-day season may be held between the first Saturday in October (October 1) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 22) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 22) and February 5, with a 3-bird daily bag limit.

*Rhode Island:* A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

*South Carolina:* In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

*Vermont:*

Lake Champlain Zone and Interior Zone: A 50-day season may be held between October 10 and February 5 with a 3-bird daily bag limit.

Connecticut River Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

*Virginia:*

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit.

Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

*West Virginia:* An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments in each zone.

## Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. States may split their seasons into three segments.

## Brant

Season Lengths, Outside Dates, and Limits: States may select a 30-day season between the Saturday nearest September 24 (September 24) and

January 31. States may split their seasons into two segments. Season length and daily bag limits will be based on the upcoming MWS results and the Atlantic brant hunt plan.

**Mississippi Flyway**

## Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 1 black duck, 2 pintails, 3 wood ducks, 2 canvasbacks, 3 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Alabama, Arkansas and Mississippi, the season may be split into three segments.

## Geese

## Season Lengths, Outside Dates, and Limits:

Canada Geese: States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15 and may be split into 4 segments.

White-fronted Geese and Brant: Arkansas, Illinois, Louisiana, Kentucky, Missouri, Mississippi, and Tennessee may select a season for white-fronted geese not to exceed 74 days with 3 geese daily, or 88 days with 2 geese daily, or 107 days with 1 goose daily between September 1 and February 15; Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a season for white-fronted geese not to

exceed 107 days with 5 geese daily, in aggregate with dark geese. States may select a season for brant not to exceed 70 days with 2 brant daily, or 107 days with 1 brant daily with outside dates the same as for Canada geese; alternately, States may include brant in an aggregate goose bag limit with either Canada geese, white-fronted geese, or dark geese.

Light Geese: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between the Saturday nearest September 24 (September 24) and February 15. There is no possession limit for light geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Split Seasons: Seasons for geese may be split into three segments unless otherwise indicated.

**Central Flyway**

## Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

## Hunting Seasons:

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 10).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 3 scaup, 2 redheads, 3 wood ducks, 2 pintails, and 2 canvasbacks. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily

bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

**Coot Limits:** The daily bag limit is 15 coots.

**Zoning and Split Seasons:** Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

#### Geese

##### Special Early Canada Goose Seasons:

In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of up to 30 days during September 1–30 may be selected. In Colorado, New Mexico, North Dakota, Montana, and Wyoming, Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada geese and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

**Shooting Hours:** One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

##### Regular Goose Seasons:

**Split Seasons:** Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

**Outside Dates:** For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 24) and the Sunday nearest February 15 (February 12). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 24) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

#### Season Lengths and Limits:

**Light Geese:** States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

**Dark Geese:** In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 2.

#### Pacific Flyway

##### Ducks, Mergansers, and Coots

**Outside Dates:** Between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

**Hunting Seasons and Duck and Merganser Limits:** 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 2 pintails, 2 canvasbacks, 3 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

**Coot, Common Moorhen, and Purple Gallinule Limits:** The daily bag limit of coots, common moorhens, and purple gallinules is 25, singly or in the aggregate.

**Zoning and Split Seasons:** Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones and may split their seasons into two segments.

Montana and New Mexico may split their seasons into three segments.

**Colorado River Zone, California:** Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

#### Geese

##### Special Early Canada Goose Seasons:

A Canada goose season of up to 15 days during September 1–20 may be selected. The daily bag limit may not

exceed 5 Canada geese, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada geese. Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

##### Regular Goose Seasons:

**Season Lengths, Outside Dates, and Limits:**

Canada geese and brant: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29). In Arizona, Colorado, Idaho, Montana, Nevada, and Utah, the daily bag limit is 4 Canada geese and brant in the aggregate. In New Mexico and Wyoming, the daily bag limit is 3 Canada geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada geese. For brant, Oregon and Washington may select a 16-day season and California a 37-day season. Days must be consecutive. Washington and California may select hunting seasons for up to two zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

**White-fronted geese:** Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit is 10.

**Light geese:** Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit is 20.

**Split Seasons:** Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

**California:** The daily bag limit for Canada geese is 10.

**Balance of State Zone:** A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after the last Sunday in January should be concurrent with Oregon's South Coast Zone.

**Idaho:**

Zone 2: Idaho will continue to monitor the snow goose hunt that occurs after the last Sunday in January in the American Falls Reservoir/Fort Hall Bottoms and surrounding areas at 3-year intervals.

*Oregon:* The daily bag limit for light geese is 6 on or before the last Sunday in January.

*Harney and Lake County Zone:* For Lake County only, the daily white-fronted goose bag limit is 1.

*Northwest Permit Zone:* A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. Goose seasons may be split into 3 segments. The daily bag limit of light geese is 6. In the Tillamook County Management Area, the hunting season is closed on geese.

*South Coast Zone:* A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. The daily bag limit of Canada geese is 6. Hunting days that occur after the last Sunday in January should be concurrent with California's North Coast Special Management Area. Goose seasons may be split into 3 segments.

*Utah:* A Canada goose and brant season may be selected in the Wasatch Front and Washington County Zones with outside dates between the Saturday nearest September 24 (September 24) and the first Sunday in February (February 5).

*Washington:* The daily bag limit is 4 geese.

Area 1: Goose season outside dates are between the Saturday nearest September 24 (September 24) and the last Sunday in January (January 29).

Areas 2A and 2B (Southwest Permit Zone): A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 24) and March 10. Goose seasons may be split into 3 segments.

Area 4: Goose seasons may be split into 3 segments.

#### Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding

monitoring the impacts of take during the regular Canada goose season on the dusky Canada goose population.

#### Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may issue only 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (October 1). These seasons are also subject to the following conditions:

*Montana:* No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

*Utah:* No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 11) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2003, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

*Nevada:* No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 8) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent hunter compliance rate, or subsequent

permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2017, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

#### Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

##### *In the Atlantic Flyway:*

- The season may be 90 days, between October 1 and January 31.
- In North Carolina, no more than 5,000 permits may be issued.
- In Virginia, no more than 600 permits may be issued.

##### *In the Central Flyway:*

- The season may be 107 days, between the Saturday nearest October 1 (October 1) and January 31.
- In the Central Flyway portion of Montana, no more than 500 permits may be issued.
- In North Dakota, no more than 2,200 permits may be issued.
- In South Dakota, no more than 1,300 permits may be issued.

#### Sandhill Cranes

Regular Seasons in the Mississippi Flyway:

*Outside Dates:* Between September 1 and February 28 in Minnesota and between September 1 and January 31 in Kentucky.

*Hunting Seasons:* A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days, in Kentucky.

*Daily Bag Limit:* 2 sandhill cranes. In Kentucky the seasonal bag limit is 3 sandhill cranes.

*Permits:* Each person participating in the regular sandhill crane seasons must have a valid Federal or State sandhill crane hunting permit.

*Other Provisions:* The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons

must be consistent with the management plans and approved by the Mississippi Flyway Council.

Experimental Season in the Mississippi Flyway:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: A season not to exceed 60 consecutive days may be selected in Tennessee.

Bag Limit: Not to exceed 3 daily and 3 per season in Tennessee.

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway:

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 consecutive days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other

provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP quota; and

D. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

#### **Common Moorhens and Purple Gallinules**

Outside Dates: Between September 1 and the last Sunday in January (January 29) in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, frameworks for common moorhens and purple gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

#### **Rails**

Outside Dates: States included herein may select seasons between September 1 and the last Sunday in January (January 29) on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10, singly or in the aggregate of the two species. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

#### **Snipe**

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

#### **American Woodcock**

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 24) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

#### **Band-Tailed Pigeons**

*Pacific Coast States (California, Oregon, Washington, and Nevada)*

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

*Four-Corners States (Arizona, Colorado, New Mexico, and Utah)*

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

#### **Doves**

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

*Eastern Management Unit*

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

*Central Management Unit*

For all States except Texas:  
Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

## Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between the Friday nearest September 20 (September 23), but not earlier than September 17, and January 25.

C. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Special White-winged Dove Area in Texas:

In addition, Texas may select a hunting season of not more than 4 days for the Special White-winged Dove Area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves.

*Western Management Unit*

Hunting Seasons and Daily Bag Limits:

*Idaho, Nevada, Oregon, Utah, and Washington:* Not more than 60 consecutive days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

*Arizona and California:* Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

**Alaska**

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of 5 zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits:

Ducks: Except as noted, a basic daily bag limit of 7 ducks. Daily bag limits in the North Zone are 10, and in the Gulf Coast Zone, they are 8. The basic limits may include no more than 1 canvasback daily and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is

any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Brant: The daily bag limit is 3.

Snipe: The daily bag limit is 8.

Sandhill cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by registration permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

**Hawaii**

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.



**Puerto Rico****Doves and Pigeons**

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 20 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

**Ducks, Coots, Moorhens, Gallinules, and Snipe**

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks: Not to exceed 6.

Common moorhens: Not to exceed 6.

Common snipe: Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

**Virgin Islands****Doves and Pigeons**

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds:

Zenaida dove, also known as mountain dove; bridled quail-dove, also known as

Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

**Ducks**

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

**Special Falconry Regulations**

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29. These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

**Area, Unit, and Zone Descriptions****Ducks (Including Mergansers) and Coots****Atlantic Flyway****Connecticut**

North Zone: That portion of the State north of I-95.

South Zone: Remainder of the State.

**Maine**

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of

Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I-95 in Augusta; then north and east along I-95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

Coastal Zone: That portion south of a line extending east from the Maine-New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine-New Hampshire border in Kittery.

South Zone: Remainder of the State.

**Maryland**

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

**Massachusetts**

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I-91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I-95 to U.S. 1, south on U.S. 1 to I-93, south on I-93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I-195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

**New Hampshire**

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Rte. 10 and Rte. 25-A in Orford, east on Rte. 25A to Rte. 25 in Wentworth, southeast on Rte. 25 to Exit 26 of Rte. I-93 in Plymouth, south on Rte. I-93 to Rte. 3 at Exit 24 of Rte. I-93 in Ashland, northeast on Rte. 3 to Rte. 113 in Holderness, north on Rte. 113 to Rte. 113-A in Sandwich,

north on Rte. 113–A to Rte. 113 in Tamworth, east on Rte. 113 to Rte. 16 in Chocorua, north on Rte. 16 to Rte. 302 in Conway, east on Rte. 302 to the Maine-New Hampshire border.

**Inland Zone:** That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: The State of Vermont east of Rte. I–91 at the Massachusetts border, north on Rte. I–91 to Rte. 2, north on Rte. 2 to Rte. 102, north on Rte. 102 to Rte. 253, and north on Rte. 253 to the border with Canada and the area of New Hampshire west of Rte. 63 at the Massachusetts border, north on Rte. 63 to Rte. 12, north on Rte. 12 to Rte. 12–A, north on Rte. 12–A to Rte. 10, north on Rte. 10 to Rte. 135, north on Rte. 135 to Rte. 3, north on Rte. 3 to the intersection with the Connecticut River.

**Coastal Zone:** That portion of the State east of a line beginning at the Maine-New Hampshire border in Rollinsford, then extending to Rte. 4 west to the city of Dover, south to the intersection of Rte. 108, south along Rte. 108 through Madbury, Durham, and Newmarket to the junction of Rte. 85 in Newfields, south to Rte. 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

#### *New Jersey*

**Coastal Zone:** That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware State line in Delaware Bay.

**North Zone:** That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

**South Zone:** That portion of the State not within the North Zone or the Coastal Zone.

#### *New York*

**Lake Champlain Zone:** That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

**Long Island Zone:** That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

**Western Zone:** That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

**Northeastern Zone:** That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

**Southeastern Zone:** The remaining portion of New York.

#### *Pennsylvania*

**Lake Erie Zone:** The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

**Northwest Zone:** The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

**North Zone:** That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

**South Zone:** The remaining portion of Pennsylvania.

#### *Vermont*

**Lake Champlain Zone:** The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along

and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

**Interior Zone:** That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

**Connecticut River Zone:** The remaining portion of Vermont east of the Interior Zone.

#### **Mississippi Flyway**

##### *Illinois*

**North Zone:** That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

**Central Zone:** That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

**South Zone:** That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on

Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

#### Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along U.S. 40; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

#### Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, and along U.S. Highway 30 to the Illinois border.

Missouri River Zone: That portion of Iowa west of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, and west along State Highway 175 to the Iowa-Nebraska border.

South Zone: The remainder of Iowa.

#### Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

#### Louisiana

East Zone: That area of the State between the Mississippi State line and a line going south on Hwy 79 from the Arkansas border to Homer, then south on Hwy 9 to Arcadia, then south on Hwy 147 to Hodge, then south on Hwy 167 to Turkey Creek, then south on Hwy 13 to Eunice, then west on Hwy 190 to Kinder, then south on Hwy 165 to Iowa, then west on I-10 to its junction with Hwy 14 at Lake Charles, then south and east on Hwy 14 to its junction with Hwy 90 in New Iberia, then east on Hwy 90 to the Mississippi State line.

West Zone: That area between the Texas State line and a line going east on I-10 from the Texas border to Hwy 165 at Iowa, then north on Hwy 165 to Kinder, then east on Hwy 190 to Eunice, then north on Hwy 13 to Turkey Creek, then north on Hwy 167 to Hodge, then north on Hwy 147 to Arcadia, then north on Hwy 9 to Homer, then north on Hwy 79 to the Arkansas border.

Coastal Zone: Remainder of the State.

#### Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I-75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

#### Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S.

Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

#### Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to I-70; west on I-70 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 74 to Mo. Hwy. 25; south on Mo. Hwy. 25 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to U.S. Hwy. 71; south on U.S. Hwy. 71 to Jasper County Hwy. M (Base Line Blvd.); west on Jasper County Hwy. M (Base Line Blvd.) to CRD 40 (Base Line Blvd.); west on CRD 40 (Base Line Blvd.) to the Kansas border.

#### Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I-280 to the Ohio Turnpike (I-80/I-90), then east on the Ohio Turnpike to the Erie-Lorain county line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the

Indiana State line along U.S. Highway 33 to State Route 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U. S. 33, then east along U. S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 U.S. to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

#### *Tennessee*

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

#### *Wisconsin*

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

South Zone: The remainder of Wisconsin.

### **Central Flyway**

#### *Colorado (Central Flyway Portion)*

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

#### *Kansas*

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the federal highway US-283 and state highway US-96 junction, then east on federal highway US-96 to its junction with federal highway US-183, then north on federal highway US-183 to its junction with federal highway US-24, then east on federal highway US-24 to its junction with federal highway US-281, then north on federal highway US-281 to its junction with federal highway US-36, then east on federal highway US-36 to its junction with state highway K-199, then south on state highway K-199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with state highway K-148, then east on state highway K-148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with state highway K-9, then west on state highway K-9 to its junction with federal highway US-24, then west on federal highway US-24 to its junction with federal highway US-181, then south on federal highway US-181 to its junction with state highway K-18, then west on state highway K-18 to its junction with federal highway US-281, then south on federal highway US-281 to its junction with state highway K-4, then east on state highway K-4 to its junction with interstate highway I-135, then south on interstate highway I-135 to its junction with state highway K-61, then southwest on state highway K-61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Rd, then west on McPherson County Arapaho Rd to its junction with state highway K-61, then southwest on state highway K-61 to its junction with state highway K-96, then northwest on state highway K-96 to its junction with federal highway US-56, then southwest on federal highway US-56 to its junction with state highway K-19, then east on state

highway K-19 to its junction with federal highway US-281, then south on federal highway US-281 to its junction with federal highway US-54, then west on federal highway US-54 to its junction with federal highway US-183, then north on federal highway US-183 to its junction with federal highway US-56, then southwest on federal highway US-56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with federal highway US-400, then northwest on federal highway US-400 to its junction with federal highway US-283, and then north on federal highway US-283 to its junction with federal highway US-96.

Low Plains Late Zone: That part of Kansas bounded by a line from the federal highway US-283 and federal highway US-96 junction, then north on federal highway US-283 to the Kansas-Nebraska state line, then east along the Kansas-Nebraska state line to its junction with the Kansas-Missouri state line, then southeast along the Kansas-Missouri state line to its junction with state highway K-68, then west on state highway K-68 to its junction with interstate highway I-35, then southwest on interstate highway I-35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with federal highway US-77, then south on federal highway US-77 to its junction with the Kansas-Oklahoma state line, then west along the Kansas-Oklahoma state line to its junction with federal highway US-283, then north on federal highway US-283 to its junction with federal highway US-400, then east on federal highway US-400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with federal highway US-56, then east on federal highway US-56 to its junction with federal highway US-183, then south on federal highway US-183 to its junction with federal highway US-54, then east on federal highway US-54 to its junction with federal highway US-281, then north on federal

highway US-281 to its junction with state highway K-19, then west on state highway K-19 to its junction with federal highway US-56, then east on federal highway US-56 to its junction with state highway K-96, then southeast on state highway K-96 to its junction with state highway K-61, then northeast on state highway K-61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with state highway K-61, then east on state highway K-61 to its junction with interstate highway I-135, then north on interstate highway I-135 to its junction with state highway K-4, then west on state highway K-4 to its junction with federal highway US-281, then north on federal highway US-281 to its junction with state highway K-18, then east on state highway K-18 to its junction with federal highway US-181, then north on federal highway US-181 to its junction with federal highway US-24, then east on federal highway US-24 to its junction with state highway K-9, then east on state highway K-9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with state highway K-148, then west on state highway K-148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with state highway K-199, then north on state highway K-199 to its junction with federal highway US-36, then west on federal highway US-36 to its junction with federal highway US-281, then south on federal highway US-281 to its junction with federal highway US-24, then west on federal highway US-24 to its junction with federal highway US-183, then south on federal highway US-183 to its junction with federal highway US-96, and then west on federal highway US-96 to its junction with federal highway US-283.

**Southeast Zone:** That part of Kansas bounded by a line from the Missouri-Kansas State line west on K-68 to its junction with I-35, then southwest on I-35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with federal highway US-77, then south on federal highway US-77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-

Missouri State line to its junction with K-68.

#### *Montana (Central Flyway Portion)*

**Zone 1:** The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

**Zone 2:** The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

#### *Nebraska*

**Special Teal Season Area (south):** That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

**Special Teal Season Area (north):** The remainder of the State.

**High Plains:** That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy. 183; south on U.S. Hwy. 183 to U.S. Hwy. 20; west on U.S. Hwy. 20 to NE Hwy. 7; south on NE Hwy. 7 to NE Hwy. 91; southwest on NE Hwy. 91 to NE Hwy. 2; southeast on NE Hwy. 2 to NE Hwy. 92; west on NE Hwy. 92 to NE Hwy. 40; south on NE Hwy. 40 to NE Hwy. 47; south on NE Hwy. 47 to NE Hwy. 23; east on NE Hwy. 23 to U.S. Hwy. 283; and south on U.S. Hwy. 283 to the Kansas-Nebraska border.

**Zone 1:** Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border west of NE Hwy. 26E Spur and north of NE Hwy. 12; those portions of Dixon, Cedar, and Knox Counties north of NE Hwy. 12; that portion of Keya Paha County east of U.S. Hwy. 183; and all of Boyd County. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy. 183 shall be included in Zone 1.

**Zone 2:** The area south of Zone 1 and north of Zone 3.

**Zone 3:** Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming-Nebraska border at the intersection of the Interstate Canal; east along northern borders of Scotts Bluff and Morrill Counties to Broadwater Road; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; southeast to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S.

Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to N Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21 (Adams Street); south to County Rd 761; east to the Dawson County Canal; south and east along the Dawson County Canal to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Avenue; north to NE Hwy 40; south and east to NE Hwy 10; north to Buffalo County Rd 220 and Hall County Husker Hwy; east to Hall County Rd 70; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; east to Merrick County Rd 13; north to County Rd O; east to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 22; west to NE Hwy 11; northwest to NE Hwy 91; west to U.S. Hwy 183; south to Round Valley Rd; west to Sargent River Rd; west to Drive 443; north to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; west and north to NE Hwy 91; north and east to North Loup Spur Rd; north to North Loup River Rd; east to Pleasant Valley/Worth Rd; east to Loup County Line; north to Loup-Brown county line; east along northern boundaries of Loup and Garfield Counties to Cedar River Rd; south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to U.S. Hwy 75; north to the Washington County line; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to Colorado-Nebraska border; north and west to Wyoming-Nebraska border; north to intersection of Interstate Canal; and excluding that area in Zone 4.

**Zone 4:** Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of NE Hwy 8 and U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal

Levee R-562; north along Federal Levee R-562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Polk County Rd C; north to NE Hwy 92; west to U.S. Hwy 30; west to Merrick County Rd 17; south to Hordlake Road; southeast to Prairie Island Road; southeast to Hamilton County Rd T; south to NE Hwy 66; west to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I-80; west to Gunbarrel Rd (Hall/Hamilton county line); south to Giltner Rd; west to U.S. Hwy 281; south to Lochland Rd; west to Holstein Avenue; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to U.S. Hwy 283; south to U.S. Hwy 34; east to U.S. Hwy 136; east to U.S. Hwy 183; north to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Avenue; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75.

#### *New Mexico (Central Flyway Portion)*

North Zone: That portion of the State north of I-40 and U.S. 54.

South Zone: The remainder of New Mexico.

#### *North Dakota*

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I-94 to ND 41, north to U.S. 2, west to the Williams-Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

#### *Oklahoma*

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone

and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I-40, east along I-40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I-35, north along I-35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

#### *South Dakota*

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Rd to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I-90, east on I-90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I-29.

Middle Zone: The remainder of South Dakota.

#### *Texas*

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I-10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

#### *Wyoming (Central Flyway portion)*

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

#### **Pacific Flyway**

##### *Arizona*

North Zone: Game Management Units 1-5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B-45.

##### *California*

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south

on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I-10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

**Southern Zone:** That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I-15; east on I-15 to CA 127; north on CA 127 to the Nevada State line.

**Southern San Joaquin Valley Zone:** All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

**Balance of State Zone:** The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

#### *Colorado*

**Eastern Zone:** Routt, Grand, Summit, Eagle, and Pitkin counties, those portions of Saguache, San Juan, Hinsdale, and Mineral in the Pacific Flyway (*i.e.*, west of the Continental Divide), and Gunnison County except the following area: The portion of Gunnison County west of Curecanti Creek, west of the Gunnison River-North Fork of Gunnison River divide to Kebler Pass, west of Kebler Pass and the Ruby Range summit, and west and south of the Pitkin/Gunnison County line west of the Ruby Range. This area corresponds to the North Fork of Gunnison River Valley, and is already established by Colorado Division of Parks and Wildlife as the Gunnison County portions of GMU 521, 53, and 63.

**Western Zone:** The remainder of the Pacific Flyway portion of Colorado not included in the Eastern Zone.

#### *Idaho*

**Zone 1:** All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the

Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

**Zone 2:** Adams, Bear Lake, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; Bingham County within the Blackfoot Reservoir drainage; Caribou County, except the Fort Hall Indian Reservation; and Power County west of State Highway 37 and State Highway 39.

**Zone 3:** Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

#### *Nevada*

**Northeast Zone:** Elko and White Pine Counties.

**Northwest Zone:** Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties.

**South Zone:** Clark and Lincoln Counties.

**Moapa Valley Special Management Area:** That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

#### *Oregon*

**Zone 1:** Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

**Zone 2:** The remainder of Oregon not included in Zone 1.

#### *Utah*

**Zone 1:** Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I-80.

**Zone 2:** The remainder of Utah not included in Zone 1.

#### *Washington*

**East Zone:** All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

**West Zone:** The remainder of Washington not included in the East Zone.

#### *Wyoming (Pacific Flyway Portion)*

**Snake River Zone:** Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S.

Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

**Balance of State Zone:** The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

#### **Geese**

##### **Atlantic Flyway**

###### *Connecticut*

**Early Canada Goose Seasons:**

**South Zone:** Same as for ducks.

**North Zone:** Same as for ducks.

**Regular Seasons:**

**AP Unit:** Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford-Middlesex County line.

**Atlantic Flyway Resident Population (AFRP) Unit:** Starting at the intersection of I-95 and the Quinnipiac River, north on the Quinnipiac River to its intersection with I-91, north on I-91 to I-691, west on I-691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

**NAP H—Unit:** All of the rest of the State not included in the AP or AFRP descriptions above.

**South Zone:** Same as for ducks.

###### *Maine*

Same zones as for ducks.

###### *Maryland*

##### **Early Canada Goose Seasons**

**Eastern Unit:** Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

**Western Unit:** Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301;

and that part of Charles County west of Route 301 to the Virginia State line.

#### Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

#### Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

#### New Hampshire

Same zones as for ducks.

#### New Jersey

AP Zone: North and South Zones (see duck zones).

RP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: Then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then

south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

#### New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to

Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east



along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the International boundary with Canada, south and west along the International boundary to the point of beginning.

**Hudson Valley Goose Area:** That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31),

southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York-Pennsylvania boundary, southeast along the New York-Pennsylvania boundary to the New York-New Jersey boundary, southeast along the New York-New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor-Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange-Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess-Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York-Connecticut boundary to the New York-Massachusetts boundary, north along the New York-Massachusetts boundary to the New York-Vermont boundary, north to the point of beginning.

**Eastern Long Island Goose Area (NAP High Harvest Area):** That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

**Western Long Island Goose Area (RP Area):** That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to

North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

**Central Long Island Goose Area (NAP Low Harvest Area):** That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

**South Goose Area:** The remainder of New York State, excluding New York City.

**Special Late Canada Goose Area:** That area of the Central Long Island Goose Area lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

#### *North Carolina*

**SJBP Hunt Zone:** Includes the following Counties or portions of Counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of U.S. 220 and north of U.S. 74), Rowan, Stanly, Union, and Wake.

**RP Hunt Zone:** Includes the following Counties or portions of Counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of U.S. 220 and north of U.S. 74), Robeson, Rockingham,

Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following Counties or portions of Counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

#### *Pennsylvania*

Resident Canada Goose Zone: All of Pennsylvania except for SJBZ Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I-81, east of I-81 to intersection of I-80, and south of I-80 to the New Jersey State line.

SJBZ Zone: The area north of I-80 and west of I-79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I-81, east of I-81 to intersection of I-80, south of I-80 to New Jersey State line.

#### *Rhode Island*

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

#### *South Carolina*

Canada Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S-14-25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S-14-26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

#### *Vermont*

Same zones as for ducks.

#### *Virginia*

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBZ Zone: The area to the west of the AP Zone boundary and east of the following line: The “Blue Ridge” (mountain spine) at the West Virginia-Virginia Border (Loudoun County-Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBZ Zone.

#### **Mississippi Flyway**

##### *Arkansas*

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

##### *Illinois*

#### Early Canada Goose Seasons

North September Canada Goose Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I-39, south along I-39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central September Canada Goose Zone: That portion of the State south of the North September Canada Goose Zone line to a line extending west from the Indiana border along I-70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc

Ferry route across the Mississippi River to the Missouri border.

South September Canada Goose Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central September Canada Goose Zone: The remainder of the State between the south border of the Central September Canada Goose Zone and the North border of the South September Canada Goose Zone

#### *Regular Seasons*

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I-39, south along I-39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I-70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

#### *Indiana*

Same zones as for ducks but in addition:

Late Canada Goose Season Zone: That part of the State encompassed by the following Counties: Adams, Allen, Boone, Clay, De Kalb, Elkhart, Greene, Hamilton, Hancock, Hendricks, Huntington, Johnson, Kosciusko, Lagrange, La Porte, Madison, Marion, Marshall, Morgan, Noble, Parke, Shelby, Starke, Steuben, St. Joseph, Sullivan, Vermillion, Vigo, Wells, and Whitley.

#### Iowa

##### Early Canada Goose Seasons

Cedar Rapids/Iowa City Goose Zone: Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; then south and east along County Road E2W to Highway 920; then north along Highway 920 to County Road E16; then east along County Road E16 to County Road W58; then south along County Road W58 to County Road E34; then east along County Road E34 to Highway 13; then south along Highway 13 to Highway 30; then east along Highway 30 to Highway 1; then south along Highway 1 to Morse Road in Johnson County; then east along Morse Road to Wapsi Avenue; then south along Wapsi Avenue to Lower West Branch Road; then west along Lower West Branch Road to Taft Avenue; then south along Taft Avenue to County Road F62; then west along County Road F62 to Kansas Avenue; then north along Kansas Avenue to Black Diamond Road; then west on Black Diamond Road to Jasper Avenue; then north along Jasper Avenue to Rohert Road; then west along Rohert Road to Ivy Avenue; then north along Ivy Avenue to 340th Street; then west along 340th Street to Half Moon Avenue; then north along Half Moon Avenue to Highway 6; then west along Highway 6 to Echo Avenue; then north along Echo Avenue to 250th Street; then east on 250th Street to Green Castle Avenue; then north along Green Castle Avenue to County Road F12; then west along County Road F12 to County Road W30; then north along County Road W30 to Highway 151; then north along the Linn-Benton County line to the point of beginning.

Des Moines Goose Zone: Includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; then south along R38 to Northwest 142nd Avenue; then east along Northwest 142nd Avenue to Northeast 126th Avenue; then east along Northeast 126th Avenue to Northeast 46th Street; then south along Northeast 46th Street to Highway

931; then east along Highway 931 to Northeast 80th Street; then south along Northeast 80th Street to Southeast 6th Avenue; then west along Southeast 6th Avenue to Highway 65; then south and west along Highway 65 to Highway 69 in Warren County; then south along Highway 69 to County Road G24; then west along County Road G24 to Highway 28; then southwest along Highway 28 to 43rd Avenue; then north along 43rd Avenue to Ford Street; then west along Ford Street to Filmore Street; then west along Filmore Street to 10th Avenue; then south along 10th Avenue to 155th Street in Madison County; then west along 155th Street to Cumming Road; then north along Cumming Road to Badger Creek Avenue; then north along Badger Creek Avenue to County Road F90 in Dallas County; then east along County Road F90 to County Road R22; then north along County Road R22 to Highway 44; then east along Highway 44 to County Road R30; then north along County Road R30 to County Road F31; then east along County Road F31 to Highway 17; then north along Highway 17 to Highway 415 in Polk County; then east along Highway 415 to Northwest 158th Avenue; then east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, then south along County Road V49 to County Road D38, then west along County Road D38 to State Highway 21, then south along State Highway 21 to County Road D35, then west along County Road D35 to Grundy Road, then north along Grundy Road to County Road D19, then west along County Road D19 to Butler Road, then north along Butler Road to County Road C57, then north and east along County Road C57 to U.S. Highway 63, then south along U.S. Highway 63 to County Road C66, then east along County Road C66 to the point of beginning.

##### Regular Seasons

Same zones as for ducks.

#### Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee State line at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I-24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana State line.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

#### Louisiana

North Zone: That portion of the State north of the line from the Texas border at Hwy 190/12 east to Hwy 49, then south on Hwy 49 to I-10, then east on I-10 to I-12, then east on I-12 to 1-10, then east on I-10 to the Mississippi State line.

South Zone: Remainder of the State.

#### Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I-196 in Casco Township, then northerly along I-196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Southern Michigan Late Season Canada Goose Zone: Same as the South Duck Zone excluding Tuscola/Huron

Goose Management Unit (GMU), Allegan County GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

#### Minnesota

##### Early Canada Goose Seasons

**Northwest Goose Zone:** That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

**Intensive Harvest Zone:** That portion of the State encompassed by a line extending east from the junction of US 2 and the North Dakota border, US 2 east to MN 32 N, MN 32 N to MN 92 S, MN 92 S to MN 200 E, MN 200 E to US 71 S, US 71 S to US 10 E, US 10 E to MN 101 S, MN 101 S to Interstate 94 E, Interstate 94 E to US 494 S, US 494 S to US 212 W, US 212 W to MN 23 S, MN 23 S to US 14 W, US 14 W to the South Dakota border, South Dakota Border north to the North Dakota border, North Dakota border north to US 2 E.

Rest of State: Remainder of Minnesota.

##### Regular Seasons

Same zones as for ducks but in addition:

**Rochester Goose Zone:** That part of the State within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 247 and County State Aid Highway (CSAH) 4, Wabasha County; thence along CSAH 4 to CSAH 10, Olmsted County; thence along CSAH 10 to CSAH 9, Olmsted County; thence along CSAH 9 to CSAH 22, Winona County; thence along CSAH 22 to STH 74; thence along STH 74 to STH 30; thence along STH 30 to CSAH 13, Dodge County; thence along CSAH 13 to U.S. Highway 14; thence along U.S. Highway 14 to STH 57; thence along STH 57 to CSAH 24, Dodge County; thence along CSAH 24 to CSAH 13, Olmsted County; thence along CSAH 13 to U.S. Highway 52; thence along U.S. Highway 52 to CSAH 12, Olmsted County; thence along CSAH 12 to STH 247; thence along STH 247 to the point of beginning.

#### Missouri

Same zones as for ducks.

#### Ohio

Same zones as for ducks.

#### Tennessee

**Northwest Goose Zone:** Lake, Obion, and Weakley Counties and those portions of Gibson and Dyer Counties north of State Highways 20 and 104 and east of U.S. Highways 45 and 45W.

Remainder of State: That portion of Tennessee outside of the Northwest Goose Zone.

#### Wisconsin

##### Early Canada Goose Seasons

**Early-Season Subzone A:** That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

**Early-Season Subzone B:** The remainder of the State.

##### Regular Seasons

Same zones as for ducks but in addition:

**Horicon Zone:** That portion of the State encompassed by a boundary beginning at the intersection of State 23 and State 73 and moves south along State 73 until the intersection of State 73 and State 60, then moves east along State 60 until the intersection of State 60 and State 83, and then moves north along State 83 until the intersection of State 83 and State 33 at which point it moves east until the intersection of State 33 and U.S. 45, then moves north along U.S. 45 until the intersection of U.S. 45 and State 23, at which point it moves west along State 23 until the intersection of State 23 and State 73.

#### Central Flyway

##### Colorado (Central Flyway Portion)

**Northern Front Range Area:** All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

**North Park Area:** Jackson County.  
**South Park and San Luis Valley Area:** All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande, and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

**Eastern Colorado Late Light Goose Area:** That portion of the State east of Interstate Highway 25.

#### Montana (Central Flyway Portion)

Zone N: Same as Zone 1 for ducks.

Zone S: Same as Zone 2 for ducks.

#### Nebraska

##### Dark Geese

**Niobrara Unit:** That area contained within and bounded by the intersection of the South Dakota State line and the eastern Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

**East Unit:** That area north and east of U.S. 81 at the Kansas-Nebraska State line, north to NE Hwy 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to Nebraska-Iowa State line.

**Platte River Unit:** That area north and west of U.S. 81 at the Kansas-Nebraska State line, north to NE Hwy 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas-Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer-Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, south along NE 61 to NE 92, west along NE 92 to U.S. Hwy 26, south along U.S. Hwy 26 to Keith County Line, south along Keith County Line to the Colorado State line.

**Panhandle Unit:** That area north and west of Keith-Deuel County Line at the Nebraska-Colorado State line, north along the Keith County Line to U.S. Hwy 26, west to NE Hwy 92, east to NE Hwy 61, north along NE Hwy 61 to NE Hwy 2, west along NE 2 to the corner

formed by Garden-Grant-Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to the Wyoming State line.

North-Central Unit: The remainder of the State.

#### Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy. 92 and NE Hwy. 15, south along NE Hwy. 15 to NE Hwy. 4, west along NE Hwy. 4 to U.S. Hwy. 34, west along U.S. Hwy. 34 to U.S. Hwy. 283, north along U.S. Hwy. 283 to U.S. Hwy. 30, east along U.S. Hwy. 30 to NE Hwy. 92, east along NE Hwy. 92 to the beginning.

Remainder of State: The remainder portion of Nebraska.

#### New Mexico (Central Flyway Portion)

##### Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

#### North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I-94; then west on I-94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N-R87W); then north on that section line to the southern shoreline to Lake Sakakawea; then east along the southern shoreline (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I-94; then east on I-94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

#### South Dakota

##### Early Canada Goose Seasons

Special Early Canada Goose Unit: The Counties of Campbell, Marshall, Roberts, Day, Clark, Codington, Grant, Hamlin, Deuel, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8

junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix counties north and east of a line beginning at the Hughes-Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix-Douglas County boundary; that portion of Bon Homme County north of State Highway 50; McPherson, Edmunds, Kingsbury, Brookings, Lake, Moody, Miner, Faulk, Hand, Jerauld, Douglas, Hutchinson, Turner, Union, Clay, Yankton, Aurora, Beadle, Davison, Hanson, Sanborn, Spink, Brown, Harding, Butte, Lawrence, Meade, Oglala Lakota (formerly Shannon), Jackson, Mellette, Todd, Jones, Haakon, Corson, Ziebach, and McCook Counties; and those portions of Minnehaha and Lincoln counties outside of an area bounded by a line beginning at the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota-Iowa State line, then north along the South Dakota-Iowa and South Dakota-Minnesota border to the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street).

#### Regular Seasons

Unit 1: Same as that for the September Canada Goose Season.

Unit 2: Remainder of South Dakota.

Unit 3: Bennett County.

#### Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I-35W and I-35 to the juncture with I-10 in San Antonio, then east on I-10 to the Texas-Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line

beginning at the International Toll Bridge at Laredo, then continuing north following I-35 to the juncture with I-10 in San Antonio, then easterly along I-10 to the Texas-Louisiana border.

West Goose Zone: The remainder of the State.

#### Wyoming (Central Flyway Portion)

##### Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties; and Fremont County excluding those portions south or west of the Continental Divide.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

#### Pacific Flyway

##### Arizona

Same zones as for ducks.

##### California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road"

in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I-10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

**Southern Zone:** That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I-15; east on I-15 to CA 127; north on CA 127 to the Nevada border.

**Imperial County Special Management Area:** The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Rd.; north on Weist Rd. to Flowing Wells Rd.; northeast on Flowing Wells Rd. to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Rd.; south on Frink Rd. to Highway 111; north on Highway 111 to Niland Marina Rd.; southwest on Niland Marina Rd. to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

**Balance of State Zone:** The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

**North Coast Special Management Area:** Del Norte and Humboldt Counties.

**Sacramento Valley Special Management Area:** That area bounded by a line beginning at Willows south on I-5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA

162 to the point of beginning in Willows.

#### *Colorado (Pacific Flyway Portion)*

Same zones as for ducks.

#### *Idaho*

##### Canada Geese and Brant

**Zone 1:** All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

**Zone 2:** Adams, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; and Power County west of State Highway 37 and State Highway 39.

**Zone 3:** Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

**Zone 4:** Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

##### White-Fronted Geese

Same zones as for ducks.

#### *Light Geese*

**Zone 1:** All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

**Zone 2:** Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

**Zone 3:** Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

**Zone 4:** Adams, Bear Lake, Benewah, Blaine, Bonner, Bonneville, Boundary, Butte, Camas, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson,

Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Shoshone, Teton, and Valley Counties; Caribou County, except the Fort Hall Indian Reservation; Bingham County within the Blackfoot Reservoir drainage.

#### *Montana (Pacific Flyway Portion)*

**East of the Divide Zone:** The Pacific Flyway portion of Montana located east of the Continental Divide.

**West of the Divide Zone:** The Pacific Flyway portion of Montana located west of the Continental Divide.

#### *Nevada*

Same zones as for ducks.

#### *New Mexico (Pacific Flyway Portion)*

**North Zone:** The Pacific Flyway portion of New Mexico located north of I-40.

**South Zone:** The Pacific Flyway portion of New Mexico located south of I-40.

#### *Oregon*

**Northwest Permit Zone:** Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

**Lower Columbia/N. Willamette Valley Management Area:** Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

**Tillamook County Management Area:** That portion of Tillamook County beginning at the point where Old Woods Rd crosses the south shores of Horn Creek, north on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to Neskowin Creek, east along the north shores of Neskowin Creek and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 to Resort Dr, north on Resort Dr to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

**Southwest Zone:** Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

**South Coast Zone:** Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

**Eastern Zone:** Baker, Crook, Deschutes, Gilliam, Grant, Hood River,

Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

Klamath County Zone: Klamath County.

Harney and Lake County Zone: Harney and Lake Counties.

Malheur County Zone: Malheur County.

#### Utah

Northern Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR-83 (Promontory Road); east along SR-83 to I-15; south on I-15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR-83.

Wasatch Front Zone: Boundary begins at the Weber-Box Elder county line at I-15; east along Weber county line to U.S.-89; south on U.S.-89 to I-84; east and south and along I-84 to I-80; south along I-80 to U.S.-189; south and west along U.S.-189 to the Utah County line; southeast and then west along this line to I-15; north on I-15 to U.S.-6; west on U.S.-6 to SR-36; north on SR-36 to I-80; north along a line from this intersection to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; directly north from this point along an imaginary line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I-15; south along I-15 to the Weber-Box Elder county line.

Washington County Zone: Washington County.

Balance of State Zone: The remainder of Utah not included in the Northern, Wasatch Front, and Washington County Zones.

#### Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties.

Area 2B (Southwest Permit Zone): Grays Harbor and Pacific Counties.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

#### Brant

#### Pacific Flyway

##### California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

##### Washington

Puget Sound Zone: Skagit County.

Coastal Zone: Pacific County.

#### Swans

#### Central Flyway

##### South Dakota

Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

#### Pacific Flyway

##### Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287-89.

##### Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

##### Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I-15, north of I-80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I-84; then north and west on I-84 to State Hwy 30;

then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I-80.

#### Doves

##### Alabama

South Zone: Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

##### Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: Remainder of State.

##### Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

##### Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

##### Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I-10 at Fort Hancock; east along I-10 to I-20; northeast along I-20 to I-30 at Fort Worth; northeast along I-30 to the Texas-Arkansas State line.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I-10 east of San Antonio; then east on I-10 to Orange, Texas.

Special White-winged Dove Area in the South Zone: That portion of the State south and west of a line beginning at the International Toll Bridge in Del

Rio; then northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; then east along U.S. Highway 90 to State Loop 1604; then along Loop 1604 south and east to Interstate Highway 37; then south along Interstate Highway 37 to U.S. Highway 181 in Corpus Christi; then north and east along U.S. 181 to the Corpus Christi Ship Channel, then eastwards along the south shore of the Corpus Christi Ship Channel to the Gulf of Mexico.

Central Zone: That portion of the State lying between the North and South Zones.

### **Band-Tailed Pigeons**

#### *California*

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

#### *New Mexico*

North Zone: North of a line following U.S. 60 from the Arizona State line east to I-25 at Socorro and then south along I-25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

#### *Washington*

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

### **Woodcock**

#### *New Jersey*

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

### **Sandhill Cranes**

### **Mississippi Flyway**

#### *Minnesota*

Northwest Goose Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

#### *Tennessee*

Hunt Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Closed Zone: Remainder of the State.

### **Central Flyway**

#### *Colorado*

The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

#### *Kansas*

That portion of the State west of a line beginning at the Oklahoma border, north on I-35 to Wichita, north on I-135 to Salina, and north on U.S. 81 to the Nebraska border.

#### *Montana*

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

#### *New Mexico*

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

#### Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Tarrant, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I-25; on the north by I-25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico-Mexico border.

#### *North Dakota*

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

#### *Oklahoma*

That portion of the State west of I-35.

#### *South Dakota*

That portion of the State west of U.S. 281.

#### *Texas*

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line, then south along the Texas-Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas: (A) That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I-35W in Fort Worth, then southwest along I-35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and



east along the shore of the Gulf of Mexico to the Texas-Louisiana State line.

(B) That portion of the State lying within the boundaries of a line beginning at the Kleberg-Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg-Nueces County line.

#### Wyoming

##### Regular Season Open Area

Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

##### Special Season Open Areas

Riverton-Boysen Unit: Portions of Fremont County.

Park and Big Horn County Unit: All of Big Horn, Hot Springs, Johnson, Natrona, Park, Sheridan, and Washakie Counties.

#### Pacific Flyway

##### Arizona

Special Season Area: Game Management Units 28, 30A, 30B, 31, and 32.

##### Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate-15 and south of U.S. Highway 30; and all of Franklin County.

#### Montana

Zone 1 (Warm Springs Portion of Deer Lodge County): Those portions of Deer Lodge County lying within the following described boundary: beginning at the intersection of I-90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lake, then west on said lane to I-90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2 (Ovando-Helmville Area): That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell-Missoula County line), then southeast along said river to its intersection with the Ovando-Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3 (Dillon/Twin Bridges/Cardwell Areas): That portion of Beaverhead, Madison, and Jefferson counties lying within the following described boundaries: Beginning at Dillon, then northerly along US Hwy 91 to its intersection with the Big Hole River at Brown's Bridge north of Glen, then southeasterly and northeasterly along the Big Hole River to High Road, then east along High Road to State Highway 41, then east along said highway to the Beaverhead River, then north along said river to the Jefferson River and north along the Jefferson River to the Ironrod Bridge, then northeasterly along State Highway 41 to the junction with State Highway 55, then northeasterly along said highway to the junction with I-90, then east along I-90 to Cardwell and Route 359 then south along Route 359 to the Parrot Hill/Cedar Hill Road then southwesterly along said road and the Cemetery Hill Road to the Parrot Ditch road to the

Point of Rocks Road to Garney Lane to the Bench Road to the Waterloo Road and Bayers Lanes, to State Highway 41, then east along State Highway 41 to the Beaverhead River, then south along the Beaverhead River to the mouth of the Ruby River, then southeasterly along the Ruby River to the East Bench Road, then southwesterly along the East Bench Road to the East Bench Canal, then southwesterly along said canal to the Sweetwater Road, then west along Sweetwater Road to Dillon, the point of beginning, plus the remainder of Madison County and all of Gallatin County.

Zone 4 (Broadwater County): Broadwater County.

#### Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I-15; southeast on I-15 to SR-83; south on SR-83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Rich County: Rich County.

Uintah County: Uintah County.

#### Wyoming

Area 1 (Bear River): All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2 (Salt River Area): All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3 (Eden Valley Area): All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5 (Uintah County Area): Uinta County.

#### All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11-13 and 17-26.

Gulf Coast Zone: State Game Management Units 5-7, 9, 14-16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1-4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

**All Migratory Game Birds in the Virgin Islands**

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

**All Migratory Game Birds in Puerto Rico**

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the

north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as

encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Part III

Department of Housing and Urban  
Development

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Final Fair Market Rents for the Housing Choice Voucher Program and  
Moderate Rehabilitation Single Room Occupancy Program and Other  
Programs Fiscal Year 2016; Notice

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**
**[Docket No. FR-5885-N-02]**
**Final Fair Market Rents for the Housing  
Choice Voucher Program and  
Moderate Rehabilitation Single Room  
Occupancy Program and Other  
Programs Fiscal Year 2016**
**AGENCY:** Office of the Assistant  
Secretary for Policy Development and  
Research, HUD.

**ACTION:** Notice of Final Fiscal Year (FY)  
2016 Fair Market Rents (FMRs).

**SUMMARY:** Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary of HUD to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. The primary uses of FMRs are to determine payment standards for the Housing Choice Voucher (HCV) program; to determine initial renewal rents for some expiring project-based Section 8 contracts; to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program; and, to serve as rent ceilings for rental assistance units in the HOME Investment Partnerships program. FMRs are used in the calculation of maximum award amounts for Continuum of Care grantees and are used in the calculation of flat rents in Public Housing units. Today's notice provides final FY 2016 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to FY 2016. The FY 2016 FMRs use rent data collected by Bureau of the Census by the American Community Survey (ACS). This rent data is collected over a five-year period, from 2009 through 2013. These data are updated by one-year 2013 ACS data for areas where statistically valid one-year ACS data is available. HUD continues to use ACS data in different ways according to the statistical reliability of rent estimates. The Consumer Price Index (CPI) rent and utility indexes are used to further update the data to 2014. These values are then trended forward to FY 2016. Based on the comments received and as way to estimate FMRs more accurately, HUD has replaced the historical-based annualized change in gross rent trend factor with a forward-looking forecast for these final FY 2016 FMRs. The national trend factor for the final FY 2016 FMRs uses a model that forecasts national rent and utility CPI indices based on economic assumptions used in the formulation of the President's Budget.

The FY 2016 FMRs incorporate a change in the level of statistical reliability that allowed for an ACS estimate to be used in the calculation of FMRs. Previously, if the error of the estimate was less than the estimate itself, HUD used the estimate. The FY 2016 FMRs use ACS estimates where the size of the error is limited to half of the estimate. An additional change to the FY 2016 FMRs is the incorporation of the February 28, 2013, Office of Management and Budget (OMB) metropolitan area definition update based on the 2010 Decennial Census data. The 2013 ACS data are the first to use the new area definitions in the compilation of the ACS data. Bedroom ratios (comparing zero-, one-, three- and four-bedroom rents to the two-bedroom base rent) were updated from the 2010 estimations using a three-year average of five-year ACS data.

**DATES: Effective Date:** The FMRs published in this notice are effective on the date of publication.

**FOR FURTHER INFORMATION CONTACT:** For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800-245-2691 or access the information on the HUD USER Web site <http://www.huduser.gov/portal/datasets/fmr.html>. FMRs are shown at the 40th or 50th percentile in Schedule B. For informational purposes, the 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2016 FMR documentation system at <http://www.huduser.gov/portal/datasets/fmr/fmrs/docsys.html?data=fmr16> and the 50th percentile rents for all FMR areas will be published at <http://www.huduser.gov/portal/datasets/50per.html> after publication of final FY 2016 FMRs. Unadjusted rents (rents calculated directly from ACS data prior to the application of state minimum rents) will be made available at: <http://www.huduser.gov/portal/datasets/fmr.html>. These rents may be used in conjunction with the calculation of flat rents in the Public Housing program. Additionally, Small Area FMRs, which may also be used as the basis for Public Housing flat rents as an alternative to metropolitan wide FMRs, are available at: <http://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>.

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program office. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or

Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202-402-2409. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

**Electronic Data Availability:** This **Federal Register** notice is available electronically from the HUD User page at <http://www.huduser.gov/portal/datasets/fmr.html>. **Federal Register** notices also are available electronically at <https://www.federalregister.gov/>, the **Federal Register** Web site. Complete documentation of the methodology and data used to compute each area's final FY 2016 FMRs is available at <http://www.huduser.gov/portal/datasets/fmr.html> through the link labeled "Individual Area Final FY 2016 FMR Documentation." Final FY 2016 FMRs are available in a variety of electronic formats at <http://www.huduser.gov/portal/datasets/fmr.html>. FMRs may be accessed in PDF format as well as in Microsoft Excel. A new HUD User page has been developed for Small Area FMRs and those based on final FY 2016 Metropolitan Area Rents and historical versions of this data will be on this site <http://www.huduser.gov/portal/datasets/fmr/smallarea/index.html> and there is a link from the FMR page of HUD User <http://www.huduser.gov/portal/datasets/fmr.html>. Please note that these Small Area FMRs are for reference only, except where they are used by public housing authorities (PHAs) participating in the Small Area FMR demonstration and for PHAs investigating an alternative basis for Public Housing flat rents. With approval from the Housing Voucher Management Division of the Office of Public and Indian Housing (PIH) these Small Area FMRs may be used in the process of determining exception payment standards.

**SUPPLEMENTARY INFORMATION:**
**I. Background**

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. In the HCV program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for

an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. In addition, all rents subsidized under the HCV program must meet reasonable rent standards. HUD's regulations at 24 CFR 888.113 require the Department to establish 50th percentile FMRs for certain areas.

**II. Procedures for the Development of FMRs**

Section 8(c)(1) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c)(1) states, in part:

Proposed fair market rentals for an area shall be published in the **Federal Register** with reasonable time for public comment and shall become effective upon the date of publication in final form in the **Federal Register**. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.

HUD's regulations at 24 CFR part 888 provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment period of at least 30 days, analyze the comments, and publish final FMRs. (See

24 CFR 888.115.) For FY 2016 FMRs, HUD has considered all comments submitted in response to its September 8, 2015 (80 FR 53819) proposed FY 2016 FMRs and includes its responses to these comments in this notice.

In addition, HUD's regulations at 24 CFR 888.113 set out procedures for HUD to assess whether areas are eligible for FMRs at the 50th percentile. Minimally qualified areas<sup>1</sup> are reviewed each year unless not eligible to be reviewed. Areas that currently have 50th percentile FMRs are evaluated for progress in voucher tenant concentration after three years in the program. Continued eligibility is determined using HUD's administrative data that show levels of voucher tenant concentration. The levels of voucher tenant concentration must be above 25 percent and show a decrease in concentration since the last evaluation. At least 85 percent of the voucher units in the area must be reported for a determination on the status of a 50th percentile area. Areas are not qualified for review if they are within the three-year period as a 50th-percentile area or have lost 50th-percentile status for failure to deconcentrate within the last three years.

In FY 2015 there were 16 areas using 50th-percentile FMRs. Of these 16 areas, six areas were eligible for evaluation. Only three of the six areas will continue as 50th-percentile FMR areas; two of the remaining three areas do not show measurable deconcentration over the three-year period, will not continue as 50th-percentile FMR areas, and will not

be considered for the 50th percentile FMR program for three years. One area, New Haven-Meriden, CT HUD Metro FMR Area (HMFA), that was evaluated graduated from the program; this area will be re-evaluated each year. This is a different result for the Baltimore-Columbia-Towson, MD Metropolitan Statistical Area (MSA) than in the proposed FY 2016 FMRs, where deconcentration was not measured. After reviewing the data in response to comments, it was discovered that areas up for re-evaluation were not afforded a full three annual time-periods to deconcentrate. A re-evaluation of all areas using three annual time-periods resulted in the continuation of the Baltimore metropolitan area in the 50th percentile FMR program; Fort Lauderdale and Richmond, even with the additional year, did not exhibit measurable deconcentration. Housing authorities in these two areas are encouraged to review the rules at 24 CFR 982.503(f) to determine if they qualify for continued use of the 50th percentile rents when setting their payment standards. One area, Washington, DC-VA-MD HMFA, that failed to deconcentrate as of FY 2013 will once again become a 50th percentile FMR area.

In summary, there will be 14 50th-percentile FMR areas in FY 2016. In Schedule B, where all FMRs are listed by state and area, an asterisk designates the 50th percentile FMR areas. The following table lists the FMR areas along with the year of their next evaluation.

**FY 2016—50TH-PERCENTILE FMR AREAS AND YEAR OF NEXT REEVALUATION**

Albuquerque, NM MSA .....	2018	Baltimore-Columbia-Towson, MD MSA .....	2019
Chicago-Joliet-Naperville, IL HUD Metro FMR Area .....	2018	Denver-Aurora-Broomfield, CO MSA .....	2018
Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area .....	2018	Honolulu, HI MSA .....	2018
Kansas City, MO-KS HUD Metro FMR Area .....	2018	Milwaukee-Waukesha-West Allis, WI MSA .....	2018
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA ..	2019	Riverside-San Bernardino-Ontario, CA MSA .....	2018
Tacoma, WA HUD Metro FMR Area .....	2018	Virginia Beach-Norfolk-Newport News, VA-NC MSA .....	2018
Washington, DC-VA-MD HUD Metro FMR Area .....	2019	West Palm Beach-Boca Raton, FL HUD Metro FMR Area .....	2019

**III. Proposed FY 2016 FMRs**

On September 8, 2015 (80 FR 53819), HUD published proposed FY 2016 FMRs with a comment period that ended October 8, 2015. All comments are available for review on the Federal Government's Web site for capturing comments on proposed regulations and related documents (Regulations.gov—

<http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dt=PS;D=HUD-2015-0072>).

**IV. FMR Methodology**

This section provides a brief overview of the calculation steps for the FY 2016 FMRs. For complete information on how FMR areas are determined by each specific FMR area, see the online

documentation by FMR area <http://www.huduser.gov/portal/datasets/fmr/fmrs/docsys.html?data=fmr16>.

The proposed FY 2016 FMRs are based on the updated metropolitan area definitions published by OMB on February 28, 2013. Counties that have been removed from metropolitan areas will be nonmetropolitan counties.

<sup>1</sup> As defined in 24 CFR 888.113(c), a minimally qualified area is an area with at least 100 Census tracts where 70 percent or fewer of the Census tracts with at least 10 two-bedroom rental units are Census tracts in which at least 30 percent of the two

bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent. This continues to be evaluated with 2000 Decennial Census information. Although the 5-year ACS tract level data is available, HUD plans to

implement new 50th percentile areas in conjunction with the implementation of new OMB area definitions.

Counties that have been added to metropolitan areas will be treated as metropolitan county subareas. These counties will receive rents based on their own data if the local data is statistically reliable (with an error that is less than one-half of the estimate) or receive the metropolitan rent if their subarea estimate does not exist or is statistically unreliable. New multi-county metropolitan areas will be treated as individual county metropolitan subareas using county-based gross rent estimates (if statistically reliable); otherwise, a metropolitan, area-wide gross rent estimate is used.

#### A. Base Year Rents

The U.S. Census Bureau released standard tabulations of five-year ACS data collected between 2009 through 2013 in December of 2014. For FY 2016 FMRs, HUD uses special tabulations of this five-year ACS data collected between 2009 through 2013 to update the base rents that provide the 40th and 50th percentile standard quality rents that were provided in May 2015. HUD has updated base rents each year based on new five-year data since FY 2012, for which HUD used 2005–2009 ACS data. For FY 2016 FMRs, HUD updated the base rents set in FY 2015 using the 2008–2012 five-year data with the 2009–2013 five-year ACS data.<sup>2</sup> HUD updates base rents for Puerto Rico FMRs using the 2009–2013 Puerto Rico Community Survey (PRCS); HUD first updated the Puerto Rico base rents in FY 2014 based on 2007–2011 PRCS data collected through the ACS program. The Bureau of the Census does not collect data annually using the ACS for the Pacific Islands (Guam, Northern Marianas and American Samoa) or the US Virgin Islands; however, as part of the 2010 Decennial Census, the Census Bureau conducted a “long-form” sample surveys for these areas. These data are incorporated in the FY 2016 FMRs. For the first time, St. John, USVI will have an FMR that is separate from St. Thomas, USVI and American Samoa and the Northern Mariana Islands will have FMRs separate from Guam.

HUD historically based FMRs on gross rents for recent movers (those who have moved into their current residence in the last 24 months). However, due to the

nature of the five-year ACS data, HUD developed a new methodology for calculating recent-mover FMRs in FY 2012. As in FY 2012, HUD assigns all areas a base rent equal to the estimated two-bedroom standard quality five-year gross rent from the ACS.<sup>3</sup> Because HUD’s regulations mandate that FMRs represent recent mover gross rents, HUD continues to apply a recent mover factor to the standard quality base rents assigned from the five-year ACS data.

#### B. Recent Mover Factor

Following the assignment of the standard quality two-bedroom rent described above, HUD applies a recent mover factor to these rents. The calculation of the recent mover factor for FY 2016 is similar to the methodology HUD used in FY 2015, with the only difference being the use of updated ACS data and the change to the statistical reliability assessment of the ACS data. The following describes the process for determining the appropriate recent mover factor.

In general, HUD uses one-year, two-bedroom recent mover gross rents from the special tabulation of the ACS for the smallest geographic area encompassing the FMR area that is statistically reliable to calculate the recent mover factor.<sup>4</sup> HUD calculates some areas’ recent mover factors using data collected just for the FMR area. In these cases, the recent mover factor effectively removes the five-year data from the calculation of the FMRs. For areas with statistically reliable recent mover data for the FMR area itself, the one-year recent mover two-bedroom gross rent becomes the base rent for the area. However, HUD bases other areas’ recent mover factors on larger geographic areas if this is necessary to obtain statistically reliable estimates. For metropolitan areas that are subareas of larger metropolitan areas, the recent mover hierarchy is FMR area, metropolitan area, aggregated metropolitan parts of the state, and state. Metropolitan areas that are not divided follow a similar path from FMR area, to aggregated metropolitan parts of the state, to state. In nonmetropolitan areas, HUD bases the recent mover factor on the FMR area, the aggregated nonmetropolitan parts of the state, or if that is not available, based on the whole state. HUD calculates the recent mover

factor as the percentage change between the five-year 2009–2013 standard quality two-bedroom gross rent and the one-year 2013 recent mover two-bedroom gross rent for the recent mover factor area. HUD does not allow recent mover factors to lower the standard quality base rent; therefore, if the five-year standard quality rent is larger than the comparable one-year recent mover rent the recent mover factor is set to 1.0. The process for calculating each area’s recent mover factor is detailed in the FY 2016 Final FMR documentation system available at: <http://www.huduser.gov/portal/datasets/fmr/fmrs/docsys.html?data=fmr16>. Applying the recent mover factor to the standard quality base rent produces an “as of” 2013 recent mover two-bedroom base gross rent for the FMR area.

#### C. Other Rent Survey Data

A new base rent has been calculated for the insular areas using the 2010 decennial census of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands. This is the first time American Samoa and the Northern Mariana Islands will have an FMR that is separate from Guam. In addition, St. Johns, VI will receive a separate FMR; previously it was combined with St. Thomas. The 2010 rent data is updated to 2013 using the change in national ACS rents from 2010 to 2013.

In addition to the Pacific island areas, HUD does not use the ACS as the base rent or recent mover factor for eight areas where the FY 2016 FMR is based on survey data. Surveys conducted in 2012 for Hood River County, OR, Mountrail County, ND, Ward County, ND, and Williams County, ND are used as base rents. Survey data from 2012 survey still represents the most current data available for these areas where only five-year ACS data exists. These base rents are adjusted to 2014 using regional CPI data. Surveys conducted in 2014 for Bennington County, VT, Windham County, VT, Windsor County, VT, and Seattle, WA are used for base rents. HUD has no funds to conduct surveys of FMR areas, and so future surveys must be paid for by the PHAs.

#### D. Updates From 2013 to 2014

HUD updates the ACS-based “as of” 2013 rent through the end of 2014 using the annual change in gross rents measured from the CPI between 2013 and 2014. As in previous years, HUD uses Local CPI data coupled with Consumer Expenditure Survey (CEX) data for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. HUD uses Census region CPI

<sup>2</sup> The only difference in survey data between the 2008–2012 5-year ACS data and the 2009–2013 5-year ACS data is the replacement of 2008 survey responses with survey responses collected in 2013. The 2009, 2010, 2011 and 2012 survey responses remain intact; however, the weighting placed on each survey response is updated by the Census Bureau during the process of aggregating the data to be as of the final year of the 5-year period.

<sup>3</sup> For areas with a two-bedroom standard quality gross rent from the ACS that have a margin of error greater than half of the estimate or no estimate due to inadequate sample in the 2013 5-year ACS, HUD uses the two-bedroom state non-metro rent for non-metro areas.

<sup>4</sup> For the purpose of the recent mover factor calculation, a statistically reliable estimate occurs where the recent mover gross rent has a margin of error that is less than half of the estimate.

data for FMR areas in Class B and C size metropolitan areas and nonmetropolitan areas without local CPI update factors. Additionally, HUD is using CPI data collected locally in Puerto Rico as the basis for CPI adjustments from 2013 to 2014 for all Puerto Rico FMR areas.

#### *E. Trend From 2014 to April 2016*

The trend factor for the final FY 2016 FMRs has been changed from the annualized change in median gross rents as measured across the most recent five years of available 1-year ACS data, used in the proposed FY 2016 FMRs as published on September 8, 2015 (80 FR 53817). Instead, HUD trends the final FY 2016 FMRs forward with national forecasts of the rent and utility components of CPI, resulting in an increase in the FMR for all areas. The trend factor applied for the Proposed FY 2016 FMRs was 1.0334 percent; the forecast trend factor applied to the Final FY 2016 FMRs is 1.0457. The trend factor is the weighted average change between the most recent annual Rent of Primary Residence and Utility CPIs and the same indices forecasted to the relevant fiscal year.

#### *F. Puerto Rico Utility Adjustments*

The gross rent data from the 2009 to 2013 Puerto Rico Community Survey (PRCS) coupled with the local CPI data measured across Puerto Rico includes the utility rate increases from Commonwealth-owned utility companies that was the basis for utility rate adjustments across all Puerto Rico FMR areas in both FY 2014 and FY 2015. The FY 2016 FMRs no longer include the utility adjustment; any changes in the Puerto Rico energy tariffs have been in effect long enough to be included in the Puerto Rico CPI. As pointed out in a comment by the Commonwealth of Puerto Rico Division of Housing, the South Region CPI was inadvertently used for the calculation of Proposed FY 2016 FMRs throughout Puerto Rico, and this has been corrected.

#### *G. Bedroom Rent Adjustments*

HUD calculates the primary FMR estimates for two-bedroom units. This is generally the most common sized rental unit and, therefore, the most reliable to survey and analyze. Formerly, after each Decennial Census, HUD calculated rent relationships between two-bedroom units and other unit bedroom counts and used them to set FMRs for other units. HUD did this because it is much easier to update two-bedroom estimates and to use pre-established cost relationships with other unit bedroom counts than it is to develop independent

FMR estimates for each unit bedroom count. When calculating FY 2013 FMRs, HUD updated the bedroom ratio adjustment factors using 2006–2010 five-year ACS data. The bedroom ratio methodology used in this update was the same methodology that was used when calculating bedroom ratios using 2000 Census data. The bedroom ratios HUD used in the calculation of FY 2016 FMRs have been updated using average data from three five-year data series (2007–2011, 2008–2012, and 2009–2013). This update incorporates the most recent available data while also smoothing the potential variability from the discontinuity of resetting the bedroom ratios once every five years.

HUD establishes bedroom interval ranges based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations. These ranges are: Efficiency FMRs are constrained to fall between 0.62 and 0.82 of the two-bedroom FMR; one-bedroom FMRs must be between 0.75 and 0.86 of the two-bedroom FMR; three-bedroom FMRs must be between 1.14 and 1.34 of the two-bedroom FMR; and, four-bedroom FMRs must be between 1.27 and 1.62 of the two-bedroom FMR. (The maximums for the three-bedroom and four-bedroom FMRs are irrespective of the adjustments discussed in the next paragraph.) HUD adjusts bedroom rents for a given FMR area if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (*i.e.*, efficiency rents are not allowed to be higher than one-bedroom rents and four-bedroom rents are not allowed to be lower than three-bedroom rents). The bedroom ratios for Puerto Rico follow these constraints.

HUD further adjusts the rents for three-bedroom and larger units to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero-bedroom (efficiency) FMR.

For low-population, nonmetropolitan counties with small or statistically

insignificant data for any two of the three five-year ACS standard quality rents series used in the average, HUD uses state non-metropolitan data to determine bedroom ratios for each unit bedroom count. HUD made this adjustment to protect against unrealistically high or low FMRs due to insufficient sample sizes.

#### **V. Manufactured Home Space Surveys**

The FMR used to establish payment standard amounts for the rental of manufactured home spaces (pad rentals including utilities) in the HCV program is 40 percent of the FMR for a two-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th-percentile manufactured home space rent (including the cost of utilities) for the entire FMR area.

All approved exceptions to these rents based on survey data that were in effect in FY 2015 were updated to FY 2016 using the same data used to estimate the HCV program FMRs. If the result of this computation was higher than 40 percent of the new two-bedroom rent, the exception remains and is listed in Schedule D. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs. No additional exception requests were received in the comments to the FY 2016 Proposed FMRs.

#### **VI. Small Area Fair Market Rents**

Small Area Fair Market Rents (SAFMRs) replace the use of FMRs for the HCV program as part of a court settlement by all public housing authorities (PHAs) in the Dallas, TX HMFA. SAFMRs are also used in HUD's demonstration program by five PHAs: The Housing Authority of the County of Cook (IL), the City of Long Beach (CA) Housing Authority, the Chattanooga (TN) Housing Authority, the Town of Mamaroneck (NY) Housing Authority, and the Laredo (TX) Housing Authority. The SAFMRs used by Dallas and the PHAs in the demonstration are listed in the Schedule B addendum.

SAFMRs are calculated using a rent ratio determined by dividing the median gross rent across all bedrooms for the small area (a ZIP code) by the similar median gross rent for the metropolitan area of the ZIP code. Similar to the bedroom ratios discussed in item G of section IV or this notice, HUD calculates the ZIP code rent ratio using an average of 2007–2011, 2008–2012, and 2009–2013 data. This average rent ratio is multiplied by the current two-bedroom

rent for the entire metropolitan area containing the small area to generate the current year two-bedroom rent for the small area. In small areas where the median gross rent is not statistically reliable, HUD substitutes the median gross rent for the county containing the ZIP code in the numerator of the rent ratio calculation. For FY 2016 SAFMRs, HUD uses the updated bedroom rent ratios discussed above.<sup>5</sup>

HUD also makes Small Area FMRs for all metropolitan areas available at <http://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>. Housing Authorities may use these Small Area FMRs as a guide for setting payment standards within their FMR area and may use them in requesting exception payment standards in accordance with 24 CFR 982.503(c)(2)(A).

## VII. Public Comments Overview of Comments

### A. Overview

A total of 83 comments were received and are posted on the regulations.gov site (not all duplicate comments were posted) (<http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PS;D=HUD-2015-0072>), which is also linked on the HUD User FMR page <http://www.huduser.gov/portal/datasets/fmr.html>. Most comments contested FMR reductions compared with the FY 2015 FMRs and several noted that year-over-year changes are not keeping up with a tight rental market. While many comments included some type of market data, none provided market rent data that could be used for an adjustment of the FY 2016 FMRs. The FMR methodology has been the subject of Inspector General of HUD and Government Accounting Office studies, and it is clear that the use of such real-time data as found in newspaper ads or Craigslist cannot be used to adjust FMRs, because this data is not statistically representative of the FMR area. While surveys of rents must be conducted to contest the FMRs, HUD has been unable to fund such surveys for several years; consequently, PHAs must fund their own surveys, if needed. None of these commenters provided a statistically valid survey of rents that could be used

to adjust the FY 2016 FMRs. The timing between proposed and final was admittedly too short to conduct a study of statistically valid rents and several commenters announced their intention to conduct rent surveys, which if statistically different will be incorporated in a revised FY 2016 FMR publication. Several commenters who did not experience a reduction in FY 2016 FMRs complained about the small increase in light of rental market conditions for their area; and some nonmetropolitan areas were concerned with the large increases and decreases that the ACS data provides.

The use of FMRs in the calculation of public housing flat rents continues to garner comments. Small nonmetropolitan areas find the flat rents based on FMRs are too high for their market. Where the state minimum is used, a nonmetropolitan county does have the option of using its own, lower rent. A suggestion that FMRs be adjusted based on square footage of units is not feasible because the data on size of units is not available for all areas from a statistically reliable source. While FMRs are used in other HUD programs, the methodology used in determining FMRs and the publication of FMRs for comment is primarily in support of the Section 8 HCV program. Other HUD programs must rely on the current FMR methodology. The adjustment of flat rents by FMRs is an issue for the program staff in the Division of Housing Management and Occupancy of PIH. HUD's Office of Policy Development, and Research supports the program office by making the Small Area FMRs and the unadjusted rents available as alternatives to the FMR for setting Public Housing flat rents.

Many commenters oppose decreases of any level in the FMR, especially those commenters that operate programs that use FMRs but do not allow payment standard flexibility in applying FMRs, such as the Continuum of Care program and the Low-Income Housing Tax Credit program (LIHTC). Several comments requested that HUD hold the FY 2016 FMRs harmless, that is they wanted the FMR to remain at the FY 2015 level, or some earlier level if it would otherwise be lower. In addition to, or instead of, implementing a hold harmless policy, several comments asked HUD to limit annual increases and decreases of FMRs to five percent, or at the very least impose a hard floor of five percent on decreases. This inability to hold FMRs harmless at some previously higher level is especially difficult for LIHTC landlords and developers to understand because no such prohibition exists for

the calculation of HUD's income limits which are also used in the rent calculation for these units. HUD has been able to use such measures in constraining income limit increases and decreases, but HUD is specifically precluded from incorporating these changes into the FMR methodology by the statutory language governing FMRs requiring the use of the most recent available data. As stated in previous FMR notices, HUD's HCV program counsel reviewed the statutory language governing the calculation of FMRs to determine if the Department has the authority to institute caps and floors on the amount the FMRs could change annually. Based on this review, HUD's program counsel issued a legal opinion that HUD CANNOT impose floors or caps in changes in FMRs because this would violate the portion of the statute that directs HUD to use the most current data available. According to the legal opinion, the statute must be changed before HUD can implement these types of caps and floors. No statutory changes regarding the use of the most recent available data have since been enacted; consequently, HUD does not have the authority to use a hold harmless policy or other policy which would permit HUD to impose caps and floors on FMR changes. HUD is required to use the most recent available data and FMRs must increase or decrease based on this data. Ignoring decreases or phasing decreases or increases in over several years would not fully implement FMRs based on the most recent available data.

The Department recognizes that significant variation in FMRs from year to year increases the administrative burden on all users of FMRs. HUD has made changes to the calculation methodology to attempt to quell this annual variation while comporting to the statutory requirement to use the most recent data available. For example, using averages of 3 years of five-year ACS data in the calculation of the bedroom ratios and the small area rent ratios were implemented to increase the stability of these components of the calculations while also incorporating the most recent data each year. Moving to a tighter statistical standard for use of ACS estimates (less than a 50 percent margin of error as opposed to different from 0) is also incorporated to lessen the variability from sampling error within the ACS while still taking advantage of annually updated information. HUD will continue to pursue strategies that increase the stability of the FMRs from year to year within the limitations of the current statutory framework.

Although there were several changes to the metropolitan area definitions for

<sup>5</sup> HUD has provided numerous detailed accounts of the calculation methodology used for Small Area Fair Market Rents. Please see our Federal Register notice of April 20, 2011 (76 FR 22125) for more information regarding the calculation methodology. HUD's Final FY 2016 FMR documentation system available at (<http://www.huduser.gov/portal/datasets/fmr/fmrs/docsys.html?data=fmr16>) contains detailed calculations for each ZIP code area in participating jurisdictions.



the FY 2016 FMRs, geographic area comments were submitted for only two areas: Columbia city, MD and Barranquitas, PR. HUD proposed to remove the place-based FMR for Columbia city, MD that it had since the 1970s. HUD proposed to do this because Columbia city is unique among FMR areas to receive this treatment and was created before exception payment standards existed. The Final FY 2016 FMRs maintain the proposed area definitions and continue to incorporate Columbia city, MD as part of the Baltimore-Columbia-Towson, MD MSA. To ensure that voucher families currently living in the city are not impacted, and to ensure future voucher families are able to access rental units in Columbia city, HUD is issuing exception payment standards at up to 132 percent of the metropolitan FMR for the area. The comment discussing proposed FY 2016 FMRs in Puerto Rico agreed with HUD's policy for not maintaining Quebradillas Municipio as part of the Barranquitas-Aibonito-Quebradillas, PR HUD Metro FMR area, a subarea of the San Juan, PR MSA, noting that it was not a contiguous Municipio. The comment also requested that Maunaubo Municipio also be separated from Barranquitas. Maunaubo Municipio is also not contiguous to any of the other four central municipalities; notwithstanding the geographic discontinuity, HUD did not change the Maunaubo Municipio's area definition for FY 2016. HUD will attempt to evaluate this request, due to geographic discontinuity, after acquiring the necessary data as part of the FY 2017 FMR process.

Several PHAs with lower proposed FY 2016 FMRs relative to FY 2015 or earlier FMRs requested that HUD conduct a survey of rents for their FMR areas. As stated in the proposed FY 2016 FMR Notice, HUD does not have funds available to conduct surveys in FY 2016. While some areas provided data, the data could not be accepted as the basis for changing FMRs because it did not meet the threshold for representativeness and/or statistical reliability established for rental survey data to be used in FMR determinations. HUD may not use data from newspaper ads (or Craigslist) because these sources for rents do not represent actual contracted rents, nor can rent reasonableness studies be used as these typically do not sample units randomly. Other data provided may be acceptable, but the sources and method of collection must be identified. Data must be collected randomly and cover the entire rental stock within the FMR area

including single-family units, not just large apartment projects. Single-family units and smaller apartment buildings are an important part of the rental market and cannot be ignored. HUD did receive notification that several PHAs in metropolitan and nonmetropolitan areas are conducting surveys and have sought guidance from HUD on the survey methodology. Any other PHAs interested in surveys to support changes in FMRs should review section VIII of this notice for further information regarding acceptable survey methodology.

For areas that are considering conducting their own surveys, HUD would caution them to explore all no-cost options as a means of alleviating problems they are having with low FMRs. HUD has experience conducting surveys in areas with low or no vacancy rates and this experience has shown that it is extremely difficult to capture accurate gross rent levels in tight markets. For that reason, HUD provides emergency exception payment standards up to 135 percent of the FMR for the Section 8 voucher program in areas impacted by natural resource exploration or in presidentially declared disaster areas. PHAs interested in applying for these exception payment standards should contact their local HUD field office. Other programs that use FMRs will have to pursue similar strategies such as exception payment standards or hold harmless provisions within the statutory and regulatory framework governing those programs.

HUD received a comment from the Inclusive Communities Project (ICP), regarding the Small Area FMRs in the Dallas, TX HUD Metro FMR Area. ICP used HUD's guidance on how to provide data-supported comments on the levels of Small Area FMRs using HUD's special tabulations of the distribution of gross rents by bedroom unit size for ZIP Code Tabulation Areas. HUD has reviewed the comment and has made the appropriate change to the final FY 2016 Small Area FMRs for the Dallas, TX HUD Metro FMR Area.

#### *B. Issues Raised in Comments and HUD Responses*

In accordance with 24 CFR 888.115, HUD has reviewed the public comments that were submitted by the due date and has adjusted the proposed FMRs accordingly. Furthermore, HUD has determined that there are no comments with "statistically valid rental survey data that justify the requested changes in metropolitan areas or non-metropolitan counties." HUD's responses to all known comments received by the comment due date and

a part of the notice record <http://www.regulations.gov/#!docket/Browser;rpp=25;po=0;dt=PS;D=HUD-2015-0072> follow.

Comment: FMR decreases do not reflect the current rental market; more recent data must be used for the determination of FMRs. Several of the areas expressing dissatisfaction with decreases, provided market studies, rent reasonableness findings, or rent data compiled from rents for large apartment projects that show that the rents in their area increased in the past year, while the FY 2016 FMRs show a decline from the FY 2015 FMRs. Over 30 comments from tenants, landlords, housing advocacy and development organizations and PHAs protested the reduction in the Oakland, CA metropolitan area that resulted from the replacement of a 2013 local survey with 2013 ACS one-year data. Their claim is that in such a tight rental market, as experienced in Oakland, even the relatively small decreases of less than two percent for efficiencies through three-bedroom units (four-bedroom FMRs decreased 10 percent compared with last year as a result of the bedroom ratio re-estimation), will hurt a program with huge waiting lists and low success rates. Most of these commenters requested that HUD revise the FY 2016 FMRs by using the 2014 ACS data (one year 2014 standard tabulations were made available on September 17, 2015).

HUD Response: FMRs are estimated rents, and can change from year-to-year in ways that are different from market rent changes or economic activity. Such a year-over-year comparison is especially invalid when data from a local survey is replaced with one-year ACS data, as is the case for Burlington, VT, Oakland, CA, and Santa Barbara, CA. When economic activity decreases, rents don't necessarily decrease and some increased economic activity that might put pressure on rents cannot be measured in real time. HUD is required to use the most current data available and this means that local surveys conducted in 2013 must be replaced by 2013 ACS data for areas with one-year ACS data. HUD is precluded from using sources of data that are not statistically reliable. Rent reasonableness studies are not subject to the same constraints on statistical reliability and cannot be used to alter FMRs.

HUD is unable to use the 2014 ACS data in the calculation of the FY 2016 FMRs. The standard tabulations of ACS data based on the 2014 data collection have not been completely released at this time. Furthermore, HUD cannot use the standard tabulations of ACS data to

set the level of the FMRs for the following reasons:

1. Standard tabulations do not provide 40th percentile rent estimates.

2. Standard tabulations are not available for certain HUD Metropolitan FMR Areas.

3. Standard tabulations may not be filtered to eliminate substandard units or units likely to be subsidized with gross rents below HUD's Public Housing Cut Off Rent.

4. Standard tabulations do not have gross rents specific to recent movers.

Given the limitations of the data in the standard tabulations, HUD reviewed the available data to determine if any improvements to the FMR calculations in the Oakland, CA HUD Metro FMR area could be made. One possibility HUD considered was to replace the CPI based gross rent inflation factor capturing rent growth between 2013 and 2014. The CPI based inflation factor for gross rents used in the proposed FY 2016 FMR calculation is 5.33 percent. The change in the median gross rents measured for the Oakland-Haywood-Berkeley, CA Metropolitan Division, which comprised of Alameda and Contra Costa Counties—the same as the FMR area, between 2013 one-year ACS data and 2014 one-year ACS data is only 4.1. Consequently, incorporating the information from the standard tabulations of ACS data that are available now would LOWER the FY 2016 FMRs rather than raise them as the comments suggest.

*Comment: FMRs should be held harmless at the FY 2015 levels.* Several comments requested that FMRs not be allowed to decline from their FY 2015 level, especially where FY 2015 data included a local survey. Some of these comments provided market data that showed current rents in apartment projects that were higher than the FMR.

*HUD Response:* HUD cannot ignore the more current 2013 ACS data and allow FMRs to stay the same as they were for FY 2015; FY 2015 FMRs were based on gross rents from the 2012 ACS. By statute (42 U.S.C. 1437f(c)(1)(B)) and regulation (24 CFR 888.113(e)), HUD is required to use the most current data available. Apartment buildings of five units or more are only one segment of the rental market in a FMR area. Typical data submitted in comments to this notice provided information on rents for units in this segment, which generally account for less than half of the rental market for those areas. Single-family homes, both attached and detached (including townhomes and duplexes), small rental apartments, and mobile homes make up the rest of the rental market. While rent surveys conducted

either by HUD or a PHA would provide more current data than the ACS, these surveys take about two months to complete and can be quite expensive. HUD does not have funds available to conduct any surveys in 2016 and cannot delay the implementation of FY 2016 FMRs while new surveys are being conducted. Rents in areas with relatively short-term market tightening are not easily measured by rent surveys. Based on past experience HUD finds that an area must have rent increases or declines for a period of at least two years before changes can be accurately measured by surveys. Should the survey results show market conditions that are statistically different from the published FMRs, HUD will revise the FY 2016 FMRs. HUD recommends following the survey guidance available at the bottom of the Web page <http://www.huduser.org/portal/datasets/fmr.html> for small metropolitan areas without consistent one-year ACS data and nonmetropolitan areas. For large areas with significant one-year ACS data, the requirement for completed recent mover surveys are greater; there must be about 200 two-bedroom (or two-bedroom and equivalent one-bedroom and possibly equivalent three-bedroom) recent mover surveys where the FMR is not within the confidence interval of the survey. HUD will review the results of private surveys and will revise the Final FY 2016 FMRs if warranted. For small nonmetropolitan counties, HUD will work with the PHA to simplify the requirements for obtaining valid survey results. The selection of the units surveyed must be random and the distribution of the structures surveyed must be representative of the distribution of structure types from the 2013 ACS. HUD will not accept a survey that is comprised only of apartment project rentals, any more than it would accept private project rental data for major metropolitan areas as a means of revising FMRs. This data typically excludes single-family rentals, which are generally about one-third of the rental market for an area, and this percentage can be greater in small metropolitan areas and nonmetropolitan counties.

*Comment: Reductions in FMRs are discouraging the development of affordable multifamily housing projects.* Decreases in FMRs reduce the financial viability of Low Income Housing Tax Credit (LIHTC) projects that are limited to Section 8 voucher.

*HUD Response:* For years, HUD held income limits harmless to eliminate the effect of lower rents on LIHTC units, assuming rents were income based. But, the effect of this policy was to create

areas where there were no changes in income limits for years, which also did not provide adequate rents for LIHTC projects. Congress provided statutory hold harmless income limits for LIHTC projects, and special income limits for projects in service by December 31, 2008, that were subject to HUD's Hold Harmless policy in either 2007 or 2008. Beginning with the FY 2010 HUD Income Limits HUD eliminated its hold harmless policy for other income limits, but limited annual changes in income limits to plus or minus five percent (or greater if on average there was an annual increase in the national median family income of more than five percent). Since that time, LIHTC developers have planned for decreases in income-based rents between the time projects are proposed and placed in service. FMRs have always increased and decreased with the change in the data. HUD cannot ignore the requirement to use the most current data by only implementing FMR changes in five percent increments. Statutory and regulatory changes are required before HUD would be able to implement any methodology changes that deviate from the use of the most current rent data available.

*Comment: Market rents did not decrease in the past year and neither should FMRs.* Many areas protested decreases or even slight increases in the FMRs in areas where success rates are falling (Oakland and Santa Barbara) or large decreases where the economy is increasing and putting pressures on the housing market (Sioux City). Several commenters stated that market rents did not decrease and in fact increased over the past year, so FMRs should not decrease. Both Santa Cruz, CA and Burlington, VT experienced large declines in FY 2016 FMRs compared with FY 2015 FMRs. The decline in Santa Cruz was based on the decrease in recent mover gross rents measured by the 2013 one-year ACS data, and in Burlington the decrease was driven by the replacement of a December 2012-based local survey with 2013 one-year ACS data.

*HUD Response:* FMRs do not represent a time series of rent data for each FMR area. When market rents for areas increase, decrease, or stay the same, FMRs do not necessarily have the same directional change. The FMR process, as currently designed, develops the best estimate of the 40th (or 50th) percentile gross rent for a particular area using the timeliest available data covering the entire market area; this process revise past FMR estimates with updated information. Therefore, year-over-year FMR changes can sometimes

seemingly conflict with perceived market trends. Annual revisions to all of the underlying data used to estimate FMRs are now possible with the five-year ACS data. Because of the nature of the ACS five-year tabulations, however, 80 percent of the survey observations will remain the same from one year to the next, but are re-weighted to match the population and housing unit estimates of the final year of the five-year range. Also many rural FMR areas rely on update factors based on survey results from a larger, encompassing geographic area (for example, state-based update factors used for nonmetropolitan counties). Even if the base rent is not adjusted the annual changes in FMRs do not necessarily reflect very recent changes in the housing market conditions for the smaller area but still represent HUD's best estimate of 40th percentile gross rents in the FMR area.

*Comment: HUD should validate its FMR estimation methodology by comparing one-year ACS data with fiscal year FMRs for the same year, beginning with a comparison of 2006 one-year ACS rent data to the FY 2006 FMRs.* This analysis would determine which aspects of HUD's discretionary methodology is less accurate and could help HUD modify its methodology to improve accuracy while adhering to the requirement to use the most recent data available. The up and down changes that occur with the final fair market rents cause a lot of problems and stress for the landlords, tenants and the PHAs.

*HUD Response:* Because the integration of ACS data into the FMR estimation process has been gradual and evolving, and will continue to evolve to address issues like volatility in estimates arising from large sampling variation in smaller markets, there is not yet a basis for making the suggested comparison. FMR methodology and the underlying data have been relatively stable only between FY 2013 and FY 2016 FMRs. ACS data on recent-mover rents is only available for one of these years. Further, because the ACS only produces highly reliable estimates of the 40th percentile recent mover two-bedroom rent in the largest metropolitan areas, the comparison would only be valid for large markets, and FMRs have not been particularly volatile in these markets. Finally, the logic of this comment suggests that HUD should change the FMR estimation process to a model-based forecast system derived from time-series-panel data on rents. Again, this methodology would only be valid for the largest metropolitan FMR areas where a highly reliable recent mover rent can be derived from ACS

data. It is not clear that the model would be feasible and accurate for smaller FMR areas, nor how a model-based FMR estimate would accord with statutory language regarding FMR estimates.

*Comment: The year-to-year volatility in FMRs has significant adverse impacts.* A reduction of more than five percent in the published FMRs triggers a rent reasonableness analysis on the part of the PHA with jurisdiction over the area (Housing Choice Voucher Guidebook, directive 7420.10G). If the PHA's analysis finds that the rent being charged by a property owner is no longer reasonable, the owner will be required to reduce the rent. If the owner determines that this reduction will adversely affect the financial stability of the property, the owner will likely choose to leave the program, and the tenant will then have to move. Another consequence of a large reduction in FMRs is that owners may have to defer maintenance items because cash flows are no longer adequate to cover operating expenses. Alternatively, higher FMRs force the PHA with jurisdiction over the area to increase their payment standards and serve far fewer families within the community. This is detrimental at a time when PHAs are already stretching the limited amount of funding received from HUD to help as many families as they can. Increased FMRs will increase the waiting list for the HCV program and will increase the homeless population for an area.

FMRs cannot decrease in economic growth areas; some of these areas cannot manage the voucher program even with modest FMR increases. Several comments, even pertaining to FMR areas with decreases below five percent, or with modest increases, pressed for higher FY 2016 FMRs. Some of these areas had very tight markets and some of these areas already used payment standards at 110 percent of the FMRs. One commenter protested the retroactive effective date of October 1, 2015, which would not provide the time required to adjust payment standards.

*HUD Response:* The FMRs are effective when published. To help manage the HCV program and mitigate the impact of FMR decreases, PHAs may be able to: (1) Use Success Rate Payment Standards 24 CFR 982.503(e); or (2) request Exception Payment Standards for subareas within a FMR area (not to exceed 50 percent of the population) at 24 CFR 982.503(c).

*Comment: Vacancy rates are low, making it impossible to absorb FMR decreases.* Several comments stated that low or no vacancy rates in areas with increased economic activity require

higher FMRs so that voucher tenants can compete for housing. In these areas, there is not sufficient rental housing and generally, the 2013 rental data from the ACS does not reflect this situation.

*HUD Response:* When a market tightens rapidly, the FMRs cannot keep pace. The most accurate, statistically reliable data available to HUD is lagged by two years. Even if HUD conducts surveys of these areas, capturing the full scope of rent increases is difficult if the market condition has been occurring for less than two years; furthermore, it is challenging to get valid results for surveys of relatively small housing markets (with population under 1,000 persons). Most of the areas suffering from very rapidly tightening market conditions meet one or both of these criteria. Areas with sustained extremely low vacancy rates require construction of additional units. Higher FMR levels will not necessarily encourage additional development. These areas may use Exception Payment Standards for subareas within an FMR area (not to exceed 50 percent of the population) as described at 24 CFR 982.503(c), or Success Rate Payment Standards available at 24 CFR 982.503(e) to alleviate market pressures, or in severely disrupted rental markets.

*Comment: FY 2016 FMR decreases reduce the ability of families to find affordable housing.* Several comments stated that FMR decreases make it harder for tenants to find affordable housing, so HUD should not implement FMR decreases. The decrease in FMRs from FY 2015 to FY 2016 will reduce the availability of affordable housing in the area; landlords will be able to get higher rents from tenants that are not Section 8 voucher holders and so many will opt out of the program.

*HUD Response:* FMRs must reflect the most current statistically valid data and this means that FMRs cannot be held harmless (not allowed to decrease) when this data shows a decline. Most of the declines in the FMRs are based on lower 2013 rents, and in a few cases the 2013 to 2014 CPI adjustment reflects a decline.

*Comment: FY 2016 FMR decreases will require existing tenants to pay a greater share of their income on rents.* Several comments stated that their current tenants will have to pay a greater share of their income on rents, with FMR decreases.

*HUD Response:* New tenants are not allowed to pay more than 40 percent of their income on rent. Existing tenants will not have to pay rent based on reduced FMRs until the second anniversary of their Housing Assistance Payment (HAP) contract. If tenant rent

burden increases for an area, PHAs may use this as a justification for higher payment standards.

*Comment: Disabled and difficult-to-place residents suffer a disproportionately greater impact from FMR decreases because they have fewer housing choice options.* Disabled residents already have fewer units available to them, and reducing the FMR will further reduce their options. Difficult to place residents, because of a history of late payments or other issues, will have fewer landlords willing to rent to them if the FMR is lower.

*HUD Response:* HUD must use the most current data available and rents may increase and decrease. The data used as the basis for FY 2016 FMRs is more current than what was available in the estimation of the FMRs for FY 2015. The rent and utility data for the FY 2016 FMRs are more current than for the FY 2015 FMRs and are a better representation of the position in the rent distribution required by the FMR regulations. If a family has a member with a disability, a PHA may establish a higher payment standard for that family as a reasonable accommodation as discussed in 24 CFR 982.505(d).

*Comment: HUD should institute caps and floors to limit annual FMR changes to five percent.* A five percent change in the FMR triggers a rent reasonableness study, which is costly for cash-strapped PHAs. HUD should have instituted the same cap and floor of five percent that it instituted for Income Limits with the FY 2010 Income Limits.

*HUD Response:* HUD is constrained by legal and regulatory language for its calculation of FMRs. HUD cannot ignore the requirement that it use the most current data by implementing FMR changes in five percent increments. Statutory and regulatory changes are required before HUD would be able to implement any methodology changes that would limit the use of the most current rent data in setting FMRs. No such regulation or legislative requirement governs the calculation of income limits and prior to FY 2010, income limits were held harmless, that is, not allowed to ever decline. The change to incorporate caps and floors of up to five percent was a way to remove this hold harmless policy and create parity with increases and decreases.

*Comment: HUD should provide flexibility concerning the implementation of the FY 2016 FMRs and provide a 3-month delay similar to the implementation of changes in the determination of Public Housing Flat Rents.* HUD should allow Housing Authorities a 90-day grace period from

HUD's publication of final FY 2016 FMRs before any PHA revised voucher payment standards would affect voucher-assisted households' rent shares or Total Tenant Payment (TTP) as of January 1, 2016.

*HUD Response:* Program counsel for the HCV program reviewed this comment and revisited the statutory language governing FMRs. The plain language interpretation of the statute is that FMRs become effective upon publication in final form in the **Federal Register** and does not afford the implementation flexibility requested in the comment.

### VIII. Rental Housing Surveys

In 2011, HUD solicited bidders to study the methodology used to conduct local area surveys of gross rents to determine if the Random Digit Dialing (RDD) methodology could be improved upon. The Department undertook this study due to the increasing costs and declining response rates associated with telephone surveys. Furthermore, the advent of the one-year ACS limits the need for surveys in large metropolitan areas. Based on this research, the Department decided that its survey methodology should be changed with mail surveys being the preferred method for conducting surveys, because of the lower cost and greater likelihood of survey responses. These surveys, however, take almost twice as long to conduct as prior survey methods took, and when response times are most critical, the Department may choose to conduct random digit dialing surveys as well, as the budget permits.

Unfortunately, the anticipated budget does not permit HUD to conduct any surveys in FY 2016. The methodology for both types of surveys along with the survey instruments is posted on the HUD USER Web site, at the bottom of the FMR page in the section labeled "Fair Market Rent Surveys" at: <http://www.huduser.gov/portal/datasets/fmr.html>.

Other survey methodologies are acceptable in providing data to support comments if the survey methodology can provide statistically reliable, unbiased estimates of the gross rent. Survey samples should be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative of structure type (including single-family, duplex, and other small rental properties), age of housing unit, and

geographic location. The 2009–2013 five-year ACS data should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys cover only one- and two-bedroom units, which has statistical advantages because these are generally the most abundant rental units in an area. However in nonmetropolitan areas and some metropolitan areas, three-bedroom units are also surveyed because there are significant rental units at this size in the FMR area. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using the new ratios based on an average of 2007–2011, 2008–2012, and 2009–2013 five-year ACS data. A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD will consider increasing manufactured home space FMRs where public comment demonstrates that 40 percent of the two-bedroom FMR is not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must include a pad rental survey of all mobile home parks in the FMR area, identify the utilities included in each park's rental fee, and provide a copy of the applicable public housing authority's utility schedule.

As stated earlier in this Notice, HUD is required to use the most recent data available when calculating FMRs. Therefore, in order to re-evaluate an area's FMR, HUD requires more current rental market data than the 2013 ACS.

### IX. Environmental Impact

This Notice involves the establishment of fair market rent schedules, which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are proposed to be amended as shown in the Appendix to this notice:

Dated: December 8, 2015.

**Katherine M. O'Regan,**

*Assistant Secretary for Policy Development and Research.*

### **Fair Market Rents for the Housing Choice Voucher Program**

Schedules B and D—General Explanatory Notes

#### *1. Geographic Coverage*

a. Metropolitan Areas—Most FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. HUD is using the metropolitan CBSAs, which are made up of one or more counties, as defined by the Office of Management and Budget (OMB), with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Metropolitan Areas.

b. Modifications to OMB Definitions—Following OMB guidance, the estimation procedure for the FY 2016 FMRs incorporates the OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data and updated by the 2010 Census in February 23, 2013. The adjustments made to the 2000

definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly are continued. To follow HUDs policy of providing FMRs at the smallest possible area of geography, no counties were added to existing metropolitan areas. All counties added to metropolitan areas will still be treated as separate counties. New multicounty metropolitan areas are not subdivided. All metropolitan areas that have at least one subarea will also receive a subarea, that is the rents from a county that is a subarea will not be used for the remaining metropolitan subarea rent determination. The specific counties and New England towns and cities within each state in MSAs and HMFAs were not changed by the February 28, 2013 OMB metropolitan area definitions. These areas are listed in Schedule B.

#### *2. Unit Bedroom Count Adjustments*

Schedule B shows the FMRs for zero-bedroom through four-bedroom units. The Schedule B addendum shows Small Area FMRs for all PHAs operating using Small Area FMRs. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a

five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

#### *3. Arrangement of FMR Areas and Identification of Constituent Parts*

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each state. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by state.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. Two nonmetropolitan counties are listed alphabetically on each line of the non-metropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan county are listed immediately following the county name.

**BILLING CODE 4210-67-P**

ALABAMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston-Oxford-Jacksonville, AL MSA.....	445	476	637	810	896	Calhoun
Auburn-Opelika, AL MSA.....	518	559	748	997	1248	Lee
Birmingham-Hoover, AL HMFA.....	613	726	840	1134	1250	Bibb, Blount, Jefferson, St. Clair, Shelby
Chilton County, AL HMFA.....	430	487	569	829	993	Chilton
Columbus, GA-AL MSA.....	593	658	777	1077	1357	Russell
Daphne-Fairhope-Foley, AL MSA.....	719	754	873	1272	1472	Baldwin
Decatur, AL MSA.....	438	520	632	863	942	Lawrence, Morgan
Dothan, AL HMFA.....	491	501	647	869	1019	Geneva, Houston
Florence-Muscle Shoals, AL MSA.....	477	481	619	804	975	Colbert, Lauderdale
Gadsden, AL MSA.....	401	493	636	789	915	Etowah
Henry County, AL HMFA.....	451	461	580	751	1013	Henry
Huntsville, AL MSA.....	525	598	727	994	1212	Limestone, Madison
Mobile, AL MSA.....	649	656	788	1034	1164	Mobile
Montgomery, AL MSA.....	565	647	788	1029	1336	Autauga, Elmore, Lowndes, Montgomery
Pickens County, AL HMFA.....	403	425	569	707	780	Pickens
Tuscaloosa, AL HMFA.....	570	661	804	1027	1102	Hale, Tuscaloosa
Walker County, AL HMFA.....	473	487	625	836	966	Walker

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour.....	472	475	636	789	872	Bullock.....	451	454	569	829	985
Butler.....	422	425	569	800	831	Chambers.....	426	547	667	828	914
Cherokee.....	422	425	569	791	993	Choctaw.....	491	494	661	820	965
Clarke.....	468	492	569	800	922	Clay.....	439	460	569	806	831
Cleburne.....	470	473	633	786	868	Coffee.....	461	463	584	849	969
Conecuh.....	422	425	569	829	831	Coosa.....	444	447	579	780	794
Covington.....	422	425	569	758	993	Crenshaw.....	422	425	569	759	930
Cullman.....	441	482	604	759	828	Dale.....	374	449	580	833	1013
Dallas.....	409	453	569	747	981	DeKalb.....	447	456	595	738	816
Escambia.....	468	492	569	745	848	Fayette.....	461	490	569	807	831
Franklin.....	450	453	569	706	831	Greene.....	451	454	569	829	831
Jackson.....	462	468	571	709	887	Lamar.....	461	472	569	706	831
Macon.....	422	425	569	829	938	Marengo.....	422	425	569	774	831
Marion.....	422	425	569	716	780	Marshall.....	430	433	579	791	794
Monroe.....	448	451	569	829	993	Perry.....	468	492	569	763	831
Pike.....	481	504	584	838	852	Randolph.....	434	437	569	757	789
Sumter.....	555	560	686	851	940	Talladega.....	422	425	569	797	814
Tallapoosa.....	461	468	569	825	915	Washington.....	473	476	635	902	927
Wilcox.....	451	454	569	808	831	Winston.....	435	438	569	791	993

ALASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK HMFA.....	882	1021	1292	1883	2256	Anchorage
Fairbanks, AK MSA.....	759	919	1230	1793	1994	Fairbanks North Star
Matanuska-Susitna Borough, AK HMFA.....	624	756	1012	1475	1767	Matanuska-Susitna

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ALASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutians East.....	662	791	916	1149	1256	Aleutians West.....	927	1153	1503	1865	2318
Bethel.....	1020	1175	1369	1699	1876	Bristol Bay.....	863	892	1194	1513	1842
Denali.....	788	861	1090	1399	1681	Dillingham.....	790	926	1092	1355	1684
Haines.....	647	773	895	1149	1380	Hoonah-Angoon.....	485	621	786	1052	1077
Juneau.....	813	981	1313	1861	2025	Kenai Peninsula.....	788	793	996	1269	1674
Ketchikan Gateway.....	736	949	1193	1657	1972	Kodiak Island.....	743	828	958	1396	1558
Lake and Peninsula.....	612	731	846	1066	1305	Nome.....	849	1086	1376	1708	1886
North Slope.....	658	765	885	1131	1545	Northwest Arctic.....	960	1007	1166	1447	1598
Petersburg.....	634	768	1028	1276	1409	Prince of Wales-Hyder.....	760	765	931	1155	1276
Sitka.....	823	899	1203	1656	1855	Skagway.....	904	955	1250	1604	1928
Southeast Fairbanks.....	847	1012	1171	1693	2044	Valdez-Cordova.....	845	851	1139	1413	1757
Wade Hampton.....	639	697	883	1096	1210	Wrangell.....	619	640	856	1248	1320
Yakutat.....	720	786	996	1249	1536	Yukon-Koyukuk.....	591	595	776	963	1197

ARIZONA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ MSA.....	761	909	1135	1408	1687	Coconino
Lake Havasu City-Kingman, AZ MSA.....	505	592	754	1081	1183	Mohave
Phoenix-Mesa-Scottsdale, AZ MSA.....	596	735	914	1332	1558	Maricopa, Pinal
Prescott, AZ MSA.....	660	664	838	1221	1279	Yavapai
Sierra Vista-Douglas, AZ MSA.....	625	647	802	1117	1400	Cochise
Tucson, AZ MSA.....	532	644	862	1256	1480	Pima
Yuma, AZ MSA.....	610	614	822	1198	1425	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache.....	552	700	865	1210	1481	Gila.....	636	640	823	1124	1128
Graham.....	467	650	757	1091	1095	Greenlee.....	507	578	674	836	1033
La Paz.....	527	530	710	881	1240	Navajo.....	609	613	763	1031	1181
Santa Cruz.....	519	522	699	952	1110						

ARKANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR HMFA.....	518	548	709	1030	1238	Benton, Madison, Washington
Fort Smith, AR-OK HMFA.....	489	492	658	878	1058	Crawford, Sebastian
Grant County, AR HMFA.....	454	533	617	899	1077	Grant
Hot Springs, AR MSA.....	456	553	740	936	1122	Garland
Jonesboro, AR HMFA.....	399	526	647	884	887	Craighead
Little River County, AR HMFA.....	458	461	617	766	1077	Little River
Little Rock-North Little Rock-Conway, AR HMFA.....	526	633	768	1044	1222	Faulkner, Lonoke, Perry, Pulaski, Saline
Memphis, TN-MS-AR HMFA.....	602	700	827	1128	1309	Crittenden
Pine Bluff, AR MSA.....	402	497	651	808	985	Cleveland, Jefferson, Lincoln
Poinsett County, AR HMFA.....	502	505	617	849	1019	Poinsett
Texarkana, TX-Texarkana, AR HMFA.....	446	563	712	893	976	Miller

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ARKANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas.....	489	525	622	804	881	Ashley.....	485	516	617	836	846
Baxter.....	477	480	643	884	1054	Boone.....	459	462	619	883	1081
Bradley.....	450	485	649	807	890	Calhoun.....	490	491	623	784	905
Carroll.....	510	511	620	810	850	Chicot.....	485	497	617	899	1077
Clark.....	458	461	617	852	947	Clay.....	458	461	617	899	977
Cleburne.....	458	461	617	899	933	Columbia.....	485	515	617	899	957
Conway.....	470	537	719	892	1175	Cross.....	490	493	660	854	968
Dallas.....	485	485	617	891	896	Desha.....	460	463	617	855	896
Drew.....	458	461	617	829	849	Franklin.....	465	468	627	778	910
Fulton.....	458	461	617	820	896	Greene.....	401	530	650	837	1067
Hempstead.....	487	502	620	838	861	Hot Spring.....	487	536	620	809	926
Howard.....	385	461	617	798	979	Independence.....	462	465	623	783	941
Izard.....	381	499	617	816	935	Jackson.....	381	461	617	810	971
Johnson.....	458	461	617	769	846	Lafayette.....	458	461	617	790	890
Lawrence.....	460	463	617	827	863	Lee.....	458	461	617	766	860
Logan.....	428	461	617	870	992	Marion.....	458	461	617	799	979
Mississippi.....	436	478	640	830	877	Monroe.....	458	461	617	803	1077
Montgomery.....	458	461	617	766	896	Nevada.....	458	461	617	809	878
Newton.....	458	461	617	774	896	Ouachita.....	508	533	617	826	1019
Phillips.....	458	461	617	899	1077	Pike.....	508	533	617	766	846
Polk.....	458	461	617	811	897	Pope.....	485	488	644	910	1124
Prairie.....	475	478	617	899	1077	Randolph.....	458	461	617	766	896
St. Francis.....	485	522	617	899	1077	Scott.....	458	461	617	773	896
Searcy.....	485	510	617	810	896	Sevier.....	458	461	617	766	846
Sharp.....	381	461	617	859	896	Stone.....	458	461	617	771	896
Union.....	484	487	644	799	912	Van Buren.....	458	461	617	883	886
White.....	495	498	667	964	1119	Woodruff.....	432	461	617	766	916
Yell.....	458	461	617	899	1005						

CALIFORNIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Santa Ana-Anaheim-Irvine, CA HMFA.....	1161	1324	1672	2327	2532	Orange
Bakersfield, CA MSA.....	601	639	826	1194	1442	Kern
Chico, CA MSA.....	622	713	907	1318	1584	Butte
El Centro, CA MSA.....	517	643	836	1173	1460	Imperial
Fresno, CA MSA.....	662	690	862	1216	1430	Fresno
Hanford-Corcoran, CA MSA.....	607	611	818	1133	1293	Kings
Los Angeles-Long Beach-Glendale, CA HMFA.....	947	1154	1490	2009	2227	Los Angeles
Madera, CA MSA.....	699	704	942	1368	1546	Madera
Merced, CA MSA.....	517	601	784	1135	1369	Merced
Modesto, CA MSA.....	634	717	936	1337	1615	Stanislaus
Napa, CA MSA.....	925	1145	1500	2186	2368	Napa
Oakland-Fremont, CA HMFA.....	1037	1249	1580	2202	2455	Alameda, Contra Costa



CALIFORNIA continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Oxnard-Thousand Oaks-Ventura, CA MSA.....	994	1197	1602	2264	2489	Ventura
Redding, CA MSA.....	660	663	871	1269	1484	Shasta
*Riverside-San Bernardino-Ontario, CA MSA.....	798	945	1187	1672	2056	Riverside, San Bernardino
Sacramento--Roseville--Arden-Arcade, CA HMFA.....	707	815	1026	1495	1791	El Dorado, Placer, Sacramento
Salinas, CA MSA.....	961	1114	1399	2039	2181	Monterey
San Benito County, CA HMFA.....	925	1025	1353	1972	2362	San Benito
San Diego-Carlsbad, CA MSA.....	1040	1153	1499	2167	2329	San Diego
San Francisco, CA HMFA.....	1412	1814	2289	2987	3556	Marin, San Francisco, San Mateo
San Jose-Sunnyvale-Santa Clara, CA HMFA.....	1348	1582	1994	2777	3098	Santa Clara
San Luis Obispo-Paso Robles-Arroyo Grande, CA MSA.....	864	1009	1310	1909	2249	San Luis Obispo
Santa Cruz-Watsonville, CA MSA.....	989	1198	1604	2124	2376	Santa Cruz
Santa Maria-Santa Barbara, CA MSA.....	1065	1226	1451	1995	2311	Santa Barbara
Santa Rosa, CA MSA.....	934	1090	1414	2061	2469	Sonoma
Stockton-Lodi, CA MSA.....	616	735	967	1409	1688	San Joaquin
Vallejo-Fairfield, CA MSA.....	830	1024	1284	1871	2242	Solano
Visalia-Porterville, CA MSA.....	580	584	758	1105	1244	Tulare
Yolo, CA HMFA.....	864	870	1164	1672	2032	Yolo
Yuba City, CA MSA.....	628	661	861	1255	1503	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine.....	615	663	882	1260	1432	Amador.....	649	787	1053	1504	1729
Calaveras.....	645	713	925	1348	1615	Colusa.....	524	701	850	1239	1358
Del Norte.....	726	731	922	1344	1610	Glenn.....	611	615	823	1144	1336
Humboldt.....	668	748	999	1444	1713	Inyo.....	734	739	938	1349	1522
Lake.....	684	726	972	1402	1444	Lassen.....	621	723	968	1378	1690
Mariposa.....	657	705	943	1182	1596	Mendocino.....	733	789	1056	1505	1609
Modoc.....	459	569	658	959	1132	Mono.....	872	1090	1262	1566	2048
Nevada.....	792	908	1216	1772	2123	Plumas.....	607	711	870	1109	1351
Sierra.....	836	901	1199	1513	1946	Siskiyou.....	524	666	849	1236	1399
Tehama.....	517	626	838	1156	1160	Trinity.....	629	633	847	1148	1479
Tuolumne.....	733	747	1000	1365	1516						

COLORADO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder, CO MSA.....	989	1142	1381	2004	2382	Boulder
Colorado Springs, CO HMFA.....	550	690	891	1299	1556	El Paso
*Denver-Aurora-Lakewood, CO MSA.....	775	965	1227	1788	2083	Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park
Fort Collins, CO MSA.....	684	799	975	1421	1702	Larimer
Grand Junction, CO MSA.....	512	601	797	1162	1391	Mesa
Greeley, CO MSA.....	516	632	812	1183	1418	Weld
Pueblo, CO MSA.....	588	592	782	1116	1264	Pueblo
Teller County, CO HMFA.....	639	720	919	1310	1604	Teller

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

COLORADO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa.....	534	537	658	959	1019	Archuleta.....	621	625	819	1121	1191
Baca.....	542	569	658	959	1019	Bent.....	504	507	679	849	931
Chaffee.....	626	630	843	1229	1418	Cheyenne.....	488	492	658	817	994
Conejos.....	542	569	658	911	961	Costilla.....	569	573	750	1050	1161
Crowley.....	488	492	658	817	1112	Custer.....	500	503	659	960	1151
Delta.....	612	616	824	1104	1370	Dolores.....	542	569	658	922	1019
Eagle.....	745	933	1208	1531	2109	Fremont.....	561	571	724	1029	1195
Garfield.....	793	804	1076	1429	1877	Grand.....	585	708	948	1277	1493
Gunnison.....	521	631	844	1082	1366	Hinsdale.....	556	560	733	1027	1135
Huerfano.....	514	517	677	948	1048	Jackson.....	613	617	808	1003	1251
Kiowa.....	534	538	704	874	965	Kit Carson.....	542	569	658	817	1087
Lake.....	678	683	914	1134	1415	La Plata.....	740	800	997	1453	1678
Las Animas.....	524	570	760	1078	1169	Lincoln.....	558	565	678	841	1050
Logan.....	536	540	706	928	1047	Mineral.....	499	503	658	823	1019
Moffat.....	592	596	765	1063	1086	Montezuma.....	542	569	658	959	1149
Montrose.....	610	614	822	1183	1338	Morgan.....	531	534	697	967	1038
Otero.....	542	546	731	907	1002	Ouray.....	651	806	1055	1538	1634
Phillips.....	499	502	672	834	921	Pitkin.....	1025	1242	1662	2062	2278
Prowers.....	501	504	658	834	965	Rio Blanco.....	534	538	720	1049	1075
Rio Grande.....	542	569	658	868	1118	Routt.....	917	943	1114	1546	1555
Saguache.....	496	499	668	861	1166	San Juan.....	664	805	1077	1508	1668
San Miguel.....	851	1031	1380	1712	2074	Sedgwick.....	488	492	658	880	902
Summit.....	814	990	1320	1672	2044	Washington.....	521	525	658	848	926
Yuma.....	488	492	658	934	1067						

CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT HMFA.....	769	952	1207	1545	1757	Fairfield County towns of Bridgeport town, Easton town, Fairfield town, Monroe town, Shelton town, Stratford town, Trumbull town
Colchester-Lebanon, CT HMFA.....	849	896	1199	1488	1726	New London County towns of Colchester town, Lebanon town
Danbury, CT HMFA.....	1121	1393	1775	2224	2884	Fairfield County towns of Bethel town, Brookfield town, Danbury town, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
*Hartford-West Hartford-East Hartford, CT HMFA....	758	968	1210	1502	1721	Hartford County towns of Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town, Enfield town, Farmington town, Glastonbury town, Granby town, Hartford town, Hartland town, Manchester town, Marlborough town, New Britain town, Newington town, Plainville town, Rocky Hill town, Simsbury town, Southington town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor town, Windsor Locks town

CONNECTICUT continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Middlesex County towns of Chester town, Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown town, Portland town Tolland County towns of Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Union town, Vernon town, Willington town
Milford-Ansonia-Seymour, CT HMFA.....	1002	1022	1274	1585	1860	New Haven County towns of Ansonia town, Beacon Falls town, Derby town, Milford town, Oxford town, Seymour town
New Haven-Meriden, CT HMFA.....	862	1033	1260	1619	1866	New Haven County towns of Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, West Haven town, Woodbridge town
Norwich-New London, CT HMFA.....	732	861	1119	1474	1710	New London County towns of Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Lyme town, Montville town, New London town, North Stonington town, Norwich town, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Voluntown town, Waterford town
Southern Middlesex County, CT HMFA.....	862	989	1324	1808	1815	Middlesex County towns of Clinton town, Deep River town, Essex town, Killingworth town, Old Saybrook town, Westbrook town
Stamford-Norwalk, CT HMFA.....	1224	1517	1932	2428	2839	Fairfield County towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT HMFA.....	611	790	990	1233	1403	New Haven County towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town
Windham County, CT HMFA.....	608	714	935	1160	1282	Ashford town, Brooklyn town, Canterbury town, Chaplin town, Eastford town, Hampton town, Killingly town, Plainfield town, Pomfret town, Putnam town, Scotland town, Sterling town, Thompson town, Windham town, Woodstock town
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Litchfield County, CT.....	687	881	1114	1442	1592	Barkhamsted town, Bethlehem town, Bridgewater town, Canaan town, Colebrook town, Cornwall town, Goshen town, Harwinton town, Kent town, Litchfield town, Morris town, New Hartford town, New Milford town, Norfolk town, North Canaan town, Plymouth town, Roxbury town, Salisbury town, Sharon town, Thomaston town, Torrington town, Warren town, Washington town, Watertown town, Winchester town, Woodbury town

DELAWARE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA.....	683	823	952	1385	1662	Kent

DELAWARE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	830	1003	1210	1502	1659	New Castle
Sussex County, DE HMFA.....	703	756	1012	1388	1563	Sussex

DISTRICT OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Washington-Arlington-Alexandria, DC-VA-MD HMFA...	1307	1402	1623	2144	2726	District of Columbia

FLORIDA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baker County, FL HMFA.....	452	626	724	957	1199	Baker
Cape Coral-Fort Myers, FL MSA.....	681	730	911	1195	1255	Lee
Crestview-Fort Walton Beach-Destin, FL HMFA.....	658	768	930	1348	1621	Okaloosa
Deltona-Daytona Beach-Ormond Beach, FL HMFA.....	553	720	896	1213	1363	Volusia
Fort Lauderdale, FL HMFA.....	773	980	1253	1790	2188	Broward
Gainesville, FL MSA.....	637	719	887	1196	1392	Alachua, Gilchrist
Gulf County, FL HMFA.....	543	638	738	1001	1238	Gulf
Homosassa Springs, FL MSA.....	608	612	776	1011	1284	Citrus
Jacksonville, FL HMFA.....	616	787	960	1270	1578	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA.....	684	689	901	1200	1521	Polk
Miami-Miami Beach-Kendall, FL HMFA.....	774	975	1250	1671	1987	Miami-Dade
Naples-Immokalee-Marco Island, FL MSA.....	720	851	1042	1391	1726	Collier
North Port-Sarasota-Bradenton, FL MSA.....	711	751	974	1332	1656	Manatee, Sarasota
Ocala, FL MSA.....	546	634	780	1047	1090	Marion
Orlando-Kissimmee-Sanford, FL MSA.....	748	835	1003	1332	1608	Lake, Orange, Osceola, Seminole
Palm Bay-Melbourne-Titusville, FL MSA.....	538	688	872	1209	1502	Brevard
Palm Coast, FL HMFA.....	572	756	927	1201	1353	Flagler
Panama City-Lynn Haven-Panama City Beach, FL HMFA.	657	755	881	1249	1483	Bay
Pensacola-Ferry Pass-Brent, FL MSA.....	690	706	838	1149	1463	Escambia, Santa Rosa
Port St. Lucie, FL MSA.....	698	748	923	1279	1560	Martin, St. Lucie
Punta Gorda, FL MSA.....	606	634	848	1169	1303	Charlotte
Sebastian-Vero Beach, FL MSA.....	593	692	833	1183	1281	Indian River
Sebring, FL MSA.....	524	556	737	1007	1010	Highlands
Tallahassee, FL HMFA.....	693	733	914	1193	1440	Gadsden, Jefferson, Leon
Tampa-St. Petersburg-Clearwater, FL MSA.....	668	795	992	1319	1575	Hernando, Hillsborough, Pasco, Pinellas
The Villages, FL MSA.....	520	600	728	1061	1123	Sumter
Wakulla County, FL HMFA.....	617	635	798	1111	1200	Wakulla
Walton County, FL HMFA.....	635	666	771	1093	1346	Walton
*West Palm Beach-Boca Raton, FL HMFA.....	765	991	1240	1691	2044	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bradford.....	516	548	634	924	928	Calhoun.....	471	474	634	847	878
Columbia.....	682	755	874	1249	1418	DeSoto.....	545	548	679	927	931
Dixie.....	527	553	648	819	888	Franklin.....	588	625	723	1040	1262
Glades.....	563	567	759	942	1040	Hamilton.....	516	548	634	866	869
Hardee.....	533	566	655	905	992	Hendry.....	619	647	761	995	1276

FLORIDA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Holmes.....	516	548	634	840	878	Jackson.....	516	527	634	861	1006
Lafayette.....	516	548	634	787	1107	Levy.....	522	543	634	879	1107
Liberty.....	516	548	634	874	878	Madison.....	516	548	634	787	869
Monroe.....	999	1100	1473	1828	2039	Okeechobee.....	520	524	701	873	1071
Putnam.....	492	495	634	808	878	Suwannee.....	471	474	634	877	1013
Taylor.....	516	548	634	874	878	Union.....	516	548	634	836	878
Washington.....	471	474	634	836	878						

GEORGIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA.....	544	579	713	965	987	Baker, Dougherty, Lee, Terrell, Worth
Athens-Clarke County, GA MSA.....	582	644	759	1032	1285	Clarke, Madison, Oconee, Oglethorpe
Atlanta-Sandy Springs-Roswell, GA HMFA.....	764	820	949	1253	1532	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton
Augusta-Richmond County, GA-SC HMFA.....	533	612	735	997	1269	Burke, Columbia, McDuffie, Richmond
Brunswick, GA MSA.....	588	592	792	1083	1173	Brantley, Glynn, McIntosh
Butts County, GA HMFA.....	591	595	796	988	1091	Butts
Chattanooga, TN-GA MSA.....	515	616	767	1019	1247	Catoosa, Dade, Walker
Columbus, GA-AL MSA.....	593	658	777	1077	1357	Chattahoochee, Harris, Marion, Muscogee
Dalton, GA HMFA.....	545	549	677	888	928	Whitfield
Gainesville, GA MSA.....	640	676	829	1049	1172	Hall
Haralson County, GA HMFA.....	553	557	745	1016	1213	Haralson
Hinesville, GA HMFA.....	676	724	843	1178	1472	Liberty
Lamar County, GA HMFA.....	510	513	645	940	1040	Lamar
Lincoln County, GA HMFA.....	482	557	645	874	1126	Lincoln
Long County, GA HMFA.....	479	482	645	940	1126	Long
Macon, GA HMFA.....	446	609	705	938	1142	Bibb, Crawford, Jones, Twiggs
Meriwether County, GA HMFA.....	534	554	649	930	933	Meriwether
Monroe County, GA HMFA.....	453	576	667	972	1079	Monroe
Morgan County, GA HMFA.....	549	576	667	972	1125	Morgan
Murray County, GA HMFA.....	488	491	645	824	1006	Murray
Peach County, GA HMFA.....	406	526	659	900	903	Peach
Pulaski County, GA HMFA.....	479	482	645	916	1011	Pulaski
Rome, GA MSA.....	494	501	670	879	1119	Floyd
Savannah, GA MSA.....	657	775	897	1208	1412	Bryan, Chatham, Effingham
Valdosta, GA MSA.....	544	547	700	939	1176	Brooks, Echols, Lanier, Lowndes
Warner Robins, GA HMFA.....	646	660	806	1026	1225	Houston

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling.....	500	503	645	800	1006	Atkinson.....	479	482	645	847	1036
Bacon.....	500	503	645	800	949	Baldwin.....	460	560	703	917	1176
Banks.....	500	504	657	906	1050	Ben Hill.....	480	483	647	835	1040
Berrien.....	479	482	645	800	1126	Bleckley.....	531	537	645	940	1036
Bulloch.....	505	510	656	956	1145	Calhoun.....	479	482	645	880	1036

GEORGIA continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Camden.....	604	608	814	1130	1420	Candler.....	479	482	645	862	1126
Charlton.....	479	482	645	938	1036	Chattooga.....	479	482	645	856	1126
Clay.....	521	524	672	880	1080	Clinch.....	479	482	645	821	1041
Coffee.....	479	482	645	926	1086	Colquitt.....	487	490	645	892	1048
Cook.....	531	557	645	940	1090	Crisp.....	503	507	645	802	1033
Decatur.....	519	522	651	838	892	Dodge.....	479	482	645	891	1095
Dooley.....	492	496	645	918	1036	Early.....	504	551	645	940	1036
Elbert.....	479	482	645	847	938	Emanuel.....	479	482	645	827	900
Evans.....	519	523	645	857	884	Fannin.....	525	528	677	840	1088
Franklin.....	487	490	656	851	1015	Gilmer.....	521	524	702	871	1226
Glascocock.....	479	482	645	905	1126	Gordon.....	458	552	694	979	1178
Grady.....	531	557	645	847	1069	Greene.....	491	494	661	878	1062
Habersham.....	540	561	656	956	1054	Hancock.....	500	503	645	881	884
Hart.....	479	482	645	840	884	Irwin.....	500	503	645	821	1036
Jackson.....	606	610	777	964	1192	Jeff Davis.....	500	503	645	815	912
Jefferson.....	479	482	645	800	1029	Jenkins.....	500	503	645	822	1036
Johnson.....	481	484	645	868	884	Laurens.....	518	522	645	876	1030
Lumpkin.....	544	548	723	1038	1262	Macon.....	486	489	645	800	884
Miller.....	500	503	645	827	1036	Mitchell.....	511	515	689	855	944
Montgomery.....	531	557	645	800	1036	Pierce.....	531	557	645	874	1126
Polk.....	413	500	669	913	1012	Putnam.....	552	556	713	885	977
Quitman.....	500	503	645	849	1036	Rabun.....	468	606	749	949	1027
Randolph.....	508	512	685	998	1101	Schley.....	492	495	645	940	1126
Screven.....	479	482	645	860	884	Seminole.....	500	503	645	849	1036
Stephens.....	479	482	645	928	1126	Stewart.....	500	503	645	940	1036
Sumter.....	524	564	653	838	895	Talbot.....	627	631	845	1049	1358
Taliaferro.....	634	638	818	1015	1314	Tattnall.....	531	557	645	934	938
Taylor.....	500	503	645	927	1036	Telfair.....	398	482	645	800	1036
Thomas.....	543	547	718	981	984	Tift.....	521	524	675	859	994
Toombs.....	479	482	645	874	1126	Towns.....	556	559	675	846	1178
Treutlen.....	520	524	645	816	884	Troup.....	572	576	732	1040	1091
Turner.....	500	503	645	828	1126	Union.....	499	502	672	882	1018
Upson.....	531	557	645	940	1015	Ware.....	421	482	645	873	884
Warren.....	496	500	645	940	1126	Washington.....	531	557	645	888	1126
Wayne.....	479	482	645	827	1126	Webster.....	514	517	663	823	1065
Wheeler.....	398	503	645	940	1036	White.....	582	586	740	1041	1189
Wilcox.....	531	557	645	800	1036	Wilkes.....	486	490	645	940	1036
Wilkinson.....	479	482	645	932	1105						

HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Honolulu, HI MSA.....	1334	1507	1985	2893	3140	Honolulu

HAWAII continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE					
Kalawao County, HI HMFA.....	464	517	658	959	1149	Kalawao					
Maui County, HI HMFA.....	912	1016	1286	1874	2058	Maui					
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii.....	808	966	1194	1576	2013	Kauai.....	776	1007	1238	1620	1910

IDAHO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE					
Boise City, ID HMFA.....	487	617	789	1142	1352	Ada, Boise, Canyon, Owyhee					
Butte County, ID HMFA.....	443	502	658	865	1062	Butte					
Coeur d'Alene, ID MSA.....	504	582	768	1072	1341	Kootenai					
Gem County, ID HMFA.....	432	524	701	990	1092	Gem					
Idaho Falls, ID HMFA.....	435	509	681	916	1132	Bonneville, Jefferson					
Lewiston, ID-WA MSA.....	458	544	728	933	1184	Nez Perce					
Logan, UT-ID MSA.....	479	525	658	959	1095	Franklin					
Pocatello, ID MSA.....	406	492	658	921	1149	Bannock					
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	488	492	658	886	1149	Bear Lake.....	488	492	658	875	917
Benewah.....	488	492	658	905	1149	Bingham.....	488	492	658	871	1095
Blaine.....	663	721	963	1195	1629	Bonner.....	564	586	728	982	1252
Boundary.....	510	545	658	940	1149	Camas.....	495	498	658	959	1149
Caribou.....	495	498	658	817	1149	Cassia.....	510	511	658	959	1117
Clark.....	495	498	658	900	1149	Clearwater.....	511	562	659	818	1151
Custer.....	510	569	658	900	1149	Elmore.....	488	492	658	913	1149
Fremont.....	501	504	675	838	993	Gooding.....	488	492	658	926	1149
Idaho.....	488	492	658	902	1149	Jerome.....	488	492	658	925	994
Latah.....	508	511	682	994	1191	Lemhi.....	510	569	658	959	1149
Lewis.....	510	513	658	959	1074	Lincoln.....	488	492	658	847	1149
Madison.....	546	550	663	966	1158	Minidoka.....	510	531	658	942	1149
Oneida.....	510	569	658	887	1146	Payette.....	507	510	683	898	1132
Power.....	488	492	658	915	966	Shoshone.....	510	532	658	822	1066
Teton.....	583	587	775	1011	1353	Twin Falls.....	592	599	764	1031	1334
Valley.....	547	590	705	1027	1231	Washington.....	488	492	658	928	1149

ILLINOIS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IL..HMFA.....	557	626	830	1095	1449	McLean
Bond County, IL HMFA.....	437	517	692	859	1030	Bond
Cape Girardeau, MO-IL MSA.....	470	493	658	900	983	Alexander
Champaign-Urbana, IL MSA.....	534	660	824	1038	1367	Champaign, Ford, Piatt

ILLINOIS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Chicago-Joliet-Naperville, IL HMFA.....	860	1001	1176	1494	1780	Cook, DuPage, Kane, Lake, McHenry, Will
Danville, IL MSA.....	414	512	671	833	920	Vermilion
Davenport-Moline-Rock Island, IA-IL MSA.....	449	556	712	936	993	Henry, Mercer, Rock Island
De Witt County, IL HMFA.....	441	474	635	831	931	De Witt
DeKalb County, IL HMFA.....	599	668	891	1230	1490	DeKalb
Decatur, IL MSA.....	428	518	694	944	963	Macon
Grundy County, IL HMFA.....	740	740	991	1416	1421	Grundy
Jackson County, IL HMFA.....	455	570	738	1008	1012	Jackson
Kankakee, IL MSA.....	508	615	823	1133	1308	Kankakee
Kendall County, IL HMFA.....	674	817	1093	1572	1908	Kendall
Macoupin County, IL HMFA.....	434	474	635	842	1008	Macoupin
Peoria, IL MSA.....	472	578	750	950	1107	Marshall, Peoria, Stark, Tazewell, Woodford
Rockford, IL MSA.....	525	580	776	1020	1165	Boone, Winnebago
Springfield, IL MSA.....	521	598	777	1017	1065	Menard, Sangamon
St. Louis, MO-IL HMFA.....	558	645	840	1109	1284	Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair
Williamson County, IL HMFA.....	503	520	696	984	1215	Williamson

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	405	491	657	889	913	Brown.....	458	521	697	865	1007
Bureau.....	429	519	695	920	953	Carroll.....	471	474	635	788	917
Cass.....	521	526	635	864	957	Christian.....	447	484	648	804	941
Clark.....	417	474	635	788	1050	Clay.....	417	549	635	795	917
Coles.....	505	508	650	947	948	Crawford.....	417	544	635	788	877
Cumberland.....	417	520	635	812	917	Douglas.....	444	505	676	839	927
Edgar.....	417	474	635	795	917	Edwards.....	392	520	635	788	932
Effingham.....	418	474	635	925	952	Fayette.....	455	474	635	831	972
Franklin.....	417	474	635	788	998	Fulton.....	417	519	635	842	1081
Gallatin.....	417	514	635	914	917	Greene.....	417	535	635	788	1002
Hamilton.....	417	474	635	788	917	Hancock.....	419	496	635	788	917
Hardin.....	417	474	635	788	917	Henderson.....	417	480	635	788	1008
Iroquois.....	482	487	635	841	1076	Jasper.....	417	544	635	914	917
Jefferson.....	423	478	635	795	969	Jo Daviess.....	417	549	635	867	929
Johnson.....	417	498	635	788	1014	Knox.....	392	474	635	788	870
La Salle.....	434	526	704	995	1017	Lawrence.....	471	474	635	867	870
Lee.....	526	529	662	908	950	Livingston.....	408	494	661	878	906
Logan.....	417	474	635	841	870	McDonough.....	458	598	743	922	1047
Marion.....	393	477	638	870	912	Mason.....	417	474	635	788	917
Massac.....	443	501	670	831	1170	Montgomery.....	430	559	697	865	977
Morgan.....	411	489	655	849	898	Moultrie.....	417	529	635	867	948
Ogle.....	432	480	642	887	1058	Perry.....	516	525	635	824	952
Pike.....	446	474	635	870	993	Pope.....	417	480	635	914	917
Pulaski.....	417	479	635	788	917	Putnam.....	439	521	678	841	979
Randolph.....	402	489	644	869	1010	Richland.....	417	474	635	898	966
Saline.....	471	474	635	903	911	Schuyler.....	417	538	635	856	917



ILLINOIS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Scott.....	417	474	635	788	870	Shelby.....	417	474	635	788	997
Stephenson.....	426	474	635	799	870	Union.....	392	474	635	877	924
Wabash.....	417	474	635	848	870	Warren.....	421	479	641	874	879
Washington.....	429	488	653	810	895	Wayne.....	417	489	635	788	917
White.....	441	474	635	800	1016	Whiteside.....	518	521	654	827	932

INDIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, IN HMFA.....	433	524	702	919	1060	Madison
Bloomington, IN HMFA.....	679	718	924	1256	1613	Monroe
Carroll County, IN HMFA.....	511	514	650	888	891	Carroll
Cincinnati, OH-KY-IN..HMFA.....	509	600	787	1102	1297	Dearborn, Ohio
Columbus, IN MSA.....	525	659	787	992	1079	Bartholomew
Elkhart-Goshen, IN MSA.....	482	585	781	971	1122	Elkhart
Evansville, IN-KY MSA.....	544	581	752	933	1031	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA.....	491	556	708	911	1013	Allen, Wells, Whitley
Gary, IN HMFA.....	535	707	867	1107	1188	Lake, Newton, Porter
Indianapolis-Carmel-Anderson, IN HMFA.....	552	651	809	1084	1230	Boone, Brown, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby
Jasper County, IN HMFA.....	561	562	752	933	1297	Jasper
Kokomo, IN MSA.....	458	503	673	909	922	Howard
Lafayette-West Lafayette, IN HMFA.....	610	678	832	1131	1453	Benton, Tippecanoe
Louisville, KY-IN HMFA.....	551	644	817	1123	1275	Clark, Floyd, Harrison
Michigan City-La Porte, IN MSA.....	468	567	759	985	1040	LaPorte
Muncie, IN MSA.....	546	605	790	1040	1316	Delaware
Owen County, IN HMFA.....	469	589	747	987	1304	Owen
Putnam County, IN HMFA.....	531	534	650	947	1135	Putnam
Scott County, IN HMFA.....	526	564	755	1040	1223	Scott
South Bend-Mishawaka, IN HMFA.....	493	628	787	994	1079	St. Joseph
Sullivan County, IN HMFA.....	435	591	705	875	966	Sullivan
Terre Haute, IN HMFA.....	430	521	697	865	955	Clay, Vermillion, Vigo
Union County, IN HMFA.....	535	562	650	807	1028	Union
Washington County, IN HMFA.....	459	518	659	924	958	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	457	487	650	865	1072	Blackford.....	457	486	650	882	1037
Cass.....	431	486	650	807	972	Clinton.....	415	511	673	888	1032
Crawford.....	457	486	650	807	922	Daviess.....	457	486	650	891	895
Decatur.....	455	564	737	915	1010	DeKalb.....	452	512	650	853	1034
Dubois.....	494	497	650	947	1135	Fayette.....	441	488	653	861	930
Fountain.....	476	554	678	863	929	Franklin.....	413	500	669	830	917
Fulton.....	457	497	650	807	891	Gibson.....	457	531	650	879	988
Grant.....	457	486	650	852	946	Greene.....	401	497	650	807	1073
Henry.....	481	486	650	835	893	Huntington.....	436	492	659	872	903
Jackson.....	459	538	654	940	1031	Jay.....	457	491	650	888	891

INDIANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jefferson.....	406	547	658	906	934	Jennings.....	501	533	713	895	977
Knox.....	491	494	661	877	906	Kosciusko.....	427	538	693	879	950
LaGrange.....	457	532	650	879	906	Lawrence.....	410	497	665	825	1095
Marshall.....	513	514	688	854	943	Martin.....	457	506	650	947	1135
Miami.....	457	562	650	911	1135	Montgomery.....	518	529	708	929	970
Noble.....	403	534	650	842	1076	Orange.....	457	486	650	848	1033
Parke.....	457	504	650	854	1135	Perry.....	457	486	650	888	891
Pike.....	457	486	650	848	1080	Pulaski.....	401	486	650	807	891
Randolph.....	457	526	650	937	1031	Ripley.....	425	501	671	873	1058
Rush.....	459	489	654	812	906	Spencer.....	401	486	650	843	891
Starke.....	417	505	676	847	1168	Steuben.....	502	534	715	907	980
Switzerland.....	530	564	755	1100	1174	Tipton.....	490	549	697	883	955
Wabash.....	476	488	650	807	891	Warren.....	458	520	652	890	894
Wayne.....	449	504	664	841	910	White.....	457	547	650	888	891

IOWA

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Ames, IA MSA.....	509	634	778	1084	1231	Story
Benton County, IA HMFA.....	478	481	619	847	993	Benton
Bremer County, IA HMFA.....	450	493	649	886	890	Bremer
Cedar Rapids, IA HMFA.....	451	546	731	1046	1122	Linn
Davenport-Moline-Rock Island, IA-IL MSA.....	449	556	712	936	993	Scott
Des Moines-West Des Moines, IA MSA.....	577	682	844	1149	1249	Dallas, Guthrie, Madison, Polk, Warren
Dubuque, IA MSA.....	440	528	707	911	1043	Dubuque
Iowa City, IA HMFA.....	552	665	863	1258	1507	Johnson
Jones County, IA HMFA.....	409	495	663	894	990	Jones
Omaha-Council Bluffs, NE-IA HMFA.....	516	666	836	1127	1233	Harrison, Mills, Pottawattamie
Plymouth County, IA HMFA.....	387	474	628	779	872	Plymouth
Sioux City, IA-NE-SD HMFA.....	439	531	711	886	1014	Woodbury
Washington County, IA HMFA.....	444	522	698	947	1129	Washington
Waterloo-Cedar Falls, IA HMFA.....	478	569	729	972	1199	Black Hawk, Grundy

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	438	462	619	768	848	Adams.....	438	462	619	902	1016
Allamakee.....	438	462	619	801	856	Appanoose.....	438	462	619	768	848
Audubon.....	438	471	619	878	1038	Boone.....	423	524	633	864	868
Buchanan.....	479	483	646	882	885	Buena Vista.....	471	483	624	869	955
Butler.....	491	495	619	874	877	Calhoun.....	438	535	619	831	848
Carroll.....	485	488	619	794	854	Cass.....	438	518	619	799	892
Cedar.....	455	481	644	853	892	Cerro Gordo.....	423	514	686	903	1029
Cherokee.....	438	462	619	782	852	Chickasaw.....	438	511	619	845	848
Clarke.....	426	516	690	861	1205	Clay.....	438	462	619	890	1081
Clayton.....	397	519	619	834	948	Clinton.....	427	504	674	880	1029

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

IOWA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crawford.....	438	535	619	768	848	Davis.....	446	471	631	783	865
Decatur.....	438	462	619	845	848	Delaware.....	476	479	619	856	1005
Des Moines.....	485	520	696	883	1018	Dickinson.....	442	478	625	799	957
Emmet.....	438	490	619	845	848	Fayette.....	438	462	619	786	848
Floyd.....	438	498	619	845	848	Franklin.....	464	467	619	845	848
Fremont.....	438	463	619	797	918	Greene.....	438	462	619	768	981
Hamilton.....	406	492	658	838	995	Hancock.....	438	531	619	813	962
Hardin.....	438	462	619	845	1022	Henry.....	502	505	619	845	848
Howard.....	438	494	619	768	848	Humboldt.....	438	462	619	818	901
Ida.....	438	477	619	841	903	Iowa.....	438	520	619	902	1080
Jackson.....	438	521	619	845	848	Jasper.....	405	499	656	830	970
Jefferson.....	441	534	715	887	980	Keokuk.....	438	462	619	845	848
Kossuth.....	438	462	619	902	986	Lee.....	393	491	637	822	896
Louisa.....	494	497	665	825	912	Lucas.....	438	462	619	839	848
Lyon.....	438	484	619	768	877	Mahaska.....	474	518	670	868	918
Marion.....	528	532	712	884	1204	Marshall.....	465	520	663	878	961
Mitchell.....	459	462	619	780	848	Monona.....	459	462	619	810	848
Monroe.....	445	476	630	782	864	Montgomery.....	438	492	619	845	848
Muscatine.....	531	561	751	975	1053	O'Brien.....	459	462	619	845	848
Osceola.....	438	462	619	805	848	Page.....	382	462	619	854	947
Palo Alto.....	438	474	619	845	848	Pocahontas.....	438	504	619	828	884
Poweshiek.....	456	520	645	843	915	Ringgold.....	438	494	619	768	848
Sac.....	438	489	619	869	872	Shelby.....	450	475	636	833	872
Sioux.....	438	500	619	791	848	Tama.....	452	477	639	814	884
Taylor.....	438	515	619	768	878	Union.....	438	490	619	809	848
Van Buren.....	438	463	619	902	1081	Wapello.....	424	514	688	905	943
Wayne.....	438	462	619	845	848	Webster.....	482	485	619	860	890
Winnebago.....	438	462	619	902	921	Winneshiek.....	454	463	620	779	1082
Worth.....	438	497	619	799	848	Wright.....	382	467	619	768	848

KANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Kansas City, MO-KS HMFA.....	562	721	893	1219	1385	Johnson, Leavenworth, Linn, Miami, Wyandotte
Kingman County, KS HMFA.....	415	492	659	858	903	Kingman
Lawrence, KS MSA.....	520	639	835	1217	1458	Douglas
Manhattan, KS MSA.....	688	692	912	1329	1590	Pottawatomie, Riley
St. Joseph, MO-KS MSA.....	480	522	699	875	1114	Doniphan
Sumner County, KS HMFA.....	414	492	658	817	971	Sumner
Topeka, KS MSA.....	448	544	727	994	1197	Jackson, Jefferson, Osage, Shawnee, Wabaunsee
Wichita, KS HMFA.....	458	557	742	1012	1144	Butler, Harvey, Sedgwick

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

KANSAS continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Allen.....	474	546	658	955	959	Anderson.....	474	569	658	959	965
Atchison.....	486	504	674	912	988	Barber.....	474	492	658	826	965
Barton.....	406	511	658	842	1106	Bourbon.....	414	501	671	833	920
Brown.....	474	492	658	834	902	Chase.....	474	492	658	866	902
Chautauqua.....	504	523	700	869	1026	Cherokee.....	474	492	658	825	966
Cheyenne.....	474	569	658	817	902	Clark.....	474	492	658	866	1118
Clay.....	540	560	749	1045	1073	Cloud.....	474	492	658	817	902
Coffey.....	474	492	658	941	1058	Comanche.....	498	516	691	857	1013
Cowley.....	412	499	668	879	949	Crawford.....	534	537	703	994	1205
Decatur.....	474	492	658	892	965	Dickinson.....	406	503	658	874	1061
Edwards.....	474	492	658	957	1033	Elk.....	474	569	658	959	965
Ellis.....	478	527	658	946	1085	Ellsworth.....	474	492	658	817	902
Finney.....	451	565	732	908	1220	Ford.....	483	520	677	884	1024
Franklin.....	557	624	773	959	1162	Geary.....	657	661	856	1248	1494
Gove.....	474	492	658	819	902	Graham.....	474	492	658	817	965
Grant.....	474	492	658	817	965	Gray.....	474	546	658	838	902
Greeley.....	474	492	658	959	1086	Greenwood.....	474	492	658	871	1056
Hamilton.....	543	563	753	934	1104	Harper.....	474	492	658	943	1095
Haskell.....	606	628	841	1044	1153	Hodgeman.....	474	492	658	817	965
Jewell.....	474	549	658	817	902	Kearny.....	474	492	658	841	965
Kiowa.....	474	569	658	959	965	Labette.....	474	492	658	817	1065
Lane.....	474	492	658	817	965	Lincoln.....	474	492	658	817	902
Logan.....	474	492	658	824	1087	Lyon.....	406	492	658	899	902
McPherson.....	505	524	701	870	961	Marion.....	474	492	658	817	902
Marshall.....	488	492	658	882	994	Meade.....	474	492	658	817	902
Mitchell.....	474	492	658	899	902	Montgomery.....	488	492	658	907	1086
Morris.....	474	541	658	910	913	Morton.....	474	569	658	817	965
Nemaha.....	474	569	658	959	1039	Neosho.....	474	492	658	859	902
Ness.....	406	492	658	899	902	Norton.....	474	502	658	959	965
Osborne.....	474	569	658	882	965	Ottawa.....	497	515	689	863	1047
Pawnee.....	474	495	658	866	965	Phillips.....	474	499	658	851	965
Pratt.....	478	508	664	824	910	Rawlins.....	474	492	658	817	965
Reno.....	459	532	712	934	1054	Republic.....	474	496	658	817	902
Rice.....	474	492	658	959	1101	Rooks.....	474	542	658	850	902
Rush.....	474	569	658	866	902	Russell.....	515	533	714	886	979
Saline.....	540	548	734	939	1006	Scott.....	614	637	852	1057	1249
Seward.....	533	613	739	959	1117	Sheridan.....	474	514	658	817	965
Sherman.....	478	495	663	867	1130	Smith.....	474	569	658	959	965
Stafford.....	474	492	658	817	902	Stanton.....	474	492	658	827	978
Stevens.....	520	539	721	895	1057	Thomas.....	474	559	658	959	1022
Trego.....	500	600	694	861	1017	Wallace.....	474	492	658	959	965
Washington.....	474	492	658	817	902	Wichita.....	474	492	658	959	965

KANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wilson.....	474	492	658	842	1000	Woodson.....	474	492	658	817	965

KENTUCKY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allen County, KY HMFA.....	441	484	622	895	898	Allen
Bowling Green, KY HMFA.....	547	565	725	972	1119	Edmonson, Warren
Butler County, KY HMFA.....	441	484	622	869	1086	Butler
Cincinnati, OH-KY-IN. HMFA.....	509	600	787	1102	1297	Boone, Bracken, Campbell, Gallatin, Kenton, Pendleton
Clarksville, TN-KY MSA.....	514	605	797	1077	1188	Christian, Trigg
Elizabethtown, KY HMFA.....	446	484	648	944	1131	Hardin, Larue
Evansville, IN-KY MSA.....	544	581	752	933	1031	Henderson
Grant County, KY HMFA.....	473	545	730	1024	1105	Grant
Huntington-Ashland, WV-KY-OH HMFA.....	406	524	658	889	1063	Boyd, Greenup
Lexington-Fayette, KY MSA.....	533	617	796	1143	1377	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN HMFA.....	551	644	817	1123	1275	Bullitt, Henry, Jefferson, Oldham, Spencer, Trimble
Meade County, KY HMFA.....	468	508	680	991	1187	Meade
Owensboro, KY MSA.....	492	495	663	832	975	Daviess, Hancock, McLean
Shelby County, KY HMFA.....	569	610	816	1120	1318	Shelby

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	384	465	622	849	853	Anderson.....	618	648	751	1042	1105
Ballard.....	446	465	622	867	882	Barren.....	458	477	639	824	1028
Bath.....	446	465	622	837	882	Bell.....	384	498	622	808	853
Boyle.....	517	520	696	934	1105	Breathitt.....	446	491	622	819	1086
Breckinridge.....	446	503	622	789	853	Caldwell.....	446	533	622	863	882
Calloway.....	468	536	683	895	936	Carlisle.....	466	486	650	807	922
Carroll.....	486	517	678	912	1053	Carter.....	446	522	622	795	941
Casey.....	446	499	622	879	882	Clay.....	446	506	622	772	882
Clinton.....	446	465	622	792	882	Crittenden.....	446	495	622	823	882
Cumberland.....	446	465	622	772	882	Elliott.....	446	499	622	879	882
Estill.....	512	531	622	869	905	Fleming.....	446	537	622	879	882
Floyd.....	446	505	622	820	882	Franklin.....	546	609	762	1103	1119
Fulton.....	446	465	622	849	853	Garrard.....	468	524	653	845	938
Graves.....	446	537	622	784	1060	Grayson.....	446	516	622	879	882
Green.....	446	499	622	772	853	Harlan.....	481	484	622	784	873
Harrison.....	393	537	622	792	965	Hart.....	488	491	622	849	853
Hickman.....	446	537	622	829	882	Hopkins.....	461	495	643	872	1021
Jackson.....	553	577	772	958	1058	Johnson.....	462	465	622	856	859
Knott.....	446	465	622	782	853	Knox.....	384	475	622	864	882
Laurel.....	446	527	622	811	969	Lawrence.....	446	537	622	860	1086
Lee.....	446	537	622	772	882	Leslie.....	518	581	723	936	1026
Letcher.....	446	465	622	788	887	Lewis.....	446	537	622	854	926
Lincoln.....	446	482	622	829	939	Livingston.....	450	543	628	858	861

KENTUCKY continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Logan.....	496	500	635	788	870	Lyon.....	446	465	622	836	853
McCracken.....	495	552	690	924	946	McCreary.....	446	531	622	879	882
Madison.....	511	514	688	992	1114	Magoffin.....	446	465	622	772	853
Marion.....	463	483	646	802	916	Marshall.....	540	563	754	936	1072
Martin.....	446	537	622	906	1086	Mason.....	472	492	659	908	935
Menifee.....	446	537	622	803	882	Mercer.....	449	471	626	835	1014
Metcalfe.....	453	472	632	784	896	Monroe.....	446	494	622	794	853
Montgomery.....	419	507	679	910	1185	Morgan.....	512	537	622	823	991
Muhlenberg.....	446	537	622	776	1086	Nelson.....	496	517	692	1009	1104
Nicholas.....	446	493	622	892	1086	Ohio.....	446	535	622	906	1086
Owen.....	448	467	625	795	887	Owsley.....	446	499	622	806	882
Perry.....	446	465	622	849	853	Pike.....	537	540	723	933	991
Powell.....	446	465	622	849	853	Pulaski.....	464	503	648	839	965
Robertson.....	503	529	702	871	996	Rockcastle.....	446	465	622	808	882
Rowan.....	449	575	728	903	1016	Russell.....	384	465	622	800	1086
Simpson.....	515	621	719	964	1020	Taylor.....	441	483	647	803	887
Todd.....	446	537	622	772	906	Union.....	512	517	622	776	882
Washington.....	459	532	641	795	879	Wayne.....	446	494	622	812	853
Webster.....	446	465	622	772	853	Whitley.....	476	496	664	824	1120
Wolfe.....	446	465	622	772	853						

LOUISIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Acadia Parish, LA HMFA.....	415	435	582	795	798	Acadia
Alexandria, LA MSA.....	553	580	726	981	1145	Grant, Rapides
Baton Rouge, LA HMFA.....	594	728	842	1056	1331	Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Hammond, LA MSA.....	606	625	783	972	1129	Tangipahoa
Houma-Thibodaux, LA MSA.....	639	643	857	1174	1494	Lafourche, Terrebonne
Iberia Parish, LA HMFA.....	525	529	708	879	970	Iberia
Iberville Parish, LA HMFA.....	459	474	635	815	1005	Iberville
Lafayette, LA HMFA.....	605	758	877	1139	1344	Lafayette, St. Martin
Lake Charles, LA MSA.....	470	604	762	992	1170	Calcasieu, Cameron
Monroe, LA MSA.....	561	565	737	918	1010	Ouachita, Union
New Orleans-Metairie, LA HMFA.....	669	787	963	1219	1464	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany
Shreveport-Bossier City, LA HMFA.....	580	692	819	1033	1123	Bossier, Caddo, De Soto
St. James Parish, LA HMFA.....	410	500	579	844	878	St. James
Vermilion Parish, LA HMFA.....	401	548	634	895	995	Vermilion
Webster Parish, LA HMFA.....	474	477	585	785	887	Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen.....	477	493	579	791	794	Assumption.....	447	450	596	869	929
Avoyelles.....	363	433	579	783	879	Beauregard.....	477	500	579	815	1011

LOUISIANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bienville.....	477	500	579	791	794	Caldwell.....	477	500	579	844	1006
Catahoula.....	477	500	579	844	1011	Claiborne.....	456	458	579	844	1011
Concordia.....	430	433	579	844	879	East Carroll.....	443	446	579	735	879
Evangeline.....	357	433	579	731	879	Franklin.....	430	433	579	718	1011
Jackson.....	430	433	579	841	1011	Jefferson Davis.....	477	500	579	791	794
La Salle.....	430	433	579	831	879	Lincoln.....	558	561	683	866	1115
Madison.....	430	433	579	747	794	Morehouse.....	451	454	579	720	879
Natchitoches.....	488	491	651	824	892	Red River.....	434	437	585	853	888
Richland.....	430	433	579	731	1011	Sabine.....	454	500	579	744	1011
St. Landry.....	370	448	600	757	822	St. Mary.....	485	488	638	898	960
Tensas.....	430	433	579	772	879	Vernon.....	532	644	862	1070	1209
Washington.....	445	448	599	743	954	West Carroll.....	357	433	579	727	794
Winn.....	477	500	579	791	794						

MAINE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME HMFA.....	639	706	892	1115	1306	Penobscot County towns of Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island Reservation, Veazie town
Cumberland County, ME (part) HMFA.....	682	724	962	1402	1599	Cumberland County towns of Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Lewiston-Auburn, ME MSA.....	523	616	777	987	1128	Androscoggin County towns of Auburn city, Durham town, Greene town, Leeds town, Lewiston city, Lisbon town, Livermore town, Livermore Falls town, Mechanic Falls town, Minot town, Poland town, Sabattus town, Turner town, Wales town
Penobscot County, ME (part) HMFA.....	514	612	760	984	1140	Penobscot County towns of Alton town, Argyle UT, Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penobscot UT, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Howland town, Hudson town, Kingman UT, Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Newport town, North Penobscot UT, Passadumkeag town, Patten town, Plymouth town, Prentiss UT, Sebouis plantation, Springfield town, Stacyville town, Stetson town, Twombly UT, Webster plantation, Whitney UT, Winn town, Woodville town
Portland, ME HMFA.....	762	886	1109	1489	1561	Cumberland County towns of Chebeague Island town Cumberland County towns of Cape Elizabeth town, Casco town,

MAINE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Cumberland town, Falmouth town, Freeport town, Frye Island town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town
Sagadahoc County, ME HMFA.....	636	774	896	1184	1395	York County towns of Buxton town, Hollis town, Limington town, Old Orchard Beach town
York County, ME (part) HMFA.....	667	782	968	1308	1327	Sagadahoc County towns of Arrowsic town, Bath city, Bowdoin town, Bowdoinham town, Georgetown town, Perkins UT, Phippsburg town, Richmond town, Topsham town, West Bath town, Woolwich town
York-Kittery-South Berwick, ME HMFA.....	848	919	1196	1539	1882	York County towns of Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town
						York County towns of Berwick town, Eliot town, Kittery town, South Berwick town, York town
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Aroostook County, ME.....	523	552	658	840	902	Allagash town, Amity town, Ashland town, Bancroft town, Blaine town, Bridgewater town, Caribou city, Cary plantation, Castle Hill town, Caswell town, Central Aroostook UT, Chapman town, Connor UT, Crystal town, Cyr plantation, Dyer Brook town, Eagle Lake town, Easton town, Fort Fairfield town, Fort Kent town, Frenchville town, Garfield plantation, Glenwood plantation, Grand Isle town, Hamlin town, Hammond town, Haynesville town, Hersey town, Hodgdon town, Houlton town, Island Falls town, Limestone town, Linneus town, Littleton town, Ludlow town, Macwahoc plantation, Madawaska town, Mapleton town, Mars Hill town, Masardis town, Merrill town, Monticello town, Moro plantation, Nashville plantation, New Canada town, New Limerick town, New Sweden town, Northwest Aroostook UT, Oakfield town, Orient town, Oxbow plantation, Penobscot Indian Island Reservation, Perham town, Portage Lake town, Presque Isle city, Reed plantation, St. Agatha town, St. Francis town, St. John plantation, Sherman town, Smyrna town, South Aroostook UT, Square Lake UT, Stockholm town, Van Buren town, Wade town, Wallagrass town, Washburn town, Westfield town, Westmanland town, Weston town, Winterville plantation, Woodland town
Franklin County, ME.....	523	580	671	833	1003	Avon town, Carrabassett Valley town, Carthage town, Chesterville town, Coplin plantation, Dallas plantation, East Central Franklin UT, Eustis town, Farmington town, Industry town, Jay town, Kingfield town, Madrid town,



MAINE continued

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR Towns within nonmetropolitan counties

Hancock County, ME.....	564	658	847	1076	1161	New Sharon town, New Vineyard town, North Franklin UT, Phillips town, Rangeley town, Rangeley plantation, Sandy River plantation, South Franklin UT, Strong town, Temple town, Weld town, West Central Franklin UT, Wilton town, Wyman UT Amherst town, Aurora town, Bar Harbor town, Blue Hill town, Brooklin town, Brooksville town, Bucksport town, Castine town, Central Hancock UT, Cranberry Isles town, Dedham town, Deer Isle town, Eastbrook town, East Hancock UT, Ellsworth city, Franklin town, Frenchboro town, Gouldsboro town, Great Pond town, Hancock town, Lamoine town, Mariaville town, Marshall Island UT, Mount Desert town, Northwest Hancock UT, Orland town, Osborn town, Otis town, Penobscot town, Sedgwick town, Sorrento town, Southwest Harbor town, Stonington town, Sullivan town, Surry town, Swans Island town, Tremont town, Trenton town, Verona Island town, Waltham town, Winter Harbor town
Kennebec County, ME.....	556	601	755	977	1037	Albion town, Augusta city, Belgrade town, Benton town, Chelsea town, China town, Clinton town, Farmingdale town, Fayette town, Gardiner city, Hallowell city, Litchfield town, Manchester town, Monmouth town, Mount Vernon town, Oakland town, Pittston town, Randolph town, Readfield town, Rome town, Sidney town, Unity UT, Vassalboro town, Vienna town, Waterville city, Wayne town, West Gardiner town, Windsor town, Winslow town, Winthrop town
Knox County, ME.....	664	669	883	1096	1244	Appleton town, Camden town, Criehaven UT, Cushing town, Friendship town, Hope town, Isle au Haut town, Matinicus Isle plantation, Muscle Ridge Island UT, North Haven town, Owls Head town, Rockland city, Rockport town, St. George town, South Thomaston town, Thomaston town, Union town, Vinalhaven town, Warren town, Washington town
Lincoln County, ME.....	551	674	834	1035	1254	Alna town, Boothbay town, Boothbay Harbor town, Bremen town, Bristol town, Damariscotta town, Dresden town, Edgcomb town, Hibberts gore, Jefferson town, Louds Island UT, Monhegan plantation, Newcastle town, Nobleboro town, Somerville town, South Bristol town, Southport town, Waldoboro town, Westport Island town, Whitefield town, Wiscasset town
Oxford County, ME.....	513	549	658	945	1149	Andover town, Bethel town, Brownfield town, Buckfield town, Byron town, Canton town, Denmark town, Dixfield town, Fryeburg town, Gilead town, Greenwood town, Hanover town, Hartford town, Hebron town, Hiram town, Lincoln plantation, Lovell town, Magalloway plantation, Mexico town, Milton UT, Newry town, North Oxford UT, Norway town, Otisfield town, Oxford town, Paris town, Peru town, Porter town, Roxbury town, Rumford town, South Oxford UT, Stoneham town, Stow town, Sumner town, Sweden town, Upton town, Waterford town, West Paris town, Woodstock town

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Piscataquis County, ME.....	513	569	658	899	946	Abbot town, Atkinson town, Beaver Cove town, Blanchard UT, Bowerbank town, Brownville town, Dover-Foxcroft town, Greenville town, Guilford town, Kingsbury plantation, Lake View plantation, Medford town, Milo town, Monson town, Northeast Piscataquis UT, Northwest Piscataquis UT, Parkman town, Sangerville town, Sebec town, Shirley town, Southeast Piscataquis UT, Wellington town, Willimantic town
Somerset County, ME.....	556	580	708	892	970	Anson town, Athens town, Bingham town, Brighton plantation, Cambridge town, Canaan town, Caratunk town, Central Somerset UT, Cornville town, Dennistown plantation, Detroit town, Embden town, Fairfield town, Harmony town, Hartland town, Highland plantation, Jackman town, Madison town, Mercer town, Moose River town, Moscow town, New Portland town, Norridgewock town, Northeast Somerset UT, Northwest Somerset UT, Palmyra town, Pittsfield town, Pleasant Ridge plantation, Ripley town, St. Albans town, Seboomook Lake UT, Skowhegan town, Smithfield town, Solon town, Starks town, The Forks plantation, West Forks plantation
Waldo County, ME.....	583	643	748	998	1044	Belfast city, Belmont town, Brooks town, Burnham town, Frankfort town, Freedom town, Islesboro town, Jackson town, Knox town, Liberty town, Lincolnville town, Monroe town, Montville town, Morrill town, Northport town, Palermo town, Prospect town, Searsmont town, Searsport town, Stockton Springs town, Swanville town, Thorndike town, Troy town, Unity town, Waldo town, Winterport town
Washington County, ME.....	531	545	658	848	996	Addison town, Alexander town, Baileyville town, Baring plantation, Beals town, Beddington town, Calais city, Centerville town, Charlotte town, Cherryfield town, Codyville plantation, Columbia town, Columbia Falls town, Cooper town, Crawford town, Cutler town, Danforth town, Deblois town, Dennysville town, East Central Washington UT, East Machias town, Eastport city, Grand Lake Stream plantation, Harrington town, Jonesboro town, Jonesport town, Lubec town, Machias town, Machiasport town, Marshfield town, Meddybemps town, Milbridge town, Northfield town, North Washington UT, Passamaquoddy Indian Township Reservation, Passamaquoddy Pleasant Point Reservation, Pembroke town, Perry town, Princeton town, Robbinston town, Roque Bluffs town, Steuben town, Talmadge town, Topsfield town, Vanceboro town, Waite town, Wesley town, Whiting town, Whitneyville town

MARYLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Baltimore-Columbia-Towson, MD MSA.....	851	1033	1298	1663	1934	Anne Arundel, Baltimore, Carroll, Harford, Howard,

MARYLAND continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
California-Lexington Park, MD MSA.....	816	994	1155	1574	2017	Queen Anne's, Baltimore city
Cumberland, MD-WV MSA.....	450	569	658	908	1111	St. Mary's
Hagerstown, MD HMFA.....	554	678	898	1224	1502	Allegany
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	830	1003	1210	1502	1659	Washington
Salisbury, MD HMFA.....	590	714	956	1196	1541	Cecil
Somerset County, MD HMFA.....	499	621	719	1028	1033	Wicomico
*Washington-Arlington-Alexandria, DC-VA-MD HMFA...	1307	1402	1623	2144	2726	Somerset
Worcester County, MD HMFA.....	610	676	873	1190	1524	Calvert, Charles, Frederick, Montgomery, Prince George's Worcester

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline.....	620	624	835	1159	1257	Dorchester.....	644	648	814	1088	1116
Garrett.....	431	551	688	854	1153	Kent.....	640	645	863	1071	1507
Talbot.....	668	810	1083	1344	1564						

MASSACHUSETTS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable Town, MA MSA.....	987	1089	1457	1833	1997	Barnstable County towns of Barnstable Town city, Bourne town, Brewster town, Chatham town, Dennis town, Eastham town, Falmouth town, Harwich town, Mashpee town, Orleans town, Provincetown town, Sandwich town, Truro town, Wellfleet town, Yarmouth town
Berkshire County, MA (part) HMFA.....	769	805	934	1159	1280	Berkshire County towns of Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town
Boston-Cambridge-Quincy, MA-NH HMFA.....	1056	1261	1567	1945	2148	Essex County towns of Amesbury Town city, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town Middlesex County towns of Acton town, Arlington town, Ashby town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town,

MASSACHUSETTS continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE

						Waltham city, Watertown city, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city
						Norfolk County towns of Bellingham town, Braintree Town city, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin Town city, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth Town city, Wrentham town
						Plymouth County towns of Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town
						Suffolk County towns of Boston city, Chelsea city, Revere city, Winthrop Town city
Brockton, MA HMFA.....	835	922	1199	1573	1643	Norfolk County towns of Avon town
						Plymouth County towns of Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Marion town, Mattapoisett town, Middleborough town, Plympton town, Rochester town, West Bridgewater town, Whitman town
Eastern Worcester County, MA HMFA.....	739	864	1093	1480	1676	Worcester County towns of Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town, Mendon town, Milford town, Millville town, Southborough town, Upton town
Easton-Raynham, MA HMFA.....	950	974	1304	1900	1976	Bristol County towns of Easton town, Raynham town
Fitchburg-Leominster, MA HMFA.....	613	761	994	1233	1424	Worcester County towns of Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town
Franklin County, MA (part) HMFA.....	693	741	919	1140	1375	Franklin County towns of Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield Town city, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town
Lawrence, MA-NH HMFA.....	776	908	1173	1456	1608	Essex County towns of Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen city, North Andover town, West Newbury town
Lowell, MA HMFA.....	802	960	1213	1505	1678	Middlesex County towns of Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town
New Bedford, MA HMFA.....	578	720	864	1072	1184	Bristol County towns of Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city
Pittsfield, MA HMFA.....	529	689	842	1045	1202	Berkshire County towns of Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Providence-Fall River, RI-MA HMFA.....	655	801	972	1206	1452	Bristol County towns of Attleboro city, Fall River city, North Attleborough town, Rehoboth town, Seekonk town, Somerset town, Swansea town, Westport town
Springfield, MA HMFA.....	633	803	1001	1242	1461	Franklin County towns of Sunderland town Hampden County towns of Agawam Town city, Blandford town, Brimfield town, Chester town, Chicopee city, East Longmeadow town, Granville town, Hampden town, Holland town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer Town city, Russell town, Southwick town, Springfield city, Tolland town, Wales town, Westfield city, West Springfield Town city, Wilbraham town Hampshire County towns of Amherst town, Belchertown town, Chesterfield town, Cummington town, Easthampton Town city, Goshen town, Granby town, Hadley town, Hatfield town, Huntington town, Middlefield town, Northampton city, Pelham town, Plainfield town, Southampton town, South Hadley town, Ware town, Westhampton town, Williamsburg town, Worthington town
Taunton-Mansfield-Norton, MA HMFA.....	783	837	1074	1351	1490	Bristol County towns of Berkley town, Dighton town, Mansfield town, Norton town, Taunton city
Western Worcester County, MA HMFA.....	538	676	795	1072	1388	Worcester County towns of Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town
Worcester, MA HMFA.....	708	841	1062	1318	1482	Worcester County towns of Auburn town, Barre town, Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge Town city, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Dukes County, MA.....	959	1006	1346	1838	1845	Aquinnah town, Chilmark town, Edgartown town, Gosnold town, Oak Bluffs town, Tisbury town, West Tisbury town
Nantucket County, MA.....	923	1261	1497	1905	2052	Nantucket town

MICHIGAN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI MSA.....	769	851	1019	1396	1779	Washtenaw
Barry County, MI HMFA.....	468	535	684	997	1135	Barry
Battle Creek, MI MSA.....	443	574	718	935	1012	Calhoun
Bay City, MI MSA.....	424	517	687	922	942	Bay
Cass County, MI HMFA.....	539	542	726	991	995	Cass

MICHIGAN continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Detroit-Warren-Livonia, MI HMFA.....	532	658	863	1148	1234	Lapeer, Macomb, Oakland, St. Clair, Wayne
Flint, MI MSA.....	455	551	738	964	1092	Genesee
Grand Rapids-Wyoming, MI HMFA.....	521	627	776	1091	1228	Kent
Holland-Grand Haven, MI HMFA.....	512	647	749	1024	1028	Ottawa
Jackson, MI MSA.....	464	583	752	1017	1039	Jackson
Kalamazoo-Portage, MI MSA.....	503	612	769	1027	1234	Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA.....	546	687	848	1134	1338	Clinton, Eaton, Ingham
Livingston County, MI HMFA.....	544	659	864	1218	1508	Livingston
Midland, MI MSA.....	506	598	778	1068	1192	Midland
Monroe, MI MSA.....	525	604	808	1105	1108	Monroe
Montcalm County, MI HMFA.....	496	514	658	921	1097	Montcalm
Muskegon, MI MSA.....	501	568	760	1059	1078	Muskegon
Niles-Benton Harbor, MI MSA.....	434	525	703	902	1064	Berrien
Saginaw, MI MSA.....	437	549	709	934	972	Saginaw

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR

Alcona.....	473	494	658	817	1149	Alger.....	473	492	658	829	1149
Allegan.....	597	600	729	985	999	Alpena.....	473	516	658	927	1149
Antrim.....	413	515	670	976	1167	Arenac.....	494	521	658	942	1149
Baraga.....	473	492	658	817	902	Benzie.....	566	570	709	981	1120
Branch.....	517	520	672	906	921	Charlevoix.....	556	559	683	848	1132
Cheboygan.....	473	519	658	934	962	Chippewa.....	458	503	673	835	922
Clare.....	473	497	658	847	902	Crawford.....	484	504	674	836	1177
Delta.....	473	509	658	949	1072	Dickinson.....	473	492	658	817	1149
Emmet.....	527	575	770	959	1209	Gladwin.....	473	561	658	959	1149
Gogebic.....	473	492	658	839	1016	Grand Traverse.....	571	665	878	1199	1203
Gratiot.....	473	492	658	851	1068	Hillsdale.....	455	521	658	892	945
Houghton.....	435	492	658	817	998	Huron.....	500	503	658	889	1023
Ionia.....	517	520	696	947	1049	Iosco.....	406	515	658	866	922
Iron.....	469	492	658	817	1074	Isabella.....	483	583	702	939	1023
Kalkaska.....	488	507	679	891	991	Keweenaw.....	473	492	658	919	922
Lake.....	473	492	658	873	1064	Leelanau.....	576	667	802	1003	1099
Lenawee.....	530	560	713	885	977	Luce.....	473	492	658	907	910
Mackinac.....	473	519	658	817	922	Manistee.....	473	492	658	899	902
Marquette.....	454	548	722	896	990	Mason.....	473	492	658	884	922
Mecosta.....	473	556	658	899	902	Menominee.....	473	522	658	909	916
Missaukee.....	473	569	658	899	902	Montmorency.....	487	507	678	946	950
Newaygo.....	473	521	658	864	902	Oceana.....	473	492	658	883	902
Ogemaw.....	479	498	667	828	937	Ontonagon.....	473	536	658	919	922
Osceola.....	473	493	658	891	987	Oscoda.....	502	522	699	867	958
Otsego.....	489	544	680	959	1042	Presque Isle.....	473	569	658	947	1149
Roscommon.....	473	492	658	935	951	St. Joseph.....	470	501	671	879	959
Sanilac.....	425	492	658	926	986	Schoolcraft.....	473	516	658	817	1099
Shiawassee.....	450	513	687	911	942	Tuscola.....	406	507	658	918	1056

MICHIGAN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wexford.....	523	544	728	979	998

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
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MINNESOTA

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth, MN-WI MSA.....	494	577	755	972	1124	Carlton, St. Louis
Fargo, ND-MN MSA.....	489	600	771	1124	1238	Clay
Fillmore County, MN HMFA.....	406	507	658	899	902	Fillmore
Grand Forks, ND-MN MSA.....	523	627	833	1120	1356	Polk
La Crosse-Onalaska, WI-MN MSA.....	511	619	828	1184	1446	Houston
Le Sueur County, MN HMFA.....	438	530	710	953	1146	Le Sueur
Mankato-North Mankato, MN MSA.....	587	666	815	1118	1423	Blue Earth, Nicollet
Mille Lacs County, MN HMFA.....	490	623	795	1077	1313	Mille Lacs
Minneapolis-St. Paul-Bloomington, MN-WI HMFA.....	656	813	1027	1444	1693	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright
Rochester, MN HMFA.....	572	681	908	1178	1555	Dodge, Olmsted
Sibley County, MN HMFA.....	424	492	658	959	1028	Sibley
St. Cloud, MN MSA.....	542	589	735	986	1283	Benton, Stearns
Wabasha County, MN HMFA.....	439	550	694	1011	1212	Wabasha

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
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Aitkin.....	517	521	697	889	955
Beltrami.....	458	555	743	948	1018
Brown.....	418	498	658	817	902
Chippewa.....	443	521	698	953	957
Cook.....	469	658	761	944	1305
Crow Wing.....	492	595	797	1045	1092
Fariibault.....	418	492	658	899	902
Goodhue.....	521	584	782	1001	1198
Hubbard.....	418	492	658	959	1149
Jackson.....	418	515	658	878	902
Kandiyohi.....	436	513	686	896	1053
Koochiching.....	418	492	658	899	902
Lake.....	516	625	837	1039	1147
Lincoln.....	418	492	658	817	902
McLeod.....	428	542	694	968	1088
Marshall.....	500	503	658	921	1034
Meeker.....	461	602	747	927	1024
Mower.....	468	550	736	945	1009
Nobles.....	513	516	691	901	965
Otter Tail.....	418	492	658	901	927
Pine.....	492	578	774	960	1130
Pope.....	466	548	733	983	1005
Redwood.....	418	492	658	880	902

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
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Becker.....	409	498	663	880	909
Big Stone.....	418	543	658	847	902
Cass.....	538	542	725	900	1056
Clearwater.....	418	492	658	865	902
Cottonwood.....	418	530	658	901	904
Douglas.....	428	518	694	902	1212
Freeborn.....	418	492	658	817	1002
Grant.....	418	569	658	959	1124
Itasca.....	462	544	728	903	998
Kanabec.....	492	578	774	960	1330
Kittson.....	418	492	658	898	1024
Lac qui Parle.....	418	492	658	817	902
Lake of the Woods.....	418	492	658	847	902
Lyon.....	483	492	658	959	1149
Mahnomen.....	418	510	658	817	945
Martin.....	418	492	658	817	902
Morrison.....	419	492	659	849	1036
Murray.....	418	537	658	817	1149
Norman.....	418	492	658	899	902
Pennington.....	406	492	658	829	902
Pipestone.....	418	569	658	957	960
Red Lake.....	418	523	658	860	902
Renville.....	498	508	658	817	956

MINNESOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Rice.....	577	679	909	1239	1433
Roseau.....	418	492	658	817	902
Stevens.....	418	562	658	823	992
Todd.....	418	492	658	817	902
Wadena.....	418	492	658	817	986
Watonwan.....	418	504	658	899	902
Winona.....	451	548	720	982	1088

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Rock.....	418	492	658	944	961
Steele.....	490	577	772	1038	1348
Swift.....	488	492	658	959	1149
Traverse.....	418	492	658	817	902
Waseca.....	418	492	658	910	913
Wilkin.....	418	492	658	899	902
Yellow Medicine.....	418	497	658	892	1039

MISSISSIPPI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Benton County, MS HMFA.....	484	544	638	905	1016	Benton
Gulfport-Biloxi, MS HMFA.....	659	681	801	1085	1275	Hancock, Harrison
Hattiesburg, MS MSA.....	538	611	731	1001	1021	Forrest, Lamar, Perry
Jackson, MS HMFA.....	529	686	831	1052	1187	Copiah, Hinds, Madison, Rankin
Marshall County, MS HMFA.....	473	477	638	849	1016	Marshall
Memphis, TN-MS-AR HMFA.....	602	700	827	1128	1309	DeSoto
Pascagoula, MS HMFA.....	632	652	768	1087	1308	Jackson
Simpson County, MS HMFA.....	458	551	638	821	944	Simpson
Tate County, MS HMFA.....	507	510	683	857	1090	Tate
Tunica County, MS HMFA.....	554	581	673	835	1072	Tunica
Yazoo County, MS HMFA.....	466	484	648	804	888	Yazoo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	499	570	713	885	1002
Amite.....	446	517	638	838	905
Bolivar.....	497	500	638	837	940
Carroll.....	456	528	652	841	907
Choctaw.....	446	513	638	884	887
Clarke.....	465	574	664	883	910
Coahoma.....	404	566	655	813	928
Franklin.....	446	477	638	848	887
Greene.....	525	551	638	823	887
Holmes.....	446	551	638	795	875
Issaquena.....	446	517	638	823	887
Jasper.....	446	517	638	823	887
Jefferson Davis.....	446	477	638	884	887
Kemper.....	456	527	651	808	905
Lauderdale.....	519	581	742	1009	1054
Leake.....	446	516	638	811	1109
Leflore.....	418	488	651	832	892
Lowndes.....	481	592	688	960	963
Monroe.....	446	477	638	792	902
Neshoba.....	446	482	638	842	875

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn.....	449	524	641	888	917
Attala.....	446	519	638	856	875
Calhoun.....	446	477	638	854	1034
Chickasaw.....	393	477	638	792	959
Claiborne.....	446	517	638	792	887
Clay.....	448	501	640	805	956
Covington.....	446	477	638	884	887
George.....	446	517	638	823	887
Grenada.....	446	542	638	869	875
Humphreys.....	446	477	638	792	935
Itawamba.....	446	533	638	905	986
Jefferson.....	446	477	638	878	887
Jones.....	445	577	722	896	990
Lafayette.....	606	714	866	1139	1187
Lawrence.....	458	489	655	813	911
Lee.....	496	551	709	912	1022
Lincoln.....	473	477	638	792	906
Marion.....	446	524	638	816	925
Montgomery.....	446	517	638	857	887
Newton.....	466	498	666	883	1137



MISSISSIPPI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Noxubee.....	446	551	638	868	887	Oktibbeha.....	515	661	786	996	1093
Panola.....	446	551	638	854	927	Pearl River.....	471	559	673	981	1105
Pike.....	495	528	707	877	969	Pontotoc.....	446	517	638	917	962
Prentiss.....	446	551	638	837	1017	Quitman.....	393	490	638	792	887
Scott.....	446	502	638	817	887	Sharkey.....	446	482	638	792	875
Smith.....	409	477	638	876	887	Stone.....	509	589	727	902	1011
Sunflower.....	443	522	638	854	1114	Tallahatchie.....	408	551	638	835	924
Tippah.....	448	553	640	794	877	Tishomingo.....	446	544	638	930	1031
Union.....	446	551	638	860	901	Walthall.....	446	517	638	849	875
Warren.....	557	561	700	869	969	Washington.....	504	514	638	875	935
Wayne.....	393	517	638	814	1114	Webster.....	525	551	638	879	887
Wilkinson.....	554	591	791	982	1084	Winston.....	446	517	638	917	1114
Yalobusha.....	446	505	638	869	887						

MISSOURI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bates County, MO HMFA.....	403	471	630	880	981	Bates
Callaway County, MO HMFA.....	468	471	630	887	1005	Callaway
Cape Girardeau, MO-IL MSA.....	470	493	658	900	983	Bollinger, Cape Girardeau
Columbia, MO MSA.....	587	655	825	1146	1440	Boone
Dallas County, MO HMFA.....	452	471	630	782	926	Dallas
Jefferson City, MO HMFA.....	470	476	630	918	944	Cole, Osage
Joplin, MO MSA.....	486	506	667	917	931	Jasper, Newton
*Kansas City, MO-KS HMFA.....	562	721	893	1219	1385	Caldwell, Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
McDonald County, MO HMFA.....	468	471	630	844	894	McDonald
Moniteau County, MO HMFA.....	389	478	630	782	1005	Moniteau
Polk County, MO HMFA.....	452	471	630	904	1100	Polk
Springfield, MO HMFA.....	467	522	686	1000	1025	Christian, Greene, Webster
St. Joseph, MO-KS MSA.....	480	522	699	875	1114	Andrew, Buchanan, DeKalb
St. Louis, MO-IL HMFA.....	558	645	840	1109	1284	Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	448	471	630	905	1100	Atchison.....	429	471	630	860	864
Audrain.....	479	526	704	874	1052	Barry.....	429	536	630	799	864
Barton.....	403	494	630	798	864	Benton.....	440	483	647	884	887
Butler.....	435	477	639	793	958	Camden.....	458	574	673	835	1137
Carroll.....	429	471	630	782	941	Carter.....	498	550	637	897	928
Cedar.....	440	483	646	802	985	Chariton.....	429	471	630	796	885
Clark.....	389	471	630	918	941	Cooper.....	429	494	630	898	947
Crawford.....	495	498	667	868	1047	Dade.....	429	471	630	782	864
Davless.....	429	522	630	918	941	Dent.....	443	486	651	820	892
Douglas.....	429	471	630	903	941	Dunklin.....	457	471	630	893	1040

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MISSOURI continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Gasconade.....	429	471	630	918	1069	Gentry.....	429	471	630	785	864
Grundy.....	389	471	630	918	955	Harrison.....	443	486	651	808	892
Henry.....	466	512	685	955	1000	Hickory.....	446	471	630	782	963
Holt.....	429	471	630	816	987	Howard.....	429	500	630	860	864
Howell.....	426	471	630	797	1042	Iron.....	429	536	630	882	1100
Johnson.....	445	539	722	1051	1228	Knox.....	429	471	630	796	1088
Laclede.....	452	471	630	876	1014	Lawrence.....	448	471	630	878	1100
Lewis.....	415	471	630	844	941	Linn.....	429	471	630	782	864
Livingston.....	468	471	630	879	1035	Macon.....	389	471	630	902	920
Madison.....	471	518	693	860	950	Maries.....	429	544	630	916	1048
Marion.....	391	474	634	841	869	Mercer.....	433	475	636	907	950
Miller.....	446	520	656	841	899	Mississippi.....	458	503	673	835	1006
Monroe.....	429	471	630	798	1100	Montgomery.....	437	480	643	827	884
Morgan.....	404	489	655	813	898	New Madrid.....	429	471	630	813	910
Nodaway.....	443	486	651	832	951	Oregon.....	429	515	630	797	864
Ozark.....	429	544	630	814	941	Pemiscot.....	429	471	630	800	864
Perry.....	454	523	668	942	986	Pettis.....	527	530	710	987	1020
Phelps.....	430	521	698	926	1180	Pike.....	429	473	630	918	928
Pulaski.....	509	623	826	1204	1442	Putnam.....	429	471	630	918	941
Ralls.....	456	501	670	831	1170	Randolph.....	439	506	645	808	1095
Reynolds.....	429	471	630	782	941	Ripley.....	429	471	630	821	1100
St. Clair.....	429	492	630	782	864	Ste. Genevieve.....	441	556	648	890	893
St. Francois.....	468	471	630	855	936	Saline.....	433	471	630	865	957
Schuyler.....	389	471	630	783	864	Scotland.....	429	471	630	836	941
Scott.....	392	474	635	812	870	Shannon.....	389	471	630	782	941
Shelby.....	429	471	630	826	864	Stoddard.....	429	471	630	807	864
Stone.....	468	581	759	957	1074	Sullivan.....	481	528	707	877	1056
Taney.....	521	585	677	980	1182	Texas.....	389	471	630	918	1035
Vernon.....	433	524	702	893	962	Washington.....	474	477	630	782	941
Wayne.....	429	497	630	782	1096	Worth.....	429	471	630	782	941
Wright.....	429	471	630	821	1086						

MONTANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT HMFA.....	512	579	775	1080	1193	Carbon, Yellowstone
Golden Valley County, MT HMFA.....	428	494	658	926	1069	Golden Valley
Great Falls, MT MSA.....	517	559	738	1028	1239	Cascade
Missoula, MT MSA.....	646	722	885	1274	1545	Missoula

MONTANA continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead.....	475	532	658	885	1149	Big Horn.....	475	531	658	861	1091
Blaine.....	475	540	658	817	902	Broadwater.....	576	596	798	990	1323
Carter.....	475	569	658	931	1091	Chouteau.....	475	569	658	846	964
Custer.....	506	569	658	959	1075	Daniels.....	475	523	658	931	1091
Dawson.....	475	569	658	855	1115	Deer Lodge.....	475	569	658	909	1149
Fallon.....	475	535	658	852	1091	Fergus.....	475	569	658	824	902
Flathead.....	490	589	755	1100	1252	Gallatin.....	531	639	788	1148	1376
Garfield.....	475	523	658	959	1091	Glacier.....	542	569	658	817	1091
Granite.....	531	549	735	912	1219	Hill.....	475	492	658	861	956
Jefferson.....	509	616	825	1024	1368	Judith Basin.....	475	569	658	817	1091
Lake.....	435	569	658	880	1112	Lewis and Clark.....	654	664	860	1253	1501
Liberty.....	475	523	658	817	1091	Lincoln.....	406	559	658	817	1149
McCone.....	475	568	658	890	1091	Madison.....	532	636	736	913	1009
Meagher.....	475	504	658	879	1091	Mineral.....	475	569	658	899	902
Musselshell.....	449	555	678	959	1124	Park.....	518	605	810	1009	1414
Petroleum.....	519	572	719	1017	1192	Phillips.....	535	569	658	817	1098
Pondera.....	475	569	658	959	1149	Powder River.....	485	502	672	834	1114
Powell.....	475	569	658	959	1091	Prairie.....	475	523	658	931	1091
Ravalli.....	544	548	733	972	1027	Richland.....	475	569	658	877	1091
Roosevelt.....	475	519	658	895	902	Rosebud.....	475	561	658	817	902
Sanders.....	481	543	658	858	1068	Sheridan.....	475	569	658	941	1091
Silver Bow.....	523	544	699	867	1220	Stillwater.....	485	542	700	971	1222
Sweet Grass.....	493	510	683	848	1132	Teton.....	435	516	690	856	1161
Toole.....	475	569	658	954	1149	Treasure.....	545	599	754	1067	1250
Valley.....	475	569	658	817	902	Wheatland.....	475	523	658	931	1091
Wibaux.....	475	523	658	931	1091						

NEBRASKA

METROPOLITAN FMR AREAS						Counties of FMR AREA within STATE					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Hall County, NE HMFA.....	419	508	680	901	932	Hall					
Hamilton County, NE HMFA.....	389	471	631	888	1102	Hamilton					
Howard County, NE HMFA.....	389	471	631	783	865	Howard					
Lincoln, NE HMFA.....	470	569	762	1073	1285	Lancaster					
Merrick County, NE HMFA.....	389	545	631	920	928	Merrick					
Omaha-Council Bluffs, NE-IA HMFA.....	516	666	836	1127	1233	Cass, Douglas, Sarpy, Washington					
Saunders County, NE HMFA.....	459	538	720	937	1107	Saunders					
Seward County, NE HMFA.....	423	491	631	905	1102	Seward					
Sioux City, IA-NE-SD HMFA.....	439	531	711	886	1014	Dakota, Dixon					
NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	421	483	647	828	904	Antelope.....	411	481	631	791	865
Arthur.....	509	584	782	979	1076	Banner.....	425	488	653	818	899

NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Blaine.....	431	495	662	829	911	Boone.....	411	545	631	783	865
Box Butte.....	411	541	631	853	927	Boyd.....	411	545	631	790	951
Brown.....	431	495	662	821	907	Buffalo.....	422	511	684	919	1072
Burt.....	423	486	650	891	895	Butler.....	411	471	631	920	950
Cedar.....	411	471	631	859	1037	Chase.....	411	471	631	790	865
Cherry.....	411	471	631	783	869	Cheyenne.....	411	510	631	862	865
Clay.....	411	511	631	783	865	Colfax.....	421	483	646	834	912
Cuming.....	411	471	631	783	875	Custer.....	411	471	631	783	865
Dawes.....	413	474	635	867	870	Dawson.....	447	482	645	800	902
Deuel.....	411	471	631	865	869	Dodge.....	443	536	718	897	984
Dundy.....	411	471	631	865	869	Fillmore.....	411	518	631	880	1056
Franklin.....	411	471	631	919	1102	Frontier.....	429	492	659	818	903
Furnas.....	411	471	631	783	869	Gage.....	437	483	647	823	890
Garden.....	411	471	631	783	903	Garfield.....	436	500	669	830	917
Gosper.....	411	471	631	783	918	Grant.....	411	471	631	790	869
Greeley.....	411	471	631	821	865	Harlan.....	411	471	631	783	865
Hayes.....	437	501	671	840	924	Hitchcock.....	411	471	631	783	865
Holt.....	411	505	631	783	900	Hooker.....	538	618	827	1036	1138
Jefferson.....	411	471	631	783	869	Johnson.....	411	471	631	862	865
Kearney.....	473	542	726	945	995	Keith.....	411	473	631	788	865
Keya Paha.....	411	471	631	790	869	Kimball.....	443	509	681	845	933
Knox.....	411	545	631	920	1102	Lincoln.....	423	513	686	851	940
Logan.....	411	471	631	783	869	Loup.....	411	471	631	790	869
McPherson.....	411	471	631	790	869	Madison.....	409	495	663	840	1113
Morrill.....	411	471	631	814	930	Nance.....	411	471	631	783	985
Nemaha.....	468	471	631	847	958	Nuckolls.....	411	545	631	862	865
Otoe.....	411	495	631	920	1102	Pawnee.....	411	471	631	862	865
Perkins.....	411	471	631	783	869	Phelps.....	411	471	631	862	1045
Pierce.....	411	545	631	783	1013	Platte.....	505	508	631	836	966
Polk.....	411	493	631	783	865	Red Willow.....	411	482	631	828	997
Richardson.....	411	545	631	920	953	Rock.....	411	471	631	865	869
Saline.....	473	542	726	901	1004	Scotts Bluff.....	424	508	680	844	968
Sheridan.....	411	545	631	800	865	Sherman.....	411	545	631	920	1102
Sioux.....	411	471	631	790	869	Stanton.....	411	518	631	920	982
Thayer.....	411	496	631	846	930	Thomas.....	411	471	631	783	869
Thurston.....	411	471	631	783	865	Valley.....	411	471	631	829	869
Wayne.....	411	471	631	906	1102	Webster.....	411	471	631	814	865
Wheeler.....	411	471	631	790	869	York.....	411	521	631	824	869

NEVADA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Carson City, NV MSA.....	532	651	841	1226	1468	Carson

NEVADA continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas-Henderson-Paradise, NV MSA.....	632	781	968	1411	1690	Clark
Reno, NV MSA.....	574	711	931	1357	1625	Storey, Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill.....	640	645	863	1071	1428	Douglas.....	592	711	942	1373	1645
Elko.....	528	640	856	1170	1416	Esmeralda.....	406	569	658	921	1089
Eureka.....	510	618	827	1157	1368	Humboldt.....	510	619	827	1079	1368
Lander.....	442	536	717	1010	1186	Lincoln.....	406	529	658	885	1089
Lyon.....	505	611	818	1187	1377	Mineral.....	406	492	658	921	1089
Nye.....	469	545	727	1047	1200	Pershing.....	406	492	658	959	1089
White Pine.....	485	679	786	1073	1077						

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston-Cambridge-Quincy, MA-NH HMFA.....	1056	1261	1567	1945	2148	Rockingham County towns of Seabrook town, South Hampton town
Hillsborough County, NH (part) HMFA.....	657	861	1036	1286	1728	Hillsborough County towns of Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town
Lawrence, MA-NH HMFA.....	776	908	1173	1456	1608	Rockingham County towns of Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town
Manchester, NH HMFA.....	775	930	1161	1441	1638	Hillsborough County towns of Bedford town, Goffstown town, Manchester city, Weare town
Nashua, NH HMFA.....	759	935	1230	1688	1964	Hillsborough County towns of Amherst town, Brookline town, Greenville town, Hollis town, Hudson town, Litchfield town, Mason town, Merrimack town, Milford town, Mont Vernon town, Nashua city, New Ipswich town, Pelham town, Wilton town
Portsmouth-Rochester, NH HMFA.....	842	882	1107	1491	1680	Rockingham County towns of Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town Strafford County towns of Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Middleton town, Milton town, New Durham town, Rochester city, Rollinsford town, Somersworth city, Strafford town
Western Rockingham County, NH HMFA.....	983	1013	1356	1683	1859	Rockingham County towns of Auburn town, Candia town, Deerfield town, Londonderry town, Northwood town, Nottingham town

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR Towns within nonmetropolitan counties

Belknap County, NH.....	668	728	975	1309	1336	Alton town, Barnstead town, Belmont town, Center Harbor town, Gilford town, Gilmanton town, Laconia city, Meredith town, New Hampton town, Sanbornton town, Tilton town
Carroll County, NH.....	685	736	960	1191	1316	Albany town, Bartlett town, Brookfield town, Chatham town, Conway town, Eaton town, Effingham town, Freedom town, Hale's location, Hart's Location town, Jackson town, Madison town, Moultonborough town, Ossipee town, Sandwich town, Tamworth town, Tuftonboro town, Wakefield town, Wolfeboro town
Cheshire County, NH.....	670	814	1051	1340	1508	Alstead town, Chesterfield town, Dublin town, Fitzwilliam town, Gilsum town, Harrisville town, Hinsdale town, Jaffrey town, Keene city, Marlborough town, Marlow town, Nelson town, Richmond town, Rindge town, Roxbury town, Stoddard town, Sullivan town, Surry town, Swanzey town, Troy town, Walpole town, Westmoreland town, Winchester town
Coos County, NH.....	468	591	684	889	1090	Atkinson and Gilmanton Academy grant, Beans grant, Beans purchase, Berlin city, Cambridge township, Carroll town, Chandlers purchase, Clarksville town, Colebrook town, Columbia town, Crawfords purchase, Cutts grant, Dalton town, Dixs grant, Dixville township, Dummer town, Errol town, Ervings location, Gorham town, Greens grant, Hadleys purchase, Jefferson town, Kilkenny township, Lancaster town, Low and Burbanks grant, Martins location, Milan town, Millsfield township, Northumberland town, Odell township, Pinkhams grant, Pittsburg town, Randolph town, Sargents purchase, Second College grant, Shelburne town, Stark town, Stewartstown town, Stratford town, Success township, Thompson and Meserves purchase, Wentworth location, Whitefield town
Grafton County, NH.....	703	750	965	1216	1361	Alexandria town, Ashland town, Bath town, Benton town, Bethlehem town, Bridgewater town, Bristol town, Campton town, Canaan town, Dorchester town, Easton town, Ellsworth town, Enfield town, Franconia town, Grafton town, Groton town, Hanover town, Haverhill town, Hebron town, Holderness town, Landaff town, Lebanon city, Lincoln town, Lisbon town, Littleton town, Livermore town, Lyman town, Lyme town, Monroe town, Orange town, Orford town, Piermont town, Plymouth town, Rumney town, Sugar Hill town, Thornton town, Warren town, Waterville Valley town, Wentworth town, Woodstock town
Merrimack County, NH.....	678	817	1019	1362	1590	Allenstown town, Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hooksett town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town,

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Sullivan County, NH.....	656	729	958	1288	1330	Wilmot town Acworth town, Charlestown town, Claremont city, Cornish town, Croydon town, Goshen town, Grantham town, Langdon town, Lempster town, Newport town, Plainfield town, Springfield town, Sunapee town, Unity town, Washington town

NEW JERSEY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic City-Hammonton, NJ MSA.....	797	900	1152	1599	1821	Atlantic
Bergen-Passaic, NJ HMFA.....	1088	1228	1440	1859	2209	Bergen, Passaic
Jersey City, NJ HMFA.....	1076	1235	1460	1876	2032	Hudson
Middlesex-Somerset-Hunterdon, NJ HMFA.....	992	1254	1578	2025	2512	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ HMFA.....	904	1124	1417	1928	2245	Monmouth, Ocean
Newark, NJ HMFA.....	1044	1099	1324	1695	1922	Essex, Morris, Sussex, Union
Ocean City, NJ MSA.....	648	854	1051	1464	1673	Cape May
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	830	1003	1210	1502	1659	Burlington, Camden, Gloucester, Salem
Trenton, NJ MSA.....	863	1087	1328	1746	2023	Mercer
Vineland-Bridgeton, NJ MSA.....	712	896	1129	1442	1659	Cumberland
Warren County, NJ HMFA.....	812	1012	1223	1518	1825	Warren

NEW MEXICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Albuquerque, NM MSA.....	591	767	941	1352	1643	Bernalillo, Sandoval, Torrance, Valencia
Farmington, NM MSA.....	610	617	787	977	1079	San Juan
Las Cruces, NM MSA.....	466	541	660	938	1130	Dona Ana
Santa Fe, NM MSA.....	723	782	943	1252	1314	Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron.....	482	502	658	959	1054	Chaves.....	439	505	676	896	1180
Cibola.....	482	492	658	904	1139	Colfax.....	482	492	658	817	902
Curry.....	513	516	682	994	1191	De Baca.....	482	502	658	878	1054
Eddy.....	599	603	783	1005	1164	Grant.....	482	569	658	942	1125
Guadalupe.....	482	569	658	959	1054	Harding.....	482	502	658	878	1054
Hidalgo.....	482	569	658	878	1054	Lea.....	548	552	739	944	1030
Lincoln.....	540	654	875	1113	1401	Los Alamos.....	642	778	1041	1319	1817
Luna.....	481	528	658	959	990	McKinley.....	476	569	658	817	902
Mora.....	482	569	658	857	1054	Otero.....	542	569	658	959	1149
Quay.....	482	492	658	817	902	Rio Arriba.....	501	527	658	817	1040
Roosevelt.....	516	549	705	887	1149	San Miguel.....	432	569	701	899	1123
Sierra.....	414	502	672	926	1076	Socorro.....	501	523	658	879	1149
Taos.....	583	740	879	1091	1205	Union.....	482	492	658	927	1054

NEW YORK

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA.....	685	823	1005	1247	1378	Albany, Rensselaer, Saratoga, Schenectady, Schoharie
Binghamton, NY MSA.....	500	575	729	987	1126	Broome, Tioga
Buffalo-Cheektowaga-Niagara Falls, NY MSA.....	589	626	755	959	1098	Erie, Niagara
Elmira, NY MSA.....	568	712	895	1126	1227	Chemung
Glens Falls, NY MSA.....	562	714	872	1089	1290	Warren, Washington
Ithaca, NY MSA.....	817	937	1084	1406	1607	Tompkins
Kingston, NY MSA.....	707	904	1146	1493	1571	Ulster
Nassau-Suffolk, NY HMFA.....	1003	1324	1608	2089	2350	Nassau, Suffolk
New York, NY HMFA.....	1293	1357	1571	2021	2224	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland
Poughkeepsie-Newburgh-Middletown, NY HMFA.....	842	1036	1271	1615	1853	Dutchess, Orange
Rochester, NY HMFA.....	575	702	863	1071	1183	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA.....	545	637	809	1060	1153	Madison, Onondaga, Oswego
Utica-Rome, NY MSA.....	556	588	741	953	1016	Herkimer, Oneida
Watertown-Fort Drum, NY MSA.....	672	812	1087	1349	1642	Jefferson
Westchester County, NY Statutory Exception Area...	1036	1245	1510	1942	2229	Westchester
Yates County, NY HMFA.....	432	579	691	898	1001	Yates

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany.....	511	552	658	833	1030	Cattaraugus.....	484	566	693	911	1034
Cayuga.....	535	576	761	998	1152	Chautauqua.....	536	540	674	902	958
Chenango.....	560	584	680	971	1069	Clinton.....	482	656	782	988	1072
Columbia.....	695	711	923	1165	1359	Cortland.....	582	609	741	959	1016
Delaware.....	576	580	729	906	1025	Essex.....	532	681	844	1047	1157
Franklin.....	547	573	747	966	1024	Fulton.....	548	604	726	933	1052
Genesee.....	494	626	750	1003	1090	Greene.....	641	762	882	1179	1398
Hamilton.....	522	569	658	903	944	Lewis.....	541	579	683	891	1058
Montgomery.....	583	590	735	912	1007	Otsego.....	648	652	823	1072	1198
St. Lawrence.....	555	617	763	996	1078	Schuyler.....	522	549	658	914	1149
Seneca.....	507	612	716	1014	1250	Steuben.....	542	631	771	981	1090
Sullivan.....	712	746	898	1203	1492	Wyoming.....	474	523	675	922	925

NORTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC HMFA.....	588	664	819	1073	1360	Buncombe, Henderson, Madison
Brunswick County, NC HMFA.....	671	675	825	1052	1232	Brunswick
Burlington, NC MSA.....	635	642	809	1101	1208	Alamance
Charlotte-Concord-Gastonia, NC-SC HMFA.....	653	745	864	1173	1469	Cabarrus, Gaston, Mecklenburg, Union
Craven County, NC HMFA.....	680	684	916	1281	1495	Craven
Davidson County, NC HMFA.....	517	527	648	923	962	Davidson
Durham-Chapel Hill, NC HMFA.....	639	796	937	1262	1405	Chatham, Durham, Orange
Fayetteville, NC HMFA.....	661	665	835	1143	1417	Cumberland
Gates County, NC HMFA.....	534	537	648	944	1131	Gates
Goldsboro, NC MSA.....	554	557	746	1001	1150	Wayne
Greensboro-High Point, NC HMFA.....	538	637	741	1003	1185	Guilford, Randolph
Greenville, NC MSA.....	579	583	742	1034	1261	Pitt



NORTH CAROLINA continued

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Haywood County, NC HMFA.....	534	541	724	928	1264	Haywood
Hickory-Lenoir-Morganton, NC MSA.....	548	553	665	852	1015	Alexander, Burke, Caldwell, Catawba
Hoke County, NC HMFA.....	498	501	671	978	1112	Hoke
Iredell County, NC HMFA.....	703	738	854	1082	1491	Iredell
Jacksonville, NC MSA.....	652	656	792	1154	1383	Onslow
Jones County, NC HMFA.....	481	484	648	845	1024	Jones
Lincoln County, NC HMFA.....	610	667	772	1050	1348	Lincoln
Pamlico County, NC HMFA.....	518	521	676	985	1180	Pamlico
Pender County, NC HMFA.....	565	593	686	915	1198	Pender
Person County, NC HMFA.....	457	499	648	804	914	Person
Raleigh, NC MSA.....	644	818	947	1228	1513	Franklin, Johnston, Wake
Rockingham County, NC HMFA.....	481	484	648	827	888	Rockingham
Rocky Mount, NC MSA.....	536	540	671	908	1010	Edgecombe, Nash
Rowan County, NC HMFA.....	527	531	684	885	1007	Rowan
*Virginia Beach-Norfolk-Newport News, VA-NC HMFA..	947	953	1150	1601	2008	Currituck
Wilmington, NC HMFA.....	686	690	897	1260	1514	New Hanover
Winston-Salem, NC HMFA.....	556	569	698	974	1105	Davie, Forsyth, Stokes, Yadkin

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany.....	534	538	648	885	888	Anson.....	534	560	648	908	1131
Ashe.....	477	484	648	910	961	Avery.....	587	591	713	965	1122
Beaufort.....	501	504	648	926	982	Bertie.....	481	484	648	842	888
Bladen.....	481	484	648	804	888	Camden.....	665	669	819	1055	1430
Carteret.....	665	669	818	1091	1419	Caswell.....	481	484	648	944	1131
Cherokee.....	455	484	648	939	1037	Chowan.....	546	573	663	950	1043
Clay.....	534	560	648	828	1020	Cleveland.....	527	531	648	870	1088
Columbus.....	467	519	648	823	948	Dare.....	639	678	908	1277	1502
Duplin.....	522	526	648	841	1024	Graham.....	506	509	648	895	1131
Granville.....	545	548	734	911	1049	Greene.....	526	529	648	804	888
Halifax.....	534	548	648	846	989	Harnett.....	506	524	702	941	1226
Hertford.....	476	532	670	834	1054	Hyde.....	649	653	799	991	1257
Jackson.....	509	512	648	804	984	Lee.....	571	574	703	872	964
Lenoir.....	468	496	650	823	1000	McDowell.....	491	528	648	813	962
Macon.....	522	552	704	883	1044	Martin.....	481	484	648	822	888
Mitchell.....	481	484	648	820	1020	Montgomery.....	523	526	648	888	1036
Moore.....	642	674	780	1065	1069	Northampton.....	481	484	648	888	1131
Pasquotank.....	621	625	837	1158	1415	Perquimans.....	588	592	792	1094	1246
Polk.....	547	551	737	915	1088	Richmond.....	534	536	648	871	967
Robeson.....	481	484	648	812	962	Rutherford.....	603	629	733	983	1140
Sampson.....	400	552	648	891	960	Scotland.....	489	492	659	853	975
Stanly.....	406	484	648	885	1131	Surry.....	564	583	685	978	1196
Swain.....	530	533	648	804	1049	Transylvania.....	540	546	656	920	1032
Tyrrell.....	526	529	648	944	1020	Vance.....	400	495	649	828	1016
Warren.....	400	484	648	944	1131	Washington.....	541	544	666	826	1163

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Watauga.....	538	675	872	1191	1195	Wilkes.....	479	560	648	847	1094
Wilson.....	537	540	723	984	991	Yancey.....	524	527	671	958	1056

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND HMFA.....	570	625	821	1133	1433	Burleigh, Morton
Fargo, ND-MN MSA.....	489	600	771	1124	1238	Cass
Grand Forks, ND-MN MSA.....	523	627	833	1120	1356	Grand Forks
Oliver County, ND HMFA.....	457	499	653	909	1135	Oliver
Sioux County, ND HMFA.....	457	546	653	863	917	Sioux

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	526	530	653	947	951	Barnes.....	517	520	696	873	1029
Benson.....	531	564	653	923	937	Billings.....	530	533	687	955	1000
Bottineau.....	495	498	653	902	905	Bowman.....	563	598	692	859	949
Burke.....	531	564	653	867	895	Cavalier.....	531	564	653	856	1026
Dickey.....	531	564	653	902	951	Divide.....	504	507	653	908	951
Dunn.....	504	507	653	908	951	Eddy.....	531	564	653	947	951
Emmons.....	531	564	653	947	951	Foster.....	504	507	653	952	1140
Golden Valley.....	504	507	653	908	951	Grant.....	531	564	653	947	951
Griggs.....	531	536	653	952	1140	Hettinger.....	531	564	653	947	951
Kidder.....	503	506	653	852	951	LaMoure.....	485	488	653	810	895
Logan.....	568	571	736	1023	1198	McHenry.....	531	564	653	864	1082
McIntosh.....	485	488	653	810	967	McKenzie.....	549	553	740	968	1077
McLean.....	531	564	653	952	1140	Mercer.....	494	498	653	810	1140
Mountrail.....	833	839	1123	1394	1635	Nelson.....	531	564	653	883	951
Pembina.....	531	552	653	810	1133	Pierce.....	504	507	653	908	951
Ramsey.....	488	491	653	930	951	Ransom.....	527	530	710	945	1034
Renville.....	504	507	653	952	1140	Richland.....	531	550	653	952	1100
Rolette.....	504	507	653	952	1063	Sargent.....	506	509	653	899	999
Sheridan.....	504	507	653	908	951	Slope.....	530	533	687	955	1000
Stark.....	647	651	851	1078	1239	Steele.....	516	519	653	832	951
Stutsman.....	508	512	685	909	1020	Towner.....	493	497	653	908	951
Traill.....	498	502	653	852	951	Walsh.....	531	564	653	841	989
Ward.....	796	876	1173	1697	1999	Wells.....	516	519	653	952	1010
Williams.....	800	955	1107	1512	1517						

OHIO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH MSA.....	505	587	786	1017	1077	Portage, Summit
Brown County, OH HMFA.....	439	492	658	959	978	Brown

OHIO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Canton-Massillon, OH MSA.....	422	516	684	873	938	Carroll, Stark
Cincinnati, OH-KY-IN..HMFA.....	509	600	787	1102	1297	Butler, Clermont, Hamilton, Warren
Cleveland-Elyria, OH MSA.....	499	614	773	1017	1073	Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH HMFA.....	532	638	831	1065	1243	Delaware, Fairfield, Franklin, Licking, Madison, Morrow, Pickaway
Dayton, OH MSA.....	506	569	743	1001	1180	Greene, Miami, Montgomery
Hocking County, OH HMFA.....	523	527	658	899	902	Hocking
Huntington-Ashland, WV-KY-OH HMFA.....	406	524	658	889	1063	Lawrence
Lima, OH MSA.....	505	509	678	872	929	Allen
Mansfield, OH MSA.....	484	492	658	910	950	Richland
Perry County, OH HMFA.....	497	513	658	921	924	Perry
Springfield, OH MSA.....	495	523	681	882	1009	Clark
Toledo, OH MSA.....	435	531	695	949	1036	Fulton, Lucas, Wood
Union County, OH HMFA.....	528	618	809	1080	1109	Union
Weirton-Steubenville, WV-OH MSA.....	459	531	658	866	937	Jefferson
Wheeling, WV-OH MSA.....	518	546	658	826	902	Belmont
Youngstown-Warren-Boardman, OH HMFA.....	454	530	660	868	950	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	467	510	658	817	902	Ashland.....	453	496	664	944	1033
Ashtabula.....	474	534	712	986	989	Athens.....	550	628	727	902	996
Auglaize.....	482	507	679	932	1120	Champaign.....	406	518	658	959	1070
Clinton.....	493	566	714	931	1111	Columbiana.....	433	513	659	856	983
Coshocton.....	467	511	658	828	987	Crawford.....	484	492	658	943	1007
Darke.....	537	540	658	948	974	Defiance.....	488	492	658	859	1097
Erie.....	481	577	759	997	1040	Fayette.....	526	554	742	921	1170
Gallia.....	467	569	658	891	932	Guernsey.....	522	523	658	817	990
Hancock.....	464	533	697	1005	1059	Hardin.....	439	504	674	917	1070
Harrison.....	406	492	658	899	902	Henry.....	467	524	658	918	969
Highland.....	426	523	658	876	902	Holmes.....	521	524	658	826	902
Huron.....	411	505	658	892	1002	Jackson.....	467	565	658	899	902
Knox.....	476	508	667	923	1012	Logan.....	504	531	711	897	1109
Marion.....	447	541	724	898	992	Meigs.....	467	492	658	837	943
Mercer.....	490	493	660	856	905	Monroe.....	467	495	658	817	916
Morgan.....	542	569	658	899	902	Muskingum.....	420	547	681	933	1023
Noble.....	542	553	658	817	902	Ottawa.....	487	534	687	908	1091
Paulding.....	467	537	658	819	902	Pike.....	488	492	658	959	1048
Preble.....	450	505	676	923	927	Putnam.....	477	522	672	834	921
Ross.....	465	492	658	817	1009	Sandusky.....	468	541	658	895	1096
Scioto.....	426	569	658	842	999	Seneca.....	514	517	658	899	902
Shelby.....	492	540	694	891	951	Tuscarawas.....	461	548	734	933	1006
Van Wert.....	467	492	658	817	921	Vinton.....	467	569	658	959	1006
Washington.....	470	524	658	912	1028	Wayne.....	467	542	685	850	939
Williams.....	467	540	658	851	1072	Wyandot.....	542	569	658	941	1074

OKLAHOMA

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cotton County, OK HMFA.....	504	569	658	817	975	Cotton
Fort Smith, AR-OK HMFA.....	489	492	658	878	1058	Sequoyah
Grady County, OK HMFA.....	468	517	658	895	992	Grady
Lawton, OK HMFA.....	551	554	742	1046	1167	Comanche
Le Flore County, OK HMFA.....	503	506	658	860	1020	Le Flore
Lincoln County, OK HMFA.....	468	547	658	825	924	Lincoln
Oklahoma City, OK HMFA.....	542	614	791	1087	1305	Canadian, Cleveland, Logan, McClain, Oklahoma
Okmulgee County, OK HMFA.....	406	569	658	819	902	Okmulgee
Pawnee County, OK HMFA.....	439	560	658	818	961	Pawnee
Tulsa, OK HMFA.....	493	602	783	1061	1153	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair.....	462	492	658	887	902	Alfalfa.....	462	499	658	918	1105
Atoka.....	462	492	658	817	902	Beaver.....	462	512	658	817	982
Beckham.....	614	618	827	1026	1235	Blaine.....	406	492	658	817	902
Bryan.....	537	541	692	908	1001	Caddo.....	411	502	658	817	1127
Carter.....	435	523	684	863	938	Cherokee.....	431	505	658	875	1102
Choctaw.....	490	493	658	959	980	Cimarron.....	462	512	658	817	982
Coal.....	462	492	658	959	1112	Craig.....	542	556	658	914	950
Custer.....	496	500	658	959	1086	Delaware.....	504	507	658	926	1011
Dewey.....	476	507	678	841	1012	Ellis.....	512	567	729	905	1013
Garfield.....	468	558	693	966	1210	Garvin.....	522	560	658	850	945
Grant.....	462	569	658	817	982	Greer.....	503	534	715	887	1068
Harmon.....	462	512	658	817	982	Harper.....	462	524	658	876	982
Haskell.....	462	492	658	886	902	Hughes.....	462	549	658	827	982
Jackson.....	498	507	678	969	1184	Jefferson.....	462	492	658	817	1025
Johnston.....	462	492	658	854	902	Kay.....	474	504	674	900	1010
Kingfisher.....	467	516	664	925	1070	Kiowa.....	462	492	658	886	1013
Latimer.....	462	549	658	905	1002	Love.....	462	569	658	959	1001
McCurtain.....	434	492	658	845	1147	McIntosh.....	414	492	658	855	1046
Major.....	462	492	658	876	1149	Marshall.....	424	513	687	857	1016
Mayes.....	407	494	660	881	985	Murray.....	466	495	663	872	909
Muskogee.....	416	504	675	924	927	Noble.....	462	569	658	959	1077
Nowata.....	495	547	705	875	1053	Okfuskee.....	462	530	658	902	942
Ottawa.....	464	506	677	907	1091	Payne.....	474	557	722	1052	1261
Pittsburg.....	440	533	713	890	1245	Pontotoc.....	478	569	682	931	1073
Pottawatomie.....	517	520	696	885	987	Pushmataha.....	470	492	658	959	1054
Roger Mills.....	462	512	658	899	902	Seminole.....	406	522	658	876	968
Stephens.....	446	496	664	905	1047	Texas.....	479	589	682	869	1191
Tillman.....	462	492	658	882	982	Washington.....	486	576	691	921	1187
Washita.....	406	569	658	959	1149	Woods.....	462	569	658	817	982
Woodward.....	518	588	681	903	1189						

OREGON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, OR MSA.....	517	620	830	1210	1419	Linn
Bend-Redmond, OR MSA.....	666	702	827	1183	1444	Deschutes
Corvallis, OR MSA.....	530	661	838	1221	1463	Benton
Eugene-Springfield, OR MSA.....	561	679	909	1308	1563	Lane
Grants Pass, OR MSA.....	549	674	879	1281	1412	Josephine
Medford, OR MSA.....	615	641	858	1250	1364	Jackson
Portland-Vancouver-Hillsboro, OR-WA MSA.....	753	867	1026	1492	1791	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR MSA.....	535	595	797	1162	1391	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker.....	491	494	661	867	1081	Clatsop.....	621	631	814	1186	1421
Coos.....	456	609	740	1078	1260	Crook.....	447	514	688	1003	1145
Curry.....	552	634	849	1198	1322	Douglas.....	457	535	716	1043	1250
Gilliam.....	428	499	659	891	1106	Grant.....	427	569	658	959	1149
Harney.....	427	525	658	841	992	Hood River.....	572	735	880	1282	1496
Jefferson.....	501	569	658	959	1149	Klamath.....	467	539	721	1031	1145
Lake.....	427	492	658	817	1149	Lincoln.....	531	637	817	1176	1275
Malheur.....	470	492	658	863	994	Morrow.....	515	518	658	959	1048
Sherman.....	493	656	759	942	1040	Tillamook.....	472	585	766	1074	1235
Umatilla.....	459	573	744	980	1149	Union.....	416	504	674	948	1116
Wallowa.....	427	565	658	959	1072	Wasco.....	519	580	776	1073	1284
Wheeler.....	427	499	658	825	1104						

PENNSYLVANIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA HMFA.....	616	781	998	1271	1381	Carbon, Lehigh, Northampton
Altoona, PA MSA.....	550	652	811	1019	1182	Blair
Armstrong County, PA HMFA.....	413	490	650	807	891	Armstrong
Chambersburg-Waynesboro, PA MSA.....	540	654	875	1135	1304	Franklin
Columbia County, PA HMFA.....	541	607	743	963	1289	Columbia
East Stroudsburg, PA MSA.....	703	759	947	1316	1393	Monroe
Erie, PA MSA.....	553	584	742	943	1056	Erie
Gettysburg, PA MSA.....	684	691	892	1202	1297	Adams
Harrisburg-Carlisle, PA MSA.....	596	704	886	1132	1214	Cumberland, Dauphin, Perry
Johnstown, PA MSA.....	457	529	638	825	875	Cambria
Lancaster, PA MSA.....	597	707	897	1150	1230	Lancaster
Lebanon, PA MSA.....	582	620	783	1015	1208	Lebanon
Montour County, PA HMFA.....	611	708	839	1041	1150	Montour
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	830	1003	1210	1502	1659	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pike County, PA HMFA.....	863	869	1163	1564	1817	Pike
Pittsburgh, PA HMFA.....	556	657	827	1026	1134	Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland
Reading, PA MSA.....	550	672	892	1107	1223	Berks
Scranton--Wilkes-Barre, PA MSA.....	437	576	707	909	1061	Lackawanna, Luzerne, Wyoming
Sharon, PA HMFA.....	483	521	686	851	940	Mercer
State College, PA MSA.....	707	721	886	1193	1214	Centre

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

PENNSYLVANIA continued

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Williamsport, PA MSA.....	609	610	754	1009	1034	Lycoming
York-Hanover, PA MSA.....	560	684	893	1156	1249	York

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES

0 BR 1 BR 2 BR 3 BR 4 BR

Bedford.....	525	540	638	792	885	Bradford.....	482	486	650	893	896
Cameron.....	488	551	638	930	1114	Clarion.....	488	543	638	792	875
Clearfield.....	433	517	638	855	882	Clinton.....	537	540	723	897	1097
Crawford.....	478	511	648	804	937	Elk.....	483	486	638	792	875
Forest.....	473	477	638	792	1114	Fulton.....	488	551	638	805	924
Greene.....	525	549	638	796	878	Huntingdon.....	519	522	638	861	875
Indiana.....	550	577	668	868	916	Jefferson.....	474	517	638	794	875
Juniata.....	451	505	638	805	875	Lawrence.....	417	521	676	881	927
McKean.....	398	509	645	800	884	Mifflin.....	495	498	638	817	875
Northumberland.....	487	524	671	849	920	Potter.....	488	540	638	792	970
Schuylkill.....	416	512	638	868	877	Snyder.....	521	558	682	846	935
Somerset.....	460	498	638	828	877	Sullivan.....	475	510	638	930	1044
Susquehanna.....	550	553	676	886	984	Tioga.....	409	573	663	885	1070
Union.....	549	553	740	1049	1112	Venango.....	496	522	638	792	875
Warren.....	525	535	638	830	947	Wayne.....	431	604	699	1019	1019

RHODE ISLAND

METROPOLITAN FMR AREAS

0 BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE

Newport-Middleton-Portsmouth, RI HMFA.....	752	962	1219	1777	2128	Newport County towns of Middletown town, Newport city, Portsmouth town
Providence-Fall River, RI-MA HMFA.....	655	801	972	1206	1452	Bristol County towns of Barrington town, Bristol town, Warren town Kent County towns of Coventry town, East Greenwich town, Warwick city, West Greenwich town, West Warwick town Newport County towns of Jamestown town, Little Compton town, Tiverton town Providence County towns of Burrillville town, Central Falls city, Cranston city, Cumberland town, East Providence city, Foster town, Glocester town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Pawtucket city, Providence city, Scituate town, Smithfield town, Woonsocket city Washington County towns of Charlestown town, Exeter town, Narragansett town, North Kingstown town, Richmond town, South Kingstown town
Westerly-Hopkinton-New Shoreham, RI HMFA.....	659	799	1069	1419	1866	Washington County towns of Hopkinton town, New Shoreham town, Westerly town

SOUTH CAROLINA

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, SC HMFA.....	529	532	663	894	958	Anderson
Augusta-Richmond County, GA-SC HMFA.....	533	612	735	997	1269	Aiken, Edgefield
Beaufort County, SC HMFA.....	781	820	949	1245	1657	Beaufort
Charleston-North Charleston, SC MSA.....	734	772	927	1213	1566	Berkeley, Charleston, Dorchester
Charlotte-Concord-Gastonia, NC-SC HMFA.....	653	745	864	1173	1469	York
Chester County, SC HMFA.....	469	472	632	825	897	Chester
Columbia, SC HMFA.....	541	689	806	1063	1305	Calhoun, Fairfield, Lexington, Richland, Saluda
Darlington County, SC HMFA.....	505	546	632	864	924	Darlington
Florence, SC HMFA.....	486	489	650	820	891	Florence
Greenville-Mauldin-Easley, SC HMFA.....	501	613	729	963	1196	Greenville, Pickens
Jasper County, SC HMFA.....	607	611	758	988	1039	Jasper
Kershaw County, SC HMFA.....	511	514	643	819	1123	Kershaw
Lancaster County, SC HMFA.....	390	495	632	856	866	Lancaster
Laurens County, SC HMFA.....	477	480	643	803	881	Laurens
Myrtle Beach-North Myrtle Beach-Conway, SC HMFA...	656	665	797	1044	1189	Horry
Spartanburg, SC HMFA.....	420	560	677	905	1013	Spartanburg
Sumter, SC MSA.....	642	646	821	1046	1150	Sumter
Union County, SC HMFA.....	413	472	632	813	866	Union

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville.....	424	472	632	921	1103
Bamberg.....	457	510	682	846	987
Cherokee.....	514	517	632	858	883
Clarendon.....	424	472	632	819	907
Dillon.....	424	472	632	863	866
Greenwood.....	431	480	642	868	880
Lee.....	424	546	632	916	1072
Marion.....	520	546	632	885	923
Newberry.....	455	507	679	843	1110
Orangeburg.....	535	539	721	919	1105

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale.....	390	472	632	905	1038
Barnwell.....	430	479	641	845	879
Chesterfield.....	424	546	632	802	916
Colleton.....	467	570	696	864	954
Georgetown.....	547	551	737	994	1112
Hampton.....	424	472	632	816	866
McCormick.....	424	472	632	784	866
Marlboro.....	431	480	643	801	881
Oconee.....	424	516	632	793	1103
Williamsburg.....	390	546	632	909	963

SOUTH DAKOTA

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Custer County, SD HMFA.....	492	569	762	1025	1141	Custer
Meade County, SD HMFA.....	457	584	708	1014	1017	Meade
Rapid City, SD HMFA.....	540	616	825	1128	1376	Pennington
Sioux City, IA-NE-SD HMFA.....	439	531	711	886	1014	Union
Sioux Falls, SD MSA.....	465	593	745	1015	1219	Lincoln, McCook, Minnehaha, Turner

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora.....	457	507	679	843	931
Bennett.....	434	556	644	939	941
Brookings.....	464	550	723	987	991
Brule.....	434	483	644	880	883

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Beadle.....	434	481	644	880	883
Bon Homme.....	434	556	644	939	1124
Brown.....	416	504	674	957	988
Buffalo.....	516	662	766	951	1050

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

SOUTH DAKOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Butte.....	434	507	644	880	883	Campbell.....	434	483	644	875	1124
Charles Mix.....	434	556	644	799	883	Clark.....	434	483	644	880	883
Clay.....	484	554	718	1013	1254	Codington.....	427	517	692	922	1208
Corson.....	434	483	644	872	883	Davison.....	432	523	700	884	1102
Day.....	434	481	644	861	921	Deuel.....	434	556	644	880	883
Dewey.....	567	588	689	941	944	Douglas.....	550	610	816	1013	1118
Edmunds.....	451	500	669	909	1031	Fall River.....	537	595	797	1005	1092
Faulk.....	434	481	644	875	883	Grant.....	434	527	644	914	1124
Gregory.....	434	556	644	865	950	Haakon.....	487	542	723	897	991
Hamlin.....	491	495	644	880	883	Hand.....	434	521	644	875	883
Hanson.....	434	483	644	875	883	Harding.....	434	483	644	875	883
Hughes.....	455	520	676	985	1180	Hutchinson.....	437	484	648	804	888
Hyde.....	434	483	644	875	883	Jackson.....	434	504	644	880	883
Jerauld.....	434	534	644	880	883	Jones.....	434	483	644	875	883
Kingsbury.....	403	481	644	939	1105	Lake.....	434	556	644	939	1124
Lawrence.....	469	528	668	912	916	Lyman.....	434	541	644	806	883
McPherson.....	437	486	648	881	888	Marshall.....	449	498	667	898	914
Mellette.....	434	483	644	939	1124	Miner.....	434	490	644	932	935
Moody.....	434	541	644	880	883	Perkins.....	464	514	688	854	943
Potter.....	434	483	644	799	883	Roberts.....	434	540	644	876	883
Sanborn.....	434	556	644	939	1124	Shannon.....	434	483	644	843	883
Spink.....	530	531	644	880	883	Stanley.....	470	521	697	952	955
Sully.....	434	483	644	880	883	Todd.....	434	556	644	799	889
Tripp.....	434	481	644	799	883	Walworth.....	434	556	644	875	883
Yankton.....	446	481	644	905	1124	Ziebach.....	434	483	644	906	1040

TENNESSEE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Campbell County, TN HMFA.....	377	438	586	750	1023	Campbell
Chattanooga, TN-GA MSA.....	515	616	767	1019	1247	Hamilton, Marion, Sequatchie
Clarksville, TN-KY MSA.....	514	605	797	1077	1188	Montgomery
Cleveland, TN MSA.....	472	572	765	966	1233	Bradley, Polk
Crockett County, TN HMFA.....	507	525	671	836	1136	Crockett
Hickman County, TN HMFA.....	482	498	666	910	913	Hickman
Jackson, TN HMFA.....	455	612	738	1015	1148	Chester, Madison
Johnson City, TN MSA.....	452	517	658	857	1079	Carter, Unicoi, Washington
Kingsport-Bristol-Bristol, TN-VA MSA.....	431	499	660	860	946	Hawkins, Sullivan
Knoxville, TN HMFA.....	498	663	807	1051	1353	Anderson, Blount, Knox, Loudon, Union
Macon County, TN HMFA.....	424	438	586	727	909	Macon
Mauzy County, TN HMFA.....	553	580	692	994	1128	Mauzy
Memphis, TN-MS-AR HMFA.....	602	700	827	1128	1309	Fayette, Shelby, Tipton
Morgan County, TN HMFA.....	405	537	621	826	973	Morgan
Morristown, TN HMFA.....	377	438	586	854	885	Grainger



TENNESSEE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Morristown, TN MSA.....	454	470	629	901	923	Hamblen, Jefferson
Nashville-Davidson--Murfreesboro--Franklin, TN HMF	661	756	925	1228	1433	Cannon, Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, Wilson
Roane County, TN HMFA.....	447	519	695	907	986	Roane
Smith County, TN HMFA.....	443	457	612	770	852	Smith

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford.....	474	563	652	950	1109	Benton.....	426	438	586	854	867
Bledsoe.....	426	498	586	727	852	Carroll.....	426	438	586	727	909
Claiborne.....	426	494	586	727	1023	Clay.....	426	438	586	727	803
Cocke.....	426	438	586	849	852	Coffee.....	407	493	660	883	905
Cumberland.....	466	479	641	795	879	Decatur.....	482	506	586	799	954
DeKalb.....	426	438	586	800	803	Dyer.....	447	451	603	824	827
Fentress.....	426	438	586	727	826	Franklin.....	426	438	586	808	881
Gibson.....	458	461	586	807	873	Giles.....	433	512	595	799	865
Greene.....	442	445	586	757	842	Grundy.....	426	472	586	779	852
Hancock.....	426	449	586	773	1015	Hardeman.....	426	456	586	748	844
Hardin.....	458	471	630	782	1100	Haywood.....	396	485	642	814	933
Henderson.....	455	468	626	777	858	Henry.....	434	445	596	740	866
Houston.....	361	438	586	752	880	Humphreys.....	452	474	621	771	851
Jackson.....	426	486	586	849	852	Johnson.....	426	506	586	727	1023
Lake.....	426	490	586	849	852	Lauderdale.....	426	445	586	794	944
Lawrence.....	361	478	586	733	872	Lewis.....	426	506	586	854	1023
Lincoln.....	431	453	593	805	813	McMinn.....	374	503	606	784	912
McNairy.....	426	438	586	747	803	Marshall.....	502	516	690	856	946
Meigs.....	426	487	586	849	852	Monroe.....	449	452	605	857	898
Moore.....	426	454	586	784	852	Obion.....	426	438	586	775	912
Overton.....	431	443	593	736	963	Perry.....	367	493	586	727	852
Pickett.....	426	454	586	770	852	Putnam.....	523	526	658	899	902
Rhea.....	492	517	598	764	869	Scott.....	426	438	586	854	1023
Sevier.....	556	563	696	934	954	Stewart.....	426	491	586	854	894
Van Buren.....	440	452	605	751	829	Warren.....	426	438	586	816	1023
Wayne.....	426	506	586	727	954	Weakley.....	361	455	586	783	839
White.....	426	438	586	775	803						

TEXAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA.....	524	590	786	975	1333	Callahan, Jones, Taylor
Amarillo, TX HMFA.....	507	622	814	1076	1281	Armstrong, Carson, Potter, Randall
Aransas County, TX HMFA.....	578	667	838	1221	1463	Aransas
Atascosa County, TX HMFA.....	470	551	728	943	1130	Atascosa
Austin County, TX HMFA.....	589	614	817	1070	1422	Austin

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE					
Austin-Round Rock, TX MSA.....	740	902	1126	1523	1845	Bastrop, Caldwell, Hays, Travis, Williamson					
Beaumont-Port Arthur, TX HMFA.....	506	661	805	1036	1103	Hardin, Jefferson, Orange					
Brazoria County, TX HMFA.....	703	707	870	1149	1519	Brazoria					
Brownsville-Harlingen, TX MSA.....	482	523	678	878	1024	Cameron					
College Station-Bryan, TX MSA.....	654	703	862	1250	1449	Brazos, Burleson, Robertson					
Corpus Christi, TX HMFA.....	737	792	996	1311	1487	Nueces, San Patricio					
Dallas, TX HMFA.....	667	796	986	1337	1692	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall					
El Paso, TX HMFA.....	552	669	817	1164	1386	El Paso					
Falls County, TX HMFA.....	468	492	658	825	1092	Falls					
Fort Worth-Arlington, TX HMFA.....	624	718	913	1249	1562	Johnson, Parker, Tarrant					
Hood County, TX HMFA.....	610	614	822	1096	1435	Hood					
Houston-The Woodlands-Sugar Land, TX HMFA.....	684	773	948	1291	1650	Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller					
Hudspeth County, TX HMFA.....	470	618	725	900	1257	Hudspeth					
Kendall County, TX HMFA.....	661	855	1025	1494	1790	Kendall					
Killeen-Temple, TX HMFA.....	581	585	783	1117	1367	Bell, Coryell					
Lampasas County, TX HMFA.....	542	556	658	959	1068	Lampasas					
Laredo, TX MSA.....	539	585	756	996	1109	Webb					
Longview, TX HMFA.....	643	651	781	988	1279	Gregg, Upshur					
Lubbock, TX HMFA.....	543	627	798	1163	1393	Crosby, Lubbock					
Lynn County, TX HMFA.....	449	533	658	899	902	Lynn					
Martin County, TX HMFA.....	406	525	658	883	902	Martin					
McAllen-Edinburg-Mission, TX MSA.....	528	561	729	905	1099	Hidalgo					
Medina County, TX HMFA.....	425	492	658	955	1061	Medina					
Midland, TX HMFA.....	775	982	1256	1559	1722	Midland					
Newton County, TX HMFA.....	430	569	658	899	902	Newton					
Odessa, TX MSA.....	645	844	1024	1271	1550	Ector					
Oldham County, TX HMFA.....	453	549	735	954	1283	Oldham					
Rusk County, TX HMFA.....	460	495	662	877	907	Rusk					
San Angelo, TX MSA.....	546	681	881	1246	1375	Irion, Tom Green					
San Antonio-New Braunfels, TX HMFA.....	597	739	929	1222	1430	Bandera, Bexar, Comal, Guadalupe, Wilson					
Sherman-Denison, TX MSA.....	503	625	788	1072	1211	Grayson					
Somervell County, TX HMFA.....	445	531	658	959	1129	Somervell					
Texarkana, TX-Texarkana, AR HMFA.....	446	563	712	893	976	Bowie					
Tyler, TX MSA.....	598	692	846	1111	1160	Smith					
Victoria, TX MSA.....	681	685	856	1140	1298	Goliad, Victoria					
Waco, TX HMFA.....	490	584	779	1055	1247	McLennan					
Wichita Falls, TX MSA.....	474	608	769	1072	1343	Archer, Clay, Wichita					
Wise County, TX HMFA.....	556	674	902	1119	1236	Wise					
<b>NONMETROPOLITAN COUNTIES</b>	<b>0 BR</b>	<b>1 BR</b>	<b>2 BR</b>	<b>3 BR</b>	<b>4 BR</b>	<b>NONMETROPOLITAN COUNTIES</b>	<b>0 BR</b>	<b>1 BR</b>	<b>2 BR</b>	<b>3 BR</b>	<b>4 BR</b>
Anderson.....	527	596	700	896	1222	Andrews.....	613	627	814	1172	1291
Angelina.....	553	627	726	953	1040	Bailey.....	495	521	658	865	1044
Baylor.....	488	492	658	865	1044	Bee.....	576	579	733	1068	1145
Blanco.....	594	595	789	1104	1378	Borden.....	520	548	691	908	1096
Bosque.....	495	548	658	885	951	Brewster.....	561	565	756	938	1199
Briscoe.....	495	521	658	830	1044	Brooks.....	495	521	658	842	1044
Brown.....	435	551	689	915	1195	Burnet.....	556	605	755	1100	1318

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Calhoun.....	590	628	784	994	1237	Camp.....	484	569	658	932	986
Cass.....	418	492	658	899	1149	Castro.....	563	593	748	928	1186
Cherokee.....	513	516	691	942	1003	Childress.....	508	583	675	984	1071
Cochran.....	488	492	658	959	1044	Coke.....	488	492	658	817	1044
Coleman.....	488	492	658	959	1149	Collingsworth.....	541	570	719	945	1140
Colorado.....	477	504	658	959	1149	Comanche.....	488	492	658	880	902
Concho.....	811	853	1077	1416	1708	Cooke.....	610	614	822	1023	1127
Cottle.....	495	521	658	865	1044	Crane.....	495	521	658	817	1044
Crockett.....	495	569	658	865	1044	Culberson.....	495	521	658	865	1044
Dallam.....	495	569	658	959	1044	Dawson.....	495	509	658	959	1044
Deaf Smith.....	526	550	699	948	1067	Delta.....	495	521	658	958	1149
DeWitt.....	533	536	658	932	1044	Dickens.....	488	492	658	865	1044
Dimmit.....	495	569	658	886	902	Donley.....	488	492	658	825	1044
Duval.....	562	592	747	927	1185	Eastland.....	440	492	658	817	945
Edwards.....	495	521	658	865	1044	Erath.....	614	618	756	961	1066
Fannin.....	437	529	708	990	1136	Fayette.....	505	509	681	992	1080
Fisher.....	488	492	658	859	1044	Floyd.....	495	569	658	959	1149
Foard.....	495	521	658	959	1044	Franklin.....	488	492	658	898	1149
Freestone.....	488	492	658	868	1044	Frio.....	495	498	667	936	1058
Gaines.....	495	521	658	959	1044	Garza.....	495	521	658	959	1044
Gillespie.....	699	715	928	1193	1472	Glasscock.....	520	548	691	908	1096
Gonzales.....	488	492	658	936	1044	Gray.....	495	569	658	854	1044
Grimes.....	488	492	658	914	1044	Hale.....	450	519	658	917	1044
Hall.....	457	534	658	959	1044	Hamilton.....	519	522	699	934	1164
Hansford.....	501	527	665	838	931	Hardeman.....	552	581	733	910	1163
Harrison.....	512	558	680	900	1041	Hartley.....	567	597	753	990	1194
Haskell.....	495	521	658	937	1044	Hemphill.....	495	569	658	865	1044
Henderson.....	618	683	849	1143	1322	Hill.....	532	536	717	910	1059
Hockley.....	588	592	793	984	1087	Hopkins.....	542	545	729	906	1182
Houston.....	408	495	662	900	917	Howard.....	566	603	752	968	1085
Hutchinson.....	519	523	700	869	1222	Jack.....	638	732	847	1051	1237
Jackson.....	541	545	729	981	1273	Jasper.....	571	575	770	956	1055
Jeff Davis.....	748	788	994	1307	1577	Jim Hogg.....	495	533	658	864	1044
Jim Wells.....	593	597	777	964	1065	Karnes.....	520	523	658	959	1111
Kenedy.....	596	627	791	1040	1255	Kent.....	520	548	691	908	1096
Kerr.....	584	684	817	1088	1296	Kimble.....	506	533	672	834	921
King.....	708	745	940	1236	1491	Kinney.....	488	492	658	865	1044
Kleberg.....	568	572	753	1097	1315	Knox.....	495	521	658	899	1044
Lamar.....	547	570	664	952	1159	Lamb.....	495	524	658	876	1031
La Salle.....	537	565	713	1039	1131	Lavaca.....	406	494	658	939	1149
Lee.....	495	569	658	899	902	Leon.....	488	492	658	852	1063
Limestone.....	476	577	772	958	1225	Lipscomb.....	507	581	673	835	922

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Live Oak.....	518	521	658	938	1044	Llano.....	562	619	747	1089	1185
Loving.....	520	548	691	908	1096	McCulloch.....	495	521	658	865	1044
McMullen.....	520	548	691	908	1096	Madison.....	488	492	658	959	1044
Marion.....	495	521	658	817	1044	Mason.....	754	794	1002	1317	1589
Matagorda.....	530	536	704	874	1217	Maverick.....	510	569	658	829	1044
Menard.....	495	521	658	903	1044	Milam.....	504	513	669	923	1061
Mills.....	495	528	658	875	1044	Mitchell.....	488	492	658	817	1044
Montague.....	532	610	706	964	968	Moore.....	509	513	676	839	1150
Morris.....	406	492	658	959	1149	Motley.....	495	521	658	865	1044
Nacogdoches.....	625	629	774	960	1266	Navarro.....	563	571	748	928	1059
Nolan.....	495	569	658	846	1044	Ochiltree.....	559	631	743	944	1297
Palo Pinto.....	570	574	768	1036	1218	Panola.....	489	492	659	822	1148
Parmer.....	495	569	658	860	1044	Pecos.....	459	569	700	869	1110
Polk.....	448	524	702	963	1226	Presidio.....	495	569	658	959	1044
Rains.....	488	492	658	959	1044	Reagan.....	495	521	658	940	1044
Real.....	495	521	658	959	1044	Red River.....	488	492	658	903	1090
Reeves.....	495	522	658	840	1044	Refugio.....	495	538	658	872	1044
Roberts.....	520	548	691	908	1096	Runnels.....	495	499	658	893	1044
Sabine.....	501	528	666	826	1056	San Augustine.....	488	492	658	857	1123
San Jacinto.....	488	492	658	901	902	San Saba.....	495	521	658	959	1044
Schleicher.....	488	492	658	959	1044	Scurry.....	591	595	796	1050	1390
Shackelford.....	495	569	658	959	1149	Shelby.....	488	492	658	829	996
Sherman.....	495	521	658	866	1044	Starr.....	495	512	658	848	1009
Stephens.....	488	492	658	872	902	Sterling.....	526	603	698	866	1107
Stonewall.....	495	521	658	865	1044	Sutton.....	495	561	658	832	1044
Swisher.....	495	521	658	875	1044	Terrell.....	495	521	658	925	1044
Terry.....	489	492	659	939	1045	Throckmorton.....	520	548	691	908	1096
Titus.....	488	492	658	839	1149	Trinity.....	492	495	662	905	1156
Tyler.....	495	551	658	959	963	Upton.....	495	521	658	959	1044
Uvalde.....	542	569	658	904	1044	Val Verde.....	507	525	674	982	1069
Van Zandt.....	546	550	736	972	1039	Walker.....	617	717	830	1118	1138
Ward.....	495	569	658	823	1044	Washington.....	584	631	730	934	1242
Wharton.....	494	578	749	929	1027	Wheeler.....	528	531	707	877	1121
Wilbarger.....	495	497	658	959	1149	Willacy.....	488	492	658	959	1149
Winkler.....	488	492	658	817	1044	Wood.....	528	531	711	950	1241
Yoakum.....	495	521	658	817	1044	Young.....	512	516	690	856	946
Zapata.....	495	521	658	959	1044	Zavala.....	442	554	658	817	902

UTAH

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Box Elder County, UT HMFA.....	421	520	661	933	1154	Box Elder

UTAH continued

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Logan, UT-ID MSA.....	479	525	658	959	1095	Cache
Ogden-Clearfield, UT HMFA.....	509	645	826	1165	1377	Davis, Morgan, Weber
Provo-Orcem, UT MSA.....	555	668	788	1148	1376	Juab, Utah
Salt Lake City, UT HMFA.....	603	757	938	1351	1575	Salt Lake
St. George, UT MSA.....	554	656	794	1146	1386	Washington
Tooele County, UT HMFA.....	573	642	769	1076	1343	Tooele

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver.....	434	565	661	903	906
Daggett.....	555	649	845	1191	1342
Emery.....	432	569	658	843	929
Grand.....	480	562	731	1065	1161
Kane.....	521	593	794	1048	1261
Piute.....	556	651	847	1051	1345
San Juan.....	432	506	658	959	1045
Sevier.....	435	495	663	829	1055
Uintah.....	571	650	870	1084	1231
Wayne.....	432	569	658	959	1131

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR
Carbon.....	489	502	672	859	986
Duchesne.....	511	661	778	1097	1286
Garfield.....	432	492	658	817	1045
Iron.....	467	542	658	959	1149
Millard.....	432	534	658	951	1143
Rich.....	581	681	886	1272	1407
Sanpete.....	521	524	702	871	962
Summit.....	699	890	1030	1501	1798
Wasatch.....	608	760	927	1266	1271

VERMONT

METROPOLITAN FMR AREAS

	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington-South Burlington, VT MSA.....	751	897	1172	1552	1718	Chittenden County towns of Bolton town, Buels gore, Burlington city, Charlotte town, Colchester town, Essex town, Hinesburg town, Huntington town, Jericho town, Milton town, Richmond town, St. George town, Shelburne town, South Burlington city, Underhill town, Westford town, Williston town, Winooski city Franklin County towns of Bakersfield town, Berkshire town, Enosburg town, Fairfax town, Fairfield town, Fletcher town, Franklin town, Georgia town, Highgate town, Montgomery town, Richford town, St. Albans city, St. Albans town, Sheldon town, Swanton town Grand Isle County towns of Alburgh town, Grand Isle town, Isle La Motte town, North Hero town, South Hero town

NONMETROPOLITAN COUNTIES

	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Addison County, VT.....	730	817	946	1298	1574	Addison town, Bridport town, Bristol town, Cornwall town, Ferrisburgh town, Goshen town, Granville town, Hancock town, Leicester town, Lincoln town, Middlebury town, Monkton town, New Haven town, Orwell town, Pantown town, Ripton town, Salisbury town, Shoreham town, Starksboro town, Vergennes city, Waltham town, Weybridge town, Whiting town
Bennington County, VT.....	751	806	973	1348	1409	Arlington town, Bennington town, Dorset town, Glastenbury town, Landgrove town, Manchester town, Peru town,

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Caledonia County, VT.....	662	666	847	1051	1209	Pownal town, Readsboro town, Rupert town, Sandgate town, Searsburg town, Shaftsbury town, Stamford town, Sunderland town, Winhall town, Woodford town Barnet town, Burke town, Danville town, Groton town, Hardwick town, Kirby town, Lyndon town, Newark town, Peacham town, Ryegate town, St. Johnsbury town, Sheffield town, Stannard town, Sutton town, Walden town, Waterford town, Wheelock town
Essex County, VT.....	587	612	760	943	1042	Averill town, Avery's gore, Bloomfield town, Brighton town, Brunswick town, Canaan town, Concord town, East Haven town, Ferdinand town, Granby town, Guildhall town, Lemington town, Lewis town, Lunenburg town, Maidstone town, Norton town, Victory town, Warner's grant, Warren's gore
Lamoille County, VT.....	589	768	955	1310	1619	Belvidere town, Cambridge town, Eden town, Elmore town, Hyde Park town, Johnson town, Morristown town, Stowe town, Waterville town, Wolcott town
Orange County, VT.....	685	728	920	1176	1444	Bradford town, Braintree town, Brookfield town, Chelsea town Corinth town, Fairlee town, Newbury town, Orange town, Randolph town, Strafford town, Thetford town, Topsham town, Tunbridge town, Vershire town, Washington town, West Fairlee town, Williamstown town
Orleans County, VT.....	592	623	767	952	1051	Albany town, Barton town, Brownington town, Charleston town, Coventry town, Craftsbury town, Derby town, Glover town, Greensboro town, Holland town, Irasburg town, Jay town, Lowell town, Morgan town, Newport city, Newport town, Troy town, Westfield town, Westmore town
Rutland County, VT.....	667	709	895	1111	1313	Benson town, Brandon town, Castleton town, Chittenden town, Clarendon town, Danby town, Fair Haven town, Hubbardton town Ira town, Killington town, Mendon town, Middletown Springs town, Mount Holly town, Mount Tabor town, Pawlet town, Pittsfield town, Pittsford town, Poultney town, Proctor town, Rutland city, Rutland town, Shrewsbury town, Sudbury town, Tinmouth town, Wallingford town, Wells town, West Haven town, West Rutland town
Washington County, VT.....	732	737	986	1224	1479	Barre city, Barre town, Berlin town, Cabot town, Calais town Duxbury town, East Montpelier town, Fayston town, Marshfield town, Middlesex town, Montpelier city, Moretown town, Northfield town, Plainfield town, Roxbury town, Waitsfield town, Warren town, Waterbury town, Woodbury town, Worcester town
Windham County, VT.....	775	811	1019	1328	1569	Athens town, Brattleboro town, Brookline town, Dover town, Dummerston town, Grafton town, Guilford town, Halifax town, Jamaica town, Londonderry town, Marlboro town, Newfane town, Putney town, Rockingham town, Somerset town, Stratton town, Townshend town, Vernon town, Wardsboro town, Westminster town, Whitingham town, Wilmington town, Windham town
Windsor County, VT.....	812	848	1041	1420	1671	Andover town, Baltimore town, Barnard town, Bethel town, Bridgewater town, Cavendish town, Chester town,

VERMONT continued

NONMETROPOLITAN COUNTIES 0 BR 1 BR 2 BR 3 BR 4 BR Towns within nonmetropolitan counties

Hartford town, Hartland town, Ludlow town, Norwich town, Plymouth town, Pomfret town, Reading town, Rochester town, Royalton town, Sharon town, Springfield town, Stockbridge town, Weathersfield town, Weston town, West Windsor town, Windsor town, Woodstock town

VIRGINIA

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Blacksburg-Christiansburg-Radford, VA HMFA.....	560	687	795	1135	1388	Montgomery, Radford city
Buckingham County, VA HMFA.....	449	629	728	1032	1271	Buckingham
Charlottesville, VA HMFA.....	722	1010	1171	1453	1678	Albemarle, Fluvanna, Greene, Nelson, Charlottesville city
Culpeper County, VA HMFA.....	596	836	967	1402	1688	Culpeper
Floyd County, VA HMFA.....	406	569	658	817	1149	Floyd
Franklin County, VA HMFA.....	462	521	691	955	1095	Franklin
Giles County, VA HMFA.....	443	526	658	862	1144	Giles
Harrisonburg, VA MSA.....	637	638	808	1072	1411	Rockingham, Harrisonburg city
Kingsport-Bristol-Bristol, TN-VA MSA.....	431	499	660	860	946	Scott, Washington, Bristol city
Lynchburg, VA MSA.....	571	608	750	1004	1136	Amherst, Appomattox, Bedford, Campbell, Bedford city, Lynchburg city
Pulaski County, VA HMFA.....	542	569	658	817	1149	Pulaski
Rappahannock County, VA HMFA.....	861	867	1046	1318	1826	Rappahannock
Richmond, VA MSA.....	795	835	966	1276	1557	Amelia, Caroline, Charles, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, King William, New Kent, Powhatan, Prince George, Sussex, Colonial Heights city, Hopewell city, Petersburg city, Richmond city
Roanoke, VA HMFA.....	546	669	845	1129	1310	Botetourt, Craig, Roanoke, Roanoke city, Salem city
Staunton-Waynesboro, VA MSA.....	550	597	753	1018	1032	Augusta, Staunton city, Waynesboro city
*Virginia Beach-Norfolk-Newport News, VA-NC HMFA..	947	953	1150	1601	2008	Gloucester, Isle of Wight, James, Mathews, York, Chesapeake city, Hampton city, Newport News city, Norfolk city, Poquoson city, Portsmouth city, Suffolk city, Virginia Beach city, Williamsburg city
Warren County, VA HMFA.....	709	714	956	1316	1321	Warren
*Washington-Arlington-Alexandria, DC-VA-MD HMFA...	1307	1402	1623	2144	2726	Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas city, Manassas Park city
Winchester, VA-WV MSA.....	689	693	928	1324	1620	Frederick, Winchester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack.....	614	645	746	926	1238	Alleghany.....	533	537	658	899	902
Bath.....	542	544	658	871	1018	Bland.....	488	492	658	829	1018
Brunswick.....	521	524	702	871	1176	Buchanan.....	542	569	658	823	902
Carroll.....	542	569	658	945	1018	Charlotte.....	488	492	658	817	930
Cumberland.....	644	646	782	1140	1210	Dickenson.....	542	569	658	817	1018
Essex.....	573	705	816	1033	1262	Grayson.....	406	569	658	889	1077

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

VIRGINIA continued

NONMETROPOLITAN COUNTIES						NONMETROPOLITAN COUNTIES					
	0 BR	1 BR	2 BR	3 BR	4 BR		0 BR	1 BR	2 BR	3 BR	4 BR
Greensville.....	521	525	664	919	1027	Halifax.....	542	547	658	817	902
Henry.....	542	569	658	878	941	Highland.....	542	544	658	871	1018
King and Queen.....	748	750	908	1127	1405	King George.....	798	803	1028	1353	1662
Lancaster.....	580	583	781	1131	1208	Lee.....	542	569	658	845	1018
Louisa.....	678	693	823	1199	1207	Lunenburg.....	557	559	676	879	1040
Madison.....	694	728	843	1151	1156	Mecklenburg.....	548	575	665	825	1018
Middlesex.....	741	746	999	1311	1715	Northampton.....	560	564	755	937	1035
Northumberland.....	542	544	658	959	1018	Nottoway.....	563	567	724	1012	1264
Orange.....	608	612	789	1150	1378	Page.....	558	586	678	956	1069
Patrick.....	542	569	658	934	1018	Pittsylvania.....	538	541	684	948	1076
Prince Edward.....	599	603	807	1023	1106	Richmond.....	545	549	735	986	1007
Rockbridge.....	526	610	706	876	1233	Russell.....	542	567	658	882	1018
Shenandoah.....	489	599	784	1121	1197	Smyth.....	542	554	658	825	905
Southampton.....	569	572	761	944	1177	Surry.....	542	544	658	871	1018
Tazewell.....	519	522	658	817	1018	Westmoreland.....	539	542	726	1058	1123
Wise.....	523	527	658	817	940	Wythe.....	488	492	658	817	1121
Buena Vista city.....	526	610	706	876	1233	Clifton Forge city.....	533	537	658	899	902
Covington city.....	533	537	658	899	902	Danville city.....	538	541	684	948	1076
Emporia city.....	521	525	664	919	1027	Franklin city.....	569	572	761	944	1177
Galax city.....	542	569	658	945	1018	Lexington city.....	526	610	706	876	1233
Martinsville city.....	542	569	658	878	941	Norton city.....	523	527	658	817	940

WASHINGTON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA.....	604	699	910	1326	1589	Whatcom
Bremerton-Silverdale, WA MSA.....	626	779	1015	1454	1678	Kitsap
Columbia County, WA HMFA.....	548	598	800	1166	1303	Columbia
Kennewick-Richland, WA MSA.....	547	669	841	1127	1468	Benton, Franklin
Lewiston, ID-WA MSA.....	458	544	728	933	1184	Asotin
Longview, WA MSA.....	482	606	748	1090	1306	Cowlitz
Mount Vernon-Anacortes, WA MSA.....	663	719	962	1331	1420	Skagit
Olympia-Tumwater, WA MSA.....	751	827	1021	1488	1783	Thurston
Pend Oreille County, WA HMFA.....	449	520	696	1014	1121	Pend Oreille
Portland-Vancouver-Hillsboro, OR-WA MSA.....	753	867	1026	1492	1791	Clark, Skamania
Seattle-Bellevue, WA HMFA.....	1049	1225	1523	2220	2617	King, Snohomish
Spokane, WA HMFA.....	488	589	789	1143	1263	Spokane
Stevens County, WA HMFA.....	494	497	658	897	1065	Stevens
*Tacoma, WA HMFA.....	742	873	1126	1641	1966	Pierce
Walla Walla County, WA HMFA.....	624	661	885	1221	1545	Walla Walla
Wenatchee, WA MSA.....	529	591	791	1052	1260	Chelan, Douglas
Yakima, WA MSA.....	492	588	759	1039	1187	Yakima



SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

WASHINGTON continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	430	569	658	936	940	Clallam.....	486	589	788	1143	1147
Ferry.....	548	551	738	959	1201	Garfield.....	430	569	658	959	1070
Grant.....	481	545	701	956	1033	Grays Harbor.....	549	629	831	1183	1328
Island.....	684	802	984	1434	1530	Jefferson.....	613	713	954	1253	1666
Kittitas.....	642	657	880	1282	1536	Klickitat.....	673	706	817	1125	1423
Lewis.....	567	653	860	1139	1309	Lincoln.....	430	492	658	827	1149
Mason.....	592	717	960	1293	1316	Okanogan.....	474	596	726	952	1258
Pacific.....	525	637	852	1128	1168	San Juan.....	793	824	1010	1379	1384
Wahkiakum.....	430	563	658	959	1070	Whitman.....	553	608	786	1146	1372

WEST VIRGINIA

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Boone County, WV HMFA.....	369	435	582	741	1016	Boone
Charleston, WV HMFA.....	497	637	784	973	1075	Clay, Kanawha
Cumberland, MD-WV MSA.....	450	569	658	908	1111	Mineral
Fayette County, WV HMFA.....	368	461	596	785	1041	Fayette
Huntington-Ashland, WV-KY-OH HMFA.....	406	524	658	889	1063	Cabell, Wayne
Jefferson County, WV HMFA.....	647	651	872	1268	1425	Jefferson
Lincoln County, WV HMFA.....	424	443	593	758	813	Lincoln
Martinsburg, WV HMFA.....	572	645	793	1126	1384	Berkeley
Morgantown, WV MSA.....	524	626	725	943	994	Monongalia, Preston
Parkersburg-Vienna, WV MSA.....	538	569	689	993	1072	Wirt, Wood
Putnam County, WV HMFA.....	608	612	743	980	1048	Putnam
Raleigh County, WV HMFA.....	488	613	712	884	976	Raleigh
Weirton-Steubenville, WV-OH MSA.....	459	531	658	866	937	Brooke, Hancock
Wheeling, WV-OH MSA.....	518	546	658	826	902	Marshall, Ohio
Winchester, VA-WV MSA.....	689	693	928	1324	1620	Hampshire

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour.....	386	435	582	732	851	Braxton.....	472	496	582	794	817
Calhoun.....	462	474	582	734	851	Doddridge.....	432	435	582	743	851
Gilmer.....	462	470	582	742	849	Grant.....	468	471	630	782	1100
Greenbrier.....	408	554	661	820	949	Hardy.....	435	437	582	722	851
Harrison.....	523	526	657	832	901	Jackson.....	465	503	595	829	1039
Lewis.....	401	451	603	748	827	Logan.....	479	493	582	733	798
McDowell.....	462	503	582	722	1016	Marion.....	542	545	680	950	995
Mason.....	462	466	582	816	819	Mercer.....	410	473	584	775	883
Mingo.....	359	466	582	732	851	Monroe.....	474	508	597	741	866
Morgan.....	435	575	665	931	973	Nicholas.....	462	477	582	746	844
Pendleton.....	445	448	582	848	912	Pleasants.....	475	478	640	794	877
Pocahontas.....	448	451	593	804	868	Randolph.....	453	483	582	722	876
Ritchie.....	462	476	582	801	851	Roane.....	462	476	582	744	798
Summers.....	462	503	582	795	798	Taylor.....	359	503	582	816	819
Tucker.....	437	440	582	749	900	Tyler.....	462	503	582	722	1016

WEST VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Upshur.....	445	448	599	778	935	Webster.....	432	435	582	722	798
Wetzel.....	462	492	582	722	1016	Wyoming.....	479	495	582	778	1016

WISCONSIN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton, WI MSA.....	443	563	718	1035	1038	Calumet, Outagamie
Columbia County, WI HMFA.....	474	575	769	1116	1134	Columbia
Duluth, MN-WI MSA.....	494	577	755	972	1124	Douglas
Eau Claire, WI MSA.....	466	559	735	1048	1201	Chippewa, Eau Claire
Fond du Lac, WI MSA.....	465	532	709	922	1065	Fond du Lac
Green Bay, WI HMFA.....	466	569	756	1037	1041	Brown, Kewaunee
Green County, WI HMFA.....	471	505	671	914	978	Green
Iowa County, WI HMFA.....	520	548	734	911	1006	Iowa
Janesville-Beloit, WI MSA.....	508	588	770	1001	1055	Rock
Kenosha County, WI HMFA.....	567	693	919	1284	1520	Kenosha
La Crosse-Onalaska, WI-MN MSA.....	511	619	828	1184	1446	La Crosse
Madison, WI HMFA.....	655	780	936	1294	1479	Dane
*Milwaukee-Waukesha-West Allis, WI MSA.....	596	723	907	1146	1266	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul-Bloomington, MN-WI HMFA.....	656	813	1027	1444	1693	Pierce, St. Croix
Oconto County, WI HMFA.....	491	537	658	923	942	Oconto
Oshkosh-Neenah, WI MSA.....	525	547	704	938	1178	Winnebago
Racine, WI MSA.....	653	663	888	1203	1217	Racine
Sheboygan, WI MSA.....	422	525	684	854	949	Sheboygan
Wausau, WI MSA.....	492	563	733	965	1109	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams.....	449	558	658	887	1082	Ashland.....	449	492	658	817	912
Barron.....	518	520	696	864	1007	Bayfield.....	449	492	658	872	1126
Buffalo.....	473	518	694	871	987	Burnett.....	449	492	658	899	902
Clark.....	448	492	658	817	902	Crawford.....	488	492	658	841	1007
Dodge.....	559	563	753	1012	1032	Door.....	500	622	733	992	1005
Dunn.....	484	536	709	968	972	Florence.....	466	510	683	910	941
Forest.....	457	506	658	894	906	Grant.....	497	517	658	836	1145
Green Lake.....	449	492	658	850	1019	Iron.....	406	492	658	913	1105
Jackson.....	449	492	658	817	902	Jefferson.....	551	668	894	1224	1228
Juneau.....	436	528	683	929	1051	Lafayette.....	449	505	658	869	1017
Langlade.....	509	522	699	959	963	Lincoln.....	449	492	658	920	1017
Manitowoc.....	442	536	717	890	1011	Marinette.....	449	492	658	863	1149
Marquette.....	499	546	731	917	1002	Menominee.....	449	492	658	817	902
Monroe.....	479	581	777	980	1221	Oneida.....	504	567	729	905	1208
Pepin.....	406	569	658	959	1027	Polk.....	478	579	775	1014	1062
Portage.....	436	522	698	867	994	Price.....	449	492	658	817	902
Richland.....	416	504	674	912	978	Rusk.....	451	504	674	836	924
Sauk.....	593	629	802	1048	1099	Sawyer.....	468	548	733	910	1005

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Shawano.....	497	500	665	863	989	Taylor.....	406	492	658	817	902
Trempealeau.....	449	492	658	879	1017	Vernon.....	483	504	674	836	924
Vilas.....	486	541	712	884	986	Walworth.....	530	625	837	1135	1200
Washburn.....	499	546	731	907	1002	Waupaca.....	508	511	684	934	938
Waushara.....	469	514	688	854	943	Wood.....	493	522	699	953	958

WYOMING

METROPOLITAN FMR AREAS 0 BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Casper, WY MSA.....	533	657	822	1166	1412	Natrona
Cheyenne, WY MSA.....	521	578	774	1100	1262	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany.....	545	605	804	1167	1404	Big Horn.....	453	508	658	860	1031
Campbell.....	647	708	940	1254	1288	Carbon.....	514	591	747	1039	1082
Converse.....	493	603	717	979	983	Crook.....	491	617	714	942	1069
Fremont.....	478	540	723	897	991	Goshen.....	453	537	658	838	985
Hot Springs.....	463	525	658	959	1149	Johnson.....	534	631	776	1131	1162
Lincoln.....	581	631	845	1094	1178	Niobrara.....	462	501	671	833	1005
Park.....	477	576	693	984	1151	Platte.....	463	569	658	889	1011
Sheridan.....	605	657	879	1091	1535	Sublette.....	579	728	842	1227	1470
Sweetwater.....	642	697	933	1163	1629	Teton.....	962	974	1169	1682	1750
Uinta.....	489	535	711	965	1217	Washakie.....	453	569	658	959	1149
Weston.....	523	657	760	1022	1138						

AMERICAN SAMOA

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
American Samoa.....	485	488	653	952	1001

GUAM

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Guam.....	657	708	948	1382	1655

NORTHERN MARIANA ISL

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Northern Mariana Islands.....	396	480	642	927	1116

SCHEDULE B - FY 2016 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

PUERTO RICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla-Isabela, PR HMFA.....	320	336	389	515	563	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincón, San Sebastián
Arecibo, PR HMFA.....	398	410	484	648	682	Arecibo, Camuy, Hatillo
Barranquitas-Aibonito, PR HMFA.....	304	318	380	510	615	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis
Caguas, PR HMFA.....	424	426	532	767	866	Caguas, Cayey, Cidra, Gurabo, San Lorenzo
Fajardo, PR HMFA.....	372	403	513	748	891	Ceiba, Fajardo, Luquillo
Guayama, PR MSA.....	342	346	415	530	575	Arroyo, Guayama, Patillas
Mayagüez, PR MSA.....	374	392	454	574	791	Hormigueros, Mayagüez
Ponce, PR HMFA.....	403	423	490	714	855	Juana Díaz, Ponce, Villalba
Quebradillas Municipio, PR HMFA.....	331	347	402	544	577	Quebradillas
San German, PR MSA.....	318	331	386	518	655	Cabo Rojo, Lajas, Sabana Grande, San Germán
San Juan-Guaynabo, PR HMFA.....	407	456	548	736	895	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerio, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loíza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
Utuaudo Municipio, PR HMFA.....	347	365	422	544	578	Utuaudo
Yauco, PR HMFA.....	338	338	410	528	716	Guánica, Guayanilla, Peñuelas, Yauco

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas.....	291	293	376	515	631
Culebra.....	291	293	376	515	631
Las Marias.....	291	293	376	515	631
Salinas.....	291	293	376	515	631
Vieques.....	291	293	376	515	631

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Coamo.....	291	293	376	515	631
Jayuya.....	291	293	376	515	631
Maricao.....	291	293	376	515	631
Santa Isabel.....	291	293	376	515	631

VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	711	726	886	1099	1214
St. Thomas.....	680	820	1026	1273	1406

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. John.....	945	1119	1391	1726	1907

Note1: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.  
 Note2: 50th percentile FMRs are indicated by an \* before the FMR Area name.  
 Note3: PHAS participating in the Small Area Demonstration Program and the PHAS serving Dallas, TX using small area FMRs will use the FMRs found on Schedule B Addendum.

SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

All Housing Authorities within the Dallas, TX HMFA -- ZIP Codes

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75001.....	780	940	1160	1570	1990	75002.....	840	1000	1240	1680	2130
75006.....	640	760	940	1270	1610	75007.....	710	850	1050	1420	1800
75009.....	620	730	910	1230	1560	75010.....	890	1060	1310	1780	2250
75011.....	630	750	930	1260	1600	75013.....	920	1100	1360	1840	2330
75014.....	630	750	930	1260	1600	75015.....	630	750	930	1260	1600
75016.....	630	750	930	1260	1600	75017.....	630	750	930	1260	1600
75019.....	880	1050	1300	1760	2230	75022.....	970	1150	1430	1940	2450
75023.....	770	920	1140	1550	1960	75024.....	970	1160	1440	1950	2470
75025.....	830	990	1230	1670	2110	75026.....	760	900	1120	1520	1920
75027.....	670	800	990	1340	1700	75028.....	970	1150	1430	1940	2450
75029.....	670	800	990	1340	1700	75030.....	630	750	930	1260	1600
75032.....	970	1150	1430	1940	2450	75033.....	690	820	1020	1380	1750
75034.....	830	990	1220	1650	2090	75035.....	950	1140	1410	1910	2420
75038.....	620	740	920	1250	1580	75039.....	820	980	1210	1640	2080
75040.....	620	740	920	1250	1580	75041.....	620	730	910	1230	1560
75042.....	570	680	840	1140	1440	75043.....	670	800	990	1340	1700
75044.....	790	940	1170	1590	2010	75045.....	630	750	930	1260	1600
75046.....	630	750	930	1260	1600	75047.....	630	750	930	1260	1600
75048.....	840	1000	1240	1680	2130	75049.....	630	750	930	1260	1600
75050.....	580	690	860	1170	1480	75051.....	570	690	850	1150	1460
75052.....	700	830	1030	1400	1770	75053.....	630	750	930	1260	1600
75054.....	630	750	930	1260	1600	75056.....	800	950	1180	1600	2020
75057.....	650	780	960	1300	1650	75058.....	760	900	1120	1520	1920
75060.....	590	700	870	1180	1490	75061.....	540	650	800	1080	1370
75062.....	600	710	880	1190	1510	75063.....	720	860	1060	1440	1820
75065.....	660	780	970	1320	1660	75067.....	700	840	1040	1410	1780
75068.....	890	1070	1320	1790	2270	75069.....	650	780	960	1300	1650
75070.....	910	1090	1350	1830	2320	75071.....	770	920	1140	1550	1960
75074.....	700	840	1040	1410	1780	75075.....	710	850	1050	1420	1800
75077.....	860	1030	1270	1720	2180	75078.....	870	1040	1290	1750	2210
75080.....	730	870	1080	1460	1850	75081.....	770	920	1140	1550	1960
75082.....	940	1120	1390	1890	2390	75083.....	630	750	930	1260	1600
75085.....	630	750	930	1260	1600	75086.....	760	900	1120	1520	1920
75087.....	820	980	1210	1640	2080	75088.....	950	1140	1410	1910	2420
75089.....	970	1150	1430	1940	2450	75093.....	850	1020	1260	1710	2160
75094.....	970	1150	1430	1940	2450	75098.....	760	910	1130	1530	1940
75101.....	640	760	940	1270	1610	75104.....	720	860	1070	1450	1840
75106.....	630	750	930	1260	1600	75114.....	840	1000	1240	1680	2130
75115.....	660	790	980	1330	1680	75116.....	640	770	950	1290	1630
75119.....	610	730	900	1220	1540	75123.....	630	750	930	1260	1600
75125.....	590	700	870	1180	1490	75126.....	970	1150	1430	1940	2450
75132.....	880	1050	1300	1760	2230	75134.....	560	670	830	1130	1420

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All Housing Authorities within the Dallas, TX HMFA -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75135.....	550	660	820	1110	1410	75137.....	720	860	1060	1440	1820
75138.....	630	750	930	1260	1600	75141.....	570	690	850	1150	1460
75142.....	600	720	890	1210	1530	75143.....	550	660	820	1110	1410
75146.....	620	730	910	1230	1560	75147.....	510	610	760	1030	1300
75149.....	620	740	920	1250	1580	75150.....	660	790	980	1330	1680
75152.....	570	680	840	1140	1440	75154.....	820	980	1210	1640	2080
75156.....	640	760	940	1270	1610	75157.....	640	760	940	1270	1610
75158.....	560	670	830	1130	1420	75159.....	650	780	960	1300	1650
75160.....	540	650	800	1080	1370	75161.....	640	760	940	1270	1610
75164.....	700	830	1030	1400	1770	75165.....	640	760	940	1270	1610
75166.....	970	1150	1430	1940	2450	75167.....	910	1080	1340	1820	2300
75168.....	640	760	940	1270	1610	75169.....	550	660	820	1110	1410
75172.....	490	590	730	990	1250	75173.....	780	930	1150	1560	1970
75180.....	590	700	870	1180	1490	75181.....	970	1150	1430	1940	2450
75182.....	500	600	740	1000	1270	75185.....	630	750	930	1260	1600
75187.....	630	750	930	1260	1600	75189.....	720	860	1060	1440	1820
75201.....	1180	1410	1740	2360	2990	75202.....	1060	1270	1570	2130	2690
75203.....	500	600	740	1000	1270	75204.....	980	1170	1450	1970	2490
75205.....	1090	1300	1610	2180	2760	75206.....	830	990	1230	1670	2110
75207.....	970	1150	1430	1940	2450	75208.....	550	650	810	1100	1390
75209.....	810	970	1200	1630	2060	75210.....	440	520	650	880	1120
75211.....	540	650	800	1080	1370	75212.....	490	590	730	990	1250
75214.....	660	780	970	1320	1660	75215.....	510	610	760	1030	1300
75216.....	510	610	750	1020	1290	75217.....	530	640	790	1070	1360
75218.....	740	880	1090	1480	1870	75219.....	860	1030	1270	1720	2180
75220.....	510	610	760	1030	1300	75221.....	630	750	930	1260	1600
75222.....	630	750	930	1260	1600	75223.....	550	660	820	1110	1410
75224.....	520	620	770	1040	1320	75225.....	970	1150	1430	1940	2450
75226.....	740	880	1090	1480	1870	75227.....	550	660	820	1110	1410
75228.....	520	620	770	1040	1320	75229.....	620	740	920	1250	1580
75230.....	660	780	970	1320	1660	75231.....	490	590	730	990	1250
75232.....	490	590	730	990	1250	75233.....	550	650	810	1100	1390
75234.....	650	780	960	1300	1650	75235.....	630	750	930	1260	1600
75236.....	590	700	870	1180	1490	75237.....	550	650	810	1100	1390
75238.....	590	700	870	1180	1490	75240.....	570	680	840	1140	1440
75241.....	570	690	850	1150	1460	75242.....	630	750	930	1260	1600
75243.....	530	630	780	1060	1340	75244.....	810	970	1200	1630	2060
75246.....	470	570	700	950	1200	75247.....	600	720	890	1210	1530
75248.....	800	950	1180	1600	2020	75249.....	610	730	900	1220	1540
75250.....	630	750	930	1260	1600	75251.....	1010	1200	1490	2020	2560
75252.....	760	910	1130	1530	1940	75253.....	500	600	740	1000	1270

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All Housing Authorities within the Dallas, TX HMFA -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75254.....	620	740	920	1250	1580	75270 .....	630	750	930	1260	1600
75287.....	730	870	1080	1460	1850	75313 .....	630	750	930	1260	1600
75315.....	630	750	930	1260	1600	75336 .....	630	750	930	1260	1600
75339.....	630	750	930	1260	1600	75342 .....	630	750	930	1260	1600
75354.....	630	750	930	1260	1600	75355 .....	630	750	930	1260	1600
75356.....	630	750	930	1260	1600	75357 .....	630	750	930	1260	1600
75360.....	630	750	930	1260	1600	75367 .....	630	750	930	1260	1600
75370.....	760	900	1120	1520	1920	75371 .....	630	750	930	1260	1600
75372.....	630	750	930	1260	1600	75374 .....	630	750	930	1260	1600
75376.....	630	750	930	1260	1600	75378 .....	630	750	930	1260	1600
75379.....	630	750	930	1260	1600	75380 .....	630	750	930	1260	1600
75381.....	630	750	930	1260	1600	75382 .....	630	750	930	1260	1600
75390.....	630	750	930	1260	1600	75401 .....	510	610	760	1030	1300
75402.....	560	670	830	1130	1420	75403 .....	530	640	790	1070	1360
75404.....	530	640	790	1070	1360	75407 .....	620	730	910	1230	1560
75409.....	720	860	1070	1450	1840	75422 .....	590	700	870	1180	1490
75423.....	600	720	890	1210	1530	75424 .....	670	800	990	1340	1700
75428.....	500	600	740	1000	1270	75442 .....	620	730	910	1230	1560
75448.....	530	640	790	1070	1360	75449 .....	450	530	660	900	1130
75452.....	460	550	680	920	1170	75453 .....	690	820	1020	1380	1750
75454.....	690	820	1020	1380	1750	75469 .....	530	640	790	1070	1360
75474.....	480	570	710	960	1220	75491 .....	760	900	1120	1520	1920
75495.....	600	720	890	1210	1530	75496 .....	490	590	730	990	1250
76041.....	640	760	940	1270	1610	76050 .....	510	610	760	1030	1300
76052.....	970	1150	1430	1940	2450	76055 .....	640	760	940	1270	1610
76064.....	510	610	750	1020	1290	76065 .....	710	850	1050	1420	1800
76078.....	650	780	960	1300	1650	76084 .....	520	620	770	1040	1320
76092.....	630	750	930	1260	1600	76177 .....	910	1090	1350	1830	2320
76201.....	640	760	940	1270	1610	76202 .....	670	800	990	1340	1700
76204.....	670	800	990	1340	1700	76205 .....	680	810	1000	1360	1720
76206.....	670	800	990	1340	1700	76207 .....	660	780	970	1320	1660
76200.....	670	800	990	1340	1700	76209 .....	600	710	900	1190	1510
76210.....	830	990	1220	1650	2090	76226 .....	970	1150	1430	1940	2450
76227.....	930	1110	1370	1860	2350	76234 .....	570	690	850	1150	1460
76247.....	740	880	1090	1480	1870	76249 .....	830	990	1220	1650	2090
76258.....	620	740	920	1250	1580	76259 .....	700	830	1030	1400	1770
76262.....	740	890	1100	1490	1890	76266 .....	690	820	1020	1380	1750
76272.....	530	630	780	1060	1340	76623 .....	640	760	940	1270	1610
76626.....	640	760	940	1270	1610	76641 .....	640	760	940	1270	1610
76651.....	550	650	810	1100	1390	76670 .....	520	620	770	1040	1320

SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

Chattanooga Housing Authority ZIP Codes

-- ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
37302.....	580	710	880	1160	1440	37308.....	430	530	650	860	1060
37311.....	470	580	720	950	1180	37315.....	520	640	790	1040	1290
37336.....	570	700	870	1150	1420	37338.....	430	530	650	860	1060
37341.....	610	750	930	1230	1520	37343.....	530	650	810	1070	1320
37350.....	610	750	930	1230	1520	37351.....	520	640	790	1040	1290
37353.....	480	590	730	960	1190	37363.....	560	700	860	1140	1410
37373.....	430	530	650	860	1060	37377.....	610	750	930	1230	1520
37379.....	530	650	800	1060	1310	37384.....	520	640	790	1040	1290
37401.....	520	640	790	1040	1290	37402.....	430	530	650	860	1060
37403.....	450	560	690	910	1130	37404.....	470	580	720	950	1180
37405.....	550	670	830	1100	1360	37406.....	430	530	660	870	1080
37407.....	510	630	780	1030	1280	37408.....	430	530	650	860	1060
37409.....	430	530	650	860	1060	37410.....	430	530	650	860	1060
37411.....	450	560	690	910	1130	37412.....	510	620	770	1020	1260
37414.....	520	640	790	1040	1290	37415.....	500	610	760	1000	1240
37416.....	550	670	830	1100	1360	37419.....	460	570	700	920	1140
37421.....	580	720	890	1180	1460	37422.....	520	640	790	1040	1290
37424.....	520	640	790	1040	1290	37450.....	520	640	790	1040	1290

The Housing Authority of the City of Laredo -- ZIP Codes

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
78040.....	480	520	660	870	1000	78041.....	570	620	780	1030	1180
78043.....	520	560	710	940	1080	78045.....	730	800	1010	1340	1530
78046.....	550	600	760	1000	1150						

The Housing Authority of the City of Long Beach -- ZIP Codes

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
90802.....	780	940	1240	1680	1880	90803.....	1000	1220	1600	2160	2420
90804.....	840	1030	1350	1820	2040	90805.....	790	970	1270	1720	1920
90806.....	780	950	1250	1690	1890	90807.....	890	1090	1430	1930	2170
90808.....	1080	1320	1730	2340	2620	90810.....	790	960	1260	1700	1910
90813.....	730	880	1160	1570	1760	90815.....	1160	1410	1850	2500	2800
90822.....	910	1110	1460	1970	2210						

The Housing Authority of the County of Cook -- ZIP Codes

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
60004.....	930	1070	1250	1590	1880	60005.....	850	980	1140	1450	1710
60006.....	790	910	1060	1350	1590	60007.....	810	930	1080	1380	1620
60008.....	890	1020	1190	1520	1790	60009.....	790	910	1060	1350	1590
60010.....	1180	1360	1580	2010	2370	60011.....	790	910	1060	1350	1590



SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

The Housing Authority of the County of Cook -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
60015.....	1190	1370	1590	2030	2390	60016.....	810	940	1090	1390	1640
60017.....	790	910	1060	1350	1590	60018.....	720	830	970	1240	1460
60022.....	1190	1370	1590	2030	2390	60025.....	930	1070	1240	1580	1860
60026.....	1050	1210	1410	1800	2120	60029.....	790	910	1060	1350	1590
60043.....	1190	1370	1590	2030	2390	60053.....	1160	1340	1560	1990	2340
60056.....	790	910	1060	1350	1590	60062.....	1160	1340	1560	1990	2340
60065.....	790	910	1060	1350	1590	60067.....	940	1080	1260	1510	1890
60068.....	920	1060	1230	1570	1850	60070.....	810	930	1080	1380	1620
60074.....	860	990	1150	1470	1730	60076.....	930	1070	1240	1580	1860
60077.....	870	1010	1170	1490	1760	60078.....	790	910	1060	1350	1590
60089.....	990	1140	1330	1700	2000	60090.....	830	950	1110	1420	1670
60091.....	1190	1370	1590	2030	2390	60093.....	1160	1340	1560	1990	2340
60103.....	1030	1190	1380	1760	2070	60104.....	790	910	1060	1350	1590
60107.....	1190	1370	1590	2030	2390	60120.....	760	880	1020	1300	1530
60126.....	960	1110	1290	1640	1940	60130.....	770	880	1030	1310	1550
60131.....	680	780	910	1160	1370	60133.....	860	990	1150	1470	1730
60141.....	790	910	1060	1350	1590	60153.....	730	840	980	1250	1470
60154.....	1150	1320	1540	1960	2310	60155.....	670	770	900	1150	1350
60159.....	790	910	1060	1350	1590	60160.....	700	810	940	1200	1410
60161.....	790	910	1060	1350	1590	60162.....	720	820	960	1220	1440
60163.....	780	890	1040	1330	1560	60164.....	670	770	900	1150	1350
60165.....	720	830	970	1240	1460	60168.....	790	910	1060	1350	1590
60169.....	840	960	1120	1430	1680	60171.....	700	810	940	1200	1410
60172.....	060	990	1150	1470	1730	60173.....	990	1140	1330	1700	2000
60176.....	700	810	940	1200	1410	60192.....	1190	1370	1590	2030	2390
60193.....	960	1100	1280	1630	1920	60194.....	1000	1150	1340	1710	2010
60195.....	970	1120	1300	1660	1950	60201.....	1010	1170	1360	1730	2040
60202.....	880	1010	1180	1500	1770	60203.....	1120	1290	1500	1910	2250
60204.....	790	910	1060	1350	1590	60301.....	1110	1280	1490	1900	2240
60302.....	810	930	1080	1380	1620	60303.....	790	910	1060	1350	1590
60304.....	810	930	1080	1380	1620	60305.....	820	950	1100	1400	1650
60402.....	740	850	990	1260	1490	60406.....	670	770	900	1150	1350
60409.....	730	840	980	1250	1470	60411.....	770	880	1030	1310	1550
60412.....	790	910	1060	1350	1590	60415.....	710	820	950	1210	1430
60419.....	880	1010	1180	1500	1770	60422.....	990	1130	1320	1680	1980
60423.....	830	950	1110	1420	1670	60425.....	780	900	1050	1340	1580
60426.....	760	880	1020	1300	1530	60428.....	1040	1190	1390	1770	2090
60429.....	1050	1210	1410	1800	2120	60430.....	810	930	1080	1380	1620
60438.....	750	870	1010	1290	1520	60439.....	750	870	1010	1290	1520
60443.....	930	1070	1240	1580	1860	60445.....	740	850	990	1260	1490
60452.....	770	880	1030	1310	1550	60453.....	780	890	1040	1330	1560

SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

The Housing Authority of the County of Cook -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
60454.....	790	910	1060	1350	1590	60455.....	720	820	960	1220	1440
60456.....	490	570	660	840	990	60457.....	710	820	950	1210	1430
60458.....	740	850	990	1260	1490	60459.....	820	950	1100	1400	1650
60461.....	790	910	1060	1350	1590	60462.....	820	950	1100	1400	1650
60463.....	1190	1370	1590	2030	2390	60464.....	1190	1370	1590	2030	2390
60465.....	780	890	1040	1330	1560	60466.....	780	900	1050	1340	1580
60467.....	1190	1370	1590	2030	2390	60469.....	840	960	1120	1430	1680
60471.....	800	920	1070	1360	1610	60472.....	690	790	920	1170	1380
60473.....	1130	1300	1510	1930	2270	60475.....	690	790	920	1170	1380
60476.....	620	710	830	1060	1250	60477.....	800	920	1070	1360	1610
60478.....	1180	1360	1580	2010	2370	60480.....	690	800	930	1190	1400
60482.....	720	820	960	1220	1440	60487.....	920	1060	1230	1570	1850
60499.....	790	910	1060	1350	1590	60501.....	700	810	940	1200	1410
60513.....	790	910	1060	1350	1590	60521.....	1160	1340	1560	1990	2340
60525.....	790	910	1060	1350	1590	60526.....	800	920	1070	1360	1610
60527.....	900	1030	1200	1530	1800	60534.....	760	880	1020	1300	1530
60546.....	710	820	950	1210	1430	60558.....	1190	1370	1590	2030	2390
60601.....	1190	1370	1590	2030	2390	60602.....	1190	1370	1590	2030	2390
60603.....	1190	1370	1590	2030	2390	60604.....	1190	1370	1590	2030	2390
60605.....	1190	1370	1590	2030	2390	60606.....	1190	1370	1590	2030	2390
60607.....	1160	1340	1560	1990	2340	60608.....	650	750	870	1110	1310
60609.....	660	760	880	1120	1320	60610.....	1070	1230	1430	1820	2150
60611.....	1190	1370	1590	2030	2390	60612.....	790	910	1060	1350	1590
60613.....	930	1070	1240	1580	1860	60614.....	1070	1240	1440	1840	2160
60615.....	780	890	1040	1330	1560	60616.....	750	870	1010	1290	1520
60617.....	680	780	910	1160	1370	60618.....	810	940	1090	1390	1640
60619.....	690	800	930	1190	1400	60620.....	730	840	980	1250	1470
60621.....	720	820	960	1220	1440	60622.....	930	1070	1250	1590	1880
60623.....	650	750	870	1110	1310	60624.....	780	890	1040	1330	1560
60625.....	780	890	1040	1330	1560	60626.....	710	820	950	1210	1430
60628.....	800	920	1070	1360	1610	60629.....	720	830	970	1240	1460
60630.....	780	900	1050	1340	1580	60631.....	870	1010	1170	1490	1760
60632.....	670	770	900	1150	1350	60633.....	730	840	980	1250	1470
60634.....	760	880	1020	1300	1530	60636.....	740	850	990	1260	1490
60637.....	740	850	990	1260	1490	60638.....	740	850	990	1260	1490
60639.....	750	870	1010	1290	1520	60640.....	720	820	960	1220	1440
60641.....	730	840	980	1250	1470	60642.....	970	1120	1300	1660	1950
60643.....	750	860	1000	1280	1500	60644.....	720	820	960	1220	1440
60645.....	810	940	1090	1390	1640	60646.....	740	850	990	1260	1490
60647.....	810	940	1090	1390	1640	60649.....	680	780	910	1160	1370
60651.....	770	880	1030	1310	1550	60652.....	830	950	1110	1420	1670

SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

The Housing Authority of the County of Cook -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
60653.....	630	730	850	1080	1280	60654 .....	1190	1370	1590	2030	2390
60655.....	790	910	1060	1350	1590	60656 .....	840	970	1130	1440	1700
60657.....	970	1120	1300	1660	1950	60659 .....	810	930	1080	1380	1620
60660.....	690	800	930	1190	1400	60661 .....	1190	1370	1590	2030	2390
60666.....	790	910	1060	1350	1590	60677 .....	790	910	1060	1350	1590
60681.....	790	910	1060	1350	1590	60682 .....	790	910	1060	1350	1590
60690.....	790	910	1060	1350	1590	60693 .....	790	910	1060	1350	1590
60694.....	790	910	1060	1350	1590	60706 .....	750	870	1010	1290	1520
60707.....	720	830	970	1240	1460	60712 .....	1190	1370	1590	2030	2390
60714.....	780	900	1050	1340	1580	60803 .....	720	820	960	1220	1440
60804.....	680	780	910	1160	1370	60805 .....	780	890	1040	1330	1560
60827.....	750	860	1000	1280	1500						

Town of Mamaroneck Public Housing Agency -- ZIP Codes

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
10501 .....	1310	1380	1600	2070	2340	10502 .....	1710	1800	2080	2690	3040
10503.....	1310	1380	1600	2070	2340	10504 .....	1700	1790	2070	2670	3030
10505.....	1310	1380	1600	2070	2340	10506 .....	1330	1400	1620	2090	2370
10507.....	1400	1470	1700	2200	2480	10509 .....	1310	1370	1590	2050	2320
10510.....	1740	1830	2120	2740	3100	10511 .....	1450	1530	1770	2290	2590
10514.....	1520	1600	1850	2390	2700	10517 .....	1640	1730	2000	2580	2920
10518.....	1420	1490	1730	2230	2530	10519 .....	1310	1380	1600	2070	2340
10520.....	1210	1270	1470	1900	2150	10522 .....	1370	1440	1670	2160	2440
10523.....	1750	1840	2130	2750	3110	10526 .....	1310	1380	1600	2070	2340
10527.....	1310	1380	1600	2070	2340	10528 .....	1740	1830	2120	2740	3100
10530.....	1500	1580	1830	2360	2670	10532 .....	1780	1870	2170	2800	3170
10533.....	1360	1430	1650	2130	2410	10535 .....	1570	1650	1910	2470	2790
10536.....	1420	1490	1730	2230	2530	10537 .....	1080	1140	1320	1700	1930
10538.....	1500	1570	1820	2350	2660	10540 .....	1310	1380	1600	2070	2340
10541 .....	1290	1360	1570	2030	2290	10543 .....	1520	1600	1850	2390	2700
10545.....	1310	1380	1600	2070	2340	10546 .....	1310	1380	1600	2070	2340
10547.....	1220	1290	1490	1920	2180	10548 .....	1420	1490	1730	2230	2530
10549.....	1330	1400	1620	2090	2370	10550 .....	1130	1180	1370	1770	2000
10551 .....	1310	1380	1600	2070	2340	10552 .....	1170	1240	1430	1850	2090
10553.....	1170	1240	1430	1850	2090	10560 .....	1850	1940	2250	2910	3290
10562.....	1340	1410	1630	2100	2380	10566 .....	1250	1310	1520	1960	2220
10567.....	1440	1510	1750	2260	2560	10570 .....	1500	1580	1830	2360	2670
10573.....	1420	1490	1730	2230	2530	10576 .....	1850	1940	2250	2910	3290
10577.....	1310	1380	1600	2070	2340	10578 .....	1310	1380	1600	2070	2340
10580.....	1760	1850	2140	2760	3130	10583 .....	1850	1940	2250	2910	3290

SCHEDULE B Addendum - FINAL FY 2016 SMALL AREA FAIR MARKET RENTS FOR DEMONSTRATION PARTICIPANTS AND THE DALLAS, TX HUD METRO FMR AREA

Town of Mamaroneck Public Housing Agency -- ZIP Codes continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
10587	1310	1380	1600	2070	2340	10588	990	1050	1210	1560	1770
10589	1850	1940	2250	2910	3290	10590	1850	1940	2250	2910	3290
10591	1400	1480	1710	2210	2500	10594	1880	1660	1920	2480	2810
10595	1460	1540	1780	2300	2600	10596	1060	1110	1290	1670	1890
10597	1310	1380	1600	2070	2340	10598	1280	1350	1560	2010	2280
10601	1360	1430	1650	2130	2410	10602	1310	1380	1600	2070	2340
10603	1430	1500	1740	2250	2540	10604	1510	1590	1840	2380	2690
10605	1320	1390	1610	2080	2350	10606	1450	1520	1760	2270	2570
10607	1740	1830	2120	2740	3100	10701	1140	1200	1390	1790	2030
10702	1310	1380	1600	2070	2340	10703	1230	1300	1500	1940	2190
10704	1240	1300	1510	1950	2210	10705	1100	1160	1340	1730	1960
10706	1440	1510	1750	2260	2560	10707	1530	1610	1860	2400	2720
10708	1400	1470	1700	2200	2480	10709	1450	1520	1760	2270	2570
10710	1230	1300	1500	1940	2190	10801	1260	1320	1530	1980	2240
10802	1310	1380	1600	2070	2340	10803	1410	1490	1720	2220	2510
10804	1400	1470	1700	2200	2480	10805	1310	1370	1590	2050	2320

SCHEDULE D—FY 2016 EXCEPTION FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area name	Space rent
California .....	Los Angeles-Long Beach, CA HMFA .....	\$714
	Santa Ana-Anaheim-Irvine, CA HMFA .....	867
	* Riverside-San Bernardino-Ontario, CA MSA .....	565
	San Diego-Carlsbad, CA MSA .....	859
	Santa Rosa, CA MSA .....	814
	Vallejo-Fairfield, CA MSA .....	655
Maryland .....	California-Lexington Park, MD MSA .....	536
Oregon .....	Bend-Redmond, OR MSA .....	371
	Salem, OR MSA .....	548
Pennsylvania .....	Gettysburg, PA MSA .....	589
Washington .....	Olympia-Tumwater, WA MSA .....	659
	Seattle-Bellevue, WA HMFA .....	728
West Virginia .....	Logan County .....	485
	McDowell County .....	485
	Mercer County .....	485
	Mingo County .....	485
	Wyoming County .....	485

\* 50th percentile FMR area.

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Part IV

Department of the Interior

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Fish and Wildlife Service

50 CFR Parts 28 and 29

Management of Non-Federal Oil and Gas Rights; Proposed Rule

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Parts 28 and 29**

[Docket No. FWS-HQ-NWRS-2012-0086;  
FXRS1261090000-156-FF09R24000]

RIN 1018-AX36

**Management of Non-Federal Oil and Gas Rights**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are proposing to revise regulations governing the exercise of non-Federal oil and gas rights in order to improve our ability to protect refuge resources, visitors, and the general public's health and safety from potential impacts associated with non-Federal oil and gas operations located within U.S. Fish and Wildlife Service refuge units. Non-Federal oil and gas development refers to oil and gas activities associated with any private, State, or tribally owned mineral interest where the surface estate is administered by the Service as part of the Refuge System. The existing non-Federal oil and gas regulations have remained unchanged for more than 50 years and provide vague guidance to staff and operators. This proposed rule would make the regulations consistent with existing laws, policies and industry practices. It is designed to provide regulatory clarity and guidance to oil and gas operators and refuge staff, provide a simple process for compliance, incorporate technological improvements in exploration and drilling technology, and ensure that non-Federal oil and gas operations are conducted in a manner that avoids or minimizes impacts to refuge resources.

**DATES:** Comments on this proposed rule must be received on or before February 9, 2016. Comments on the information collection aspects of this rule must be received on or before January 11, 2016.

**ADDRESSES:** *Document Availability:* An economic analysis and a draft environmental impact statement (DEIS) have been prepared in conjunction with preparation of this proposed rule, and both documents are available at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html> and also at [www.regulations.gov](http://www.regulations.gov) at Docket No. FWS-HQ-NWRS-2012-0086.

*Comments on the Proposed Rule and DEIS:* You may submit comments on this proposed rule or the DEIS by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the Search box, type FWS-HQ-NWRS-2012-0086, which is the docket number for this proposed rule. Then click on the Search button. When you have located the correct document, you may submit a comment by clicking on "Comment Now!"

- *U.S. mail or hand-delivery:* Submit comments on the proposed rule or DEIS to: Public Comments Processing Attn: FWS-HQ-NWRS-2012-0086; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

Please indicate to which document, the proposed rule or the DEIS, your comments apply. We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us. For additional instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Comments on the Information Collection Aspects of the Proposed Rule:* You may review the Information Collection Request online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB. Send comments (identified by 1018-AX36) specific to the information collection aspects of this proposed rule to both the:

- Desk Officer for the Department of the Interior at OMB-OIRA at (202) 295-5806 (fax) or *OIRA Submission@omb.eop.gov* (email); and
- Service Information Collection Clearance Officer; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803 (mail); or [hope\\_grey@fws.gov](mailto:hope_grey@fws.gov) (email).

**FOR FURTHER INFORMATION CONTACT:** Scott Covington, U.S. Fish and Wildlife Service, Division of Natural Resources and Planning, MS: NWRS, 5275 Leesburg Pike, Falls Church, Virginia 22043; telephone 703-358-2427.

**SUPPLEMENTARY INFORMATION:****Executive Summary**

We are proposing to update the existing regulations at subpart C of part 29 of title 50 of the Code of Federal Regulations (CFR) and propose new

regulations as subpart D of 50 CFR part 29, which would govern the exercise of non-Federal oil and gas rights within refuge units, to improve the effectiveness of the regulations in protecting refuge resources and values, and to improve the clarity of the regulations for both operators and the Service.

Key components of the proposed rule include:

- A permitting process for new operations;
- A permitting process for well-plugging and reclamation for all operations;
- Information requirements for particular types of operations;
- Operating standards so that both the Service and the operator can readily identify what standards apply to particular operations;
- Fees for new access beyond that held as part of the operator's oil and gas right;
- Financial assurance (bonding);
- Penalty provisions;
- Clarification that the process for authorizing access to non-Federal oil and gas properties in Alaska will continue to be controlled by 43 CFR part 36, which implements provisions of the Alaska National Interest Lands Conservation Act; and
- Codification of some existing agency policies and practices.

A detailed discussion of all proposed changes to the regulations is contained in the section-by-section analysis.

**Background**

In 2003, the Government Accountability Office (GAO) issued a report (GAO-03-517) to Congress highlighting the opportunities to improve management and oversight of oil and gas operations on National Wildlife Refuge System (NWRS) lands and waters. An update by GAO in 2007 (GAO-07-829R) reasserted the recommendation that the Service take the necessary steps to apply a consistent and reasonable set of regulatory and management controls over all oil and gas activities occurring on refuges to protect the public's surface interests. Other land management agencies have regulations that address oil and gas development for non-Federal subsurface interests, including the Department of the Interior's National Park Service (NPS) and the U.S. Department of Agriculture's Forest Service. This proposed rule would address concerns highlighted in the GAO reports and bring the Service more in line with other Federal land management agencies.

Based on Service data from 2011, there are over 5,000 oil and gas wells on 107 refuges in a total of 599 refuge units. Of the wells present on refuges, 1,665 actively produce oil and gas. Based on the existence of split estates (where the Service owns the surface estate and another party owns the mineral estate), exploration and production already occurring on adjacent or nearby lands, and future increases in energy prices, non-Federal oil and gas operations within refuges potentially could affect many additional refuges. Because of the impacts of oil and gas operations, a rulemaking is necessary to create a consistent and reasonable set of regulatory management controls for non-Federal oil and gas operations on refuges.

In 1960, the Service promulgated the current regulations at 50 CFR 29.32 to govern the exercise of non-Federal mineral rights on NWRS lands and waters. These regulations have not been updated. These regulations outline a general policy to minimize impacts to refuge resources to the extent practicable from all activities associated with non-Federal mineral exploration and development where access is on, across, or through federally owned or controlled lands or waters of the NWRS. However, they have been ineffective at protecting refuge resources or providing operators explicit requirements for operating on refuge lands. The current regulations lack both a process and specific guidance for operators and refuge employees to plan efficient operations on refuges that minimize impacts to refuge resources. Similarly, existing Service policies related to exploring and developing non-Federal oil and gas rights under refuges, such as 612 FW 3, lack regulatory provisions needed to successfully protect refuge resources and provide sufficient guidance.

#### Authority To Promulgate Regulations

One of the principal recommendations of the 2003 GAO report was for the Service to clarify its regulatory authority over non-Federal oil and gas operations on NWRS lands. This rulemaking provides notice to the public that the authorities given to the Service by Congress include the authority to regulate the exercise of non-Federal oil and gas rights located within refuge units. Because the Service's current regulations from 1960 pre-date the National Wildlife Refuge System Administration Act (NWRSA), as amended by the National Wildlife Refuge System Improvement Act (NWRZIA) (16 U.S.C. 668dd *et seq.*) and do not clearly assert or implement the

full extent of the Service's authority to regulate non-Federal oil and gas rights or provide for consistent management of the exercise of those rights, we are proposing to revise the current regulations.

The authority of Congress to provide for the regulation of non-Federal oil and gas operations on NWRS lands is derived from the Property Clause of the United States Constitution (U.S. Const. art. IV, sec. 3). Specifically, the Service has been provided the statutory authority to manage Federal lands and resources under NWRSA, as amended by the NWRZIA. In 1997, Congress enacted the NWRZIA, amending and building upon the NWRSA in a manner that provided an organic act for the NWRS similar to those which exist for other public lands. Generally, in enacting the NWRZIA, Congress recognized that the Service needed additional guidance and authority to manage the NWRS.

The NWRZIA (16 U.S.C. 668dd(a)(4)) mandates the Secretary of the Interior, in administering the System, to:

- Provide for the conservation of fish, wildlife, and plants, and their habitats within the NWRS;
- Ensure that the biological integrity, diversity, and environmental health of the NWRS are maintained for the benefit of present and future generations of Americans;
- Ensure that the mission of the NWRS described at 16 U.S.C. 668dd(a)(2) and the purposes of each refuge are carried out;
- Ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the NWRS are located;
- Assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the NWRS and the purposes of each refuge;
- Recognize compatible wildlife-dependent recreational uses as the priority general public uses of the NWRS through which the American public can develop an appreciation for fish and wildlife;
- Ensure that opportunities are provided within the NWRS for compatible wildlife-dependent recreational uses; and
- Monitor the status and trends of fish, wildlife, and plants in each refuge.

The NWRZIA also gave the Service new authority to promulgate regulations to carry out the NWRSA.

Several recent Circuit Court decisions have held that this regulatory authority extends to non-Federal property interests within refuges. Although these

cases did not directly address non-Federal mineral rights, nothing in these decisions would limit the Service's regulatory authority with respect to this form of property interest. In *Burlison v. United States* (533 F.3d 419 (6th Cir. 2008)), the appeals court held that the Service may reasonably regulate a reserved easement within a refuge:

. . . . We do conclude, however, that the Fish and Wildlife Service may legitimately exercise the sovereign police power of the federal government in regulating the easement. Section 668dd(d)(1)(B) delegates the power to the Secretary of the Interior (and the Fish and Wildlife Service) "under such regulations as he may prescribe," to "permit the use of . . . any areas within the System for purposes such as . . . roads." The question before us is whether the permissive power respecting roads authorized by the Refuge Act also includes the power to regulate a private easement over a road. We answer this question in the affirmative.

*Burlison* also relied on the *Duncan Energy Co. v. United States Forest Service*, 50 F.3d 584 (8th Cir. 1995), which upheld Federal regulation of non-Federal oil and gas rights on Forest Service lands. In *School Board of Avoyelles Parish v. United States Department of the Interior* (647 F.3d 570 (5th Cir. 2011)), the Fifth Circuit held that FWS had authority to regulate access and use of refuge lands under the NWRA/NWRZIA even for holders of valid easements. The Court's opinion notes that the relevant regulation required a permit for "any person entering a national wildlife refuge," unless otherwise excepted by the regulations, and found that, even though the owner had a non-Federal property interest in the land, they were required to obtain a permit from the Service. The court, citing *Burlison* and other cases, found that the restrictions on the exercise of the non-Federal property right were well within Federal authority under the Property Clause. The Service fully recognizes, as the *Burlison* court explained, that the right to reasonably regulate these private property interests does not mean that the Service may "eviscerate" those property rights. These decisions support the Service's belief that it does have the necessary statutory authority to promulgate these proposed rules in order to achieve its legislative mandates, including the conservation of fish, wildlife, and plants in their habitat, and ensuring the biological integrity of the Refuge System.

The Service is aware of the 1986 memorandum by the Associate Solicitor, Conservation and Wildlife ("1986 Opinion") that interpreted that the Service, at that time, lacked the



authority from Congress to adopt regulations requiring permits for access by holders of mineral interests that were reserved by the holder when the land was sold to the United States for refuge purposes, unless that authority was provided for in the deed. That opinion relied in part on *Caire v. Fulton*, 1986 U.S. Dist. LEXIS 31049 (W.D. La. 1986), an unpublished district court decision, where the United States had explicitly agreed during eminent domain proceedings to delete from the proposed deed a provision authorizing Service regulation of the oil and gas interests not being acquired. Additionally, the 1986 Opinion made a distinction in the Service's authority to regulate between reserved and outstanding rights, which Interior recognized in its response to the 2003 GAO report.

The 1986 Opinion was also premised on a provision of the Migratory Bird Conservation Act (MBCA), 16 U.S.C. 715e, which was amended in 1935 to provide:

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under this subchapter, but no payment shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General or his designee, but the acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, and reservations which from their nature will in the opinion of the Secretary of the Interior in no manner interfere with the use of the areas so encumbered for the purposes of this subchapter, but such rights-of-way, easements, and reservations retained by the grantor or lessor from whom the United States receives title under this subchapter or any other Act for the acquisition by the Secretary of the Interior of areas for wildlife refuges shall be subject to rules and regulations prescribed by the Secretary of the Interior for the occupation, use, operation, protection, and administration of such areas as inviolate sanctuaries for migratory birds or as refuges for wildlife; and it shall be expressed in the deed or lease that the use, occupation, and operation of such rights-of-way, easements, and reservations shall be subordinate to and subject to such rules and regulations as are set out in such deed or lease or, if deemed necessary by the Secretary of the Interior, to such rules and regulations as may be prescribed by him from time to time.

The facts underlying the *Caire* case have long suggested that it is of limited precedential value. To the extent it could be construed to stand for the proposition that the Service may only regulate the property interest reserved in the deed when the deed expressly provided for such regulation, the decision appears to be overtaken by that of the *Avoyelles Parish* Circuit Court.

Moreover, *Burlison* and *Avoyelles Parish* support the exercise of such rulemaking authority without regard to this provision of the MBCA. So, after consultation with the Office of the Solicitor of the Department of the Interior, we now believe that the 1986 Opinion has been superseded by the amendments to the Administration Act and subsequent court decisions interpreting the amended act, and that our current regulations from 1960 do not reflect the full extent of the authorities enacted by Congress after that date which direct the Service to protect refuge resources and uses.

Therefore, the Service believes it does have the authority to issue regulations to reasonably regulate both reserved and outstanding non-Federal oil and gas interests within the NWRS even when the right to regulate is not stated in the relevant deed. In our review of various deeds used by the Service to acquire the lands and interests in lands that make up the NWRS, we find many variations and that it is not possible to review or summarize all such provisions, or ensure that we are familiar with the circumstances surrounding each acquisition of NWRS lands, which did not include the mineral rights. As part of the pre-application meeting with the Service (see proposed § 29.91), and/or the submission of an application (see proposed § 29.94), the applicant should provide the Service with copies of any deeds or other relevant information which the applicant believes would control or otherwise limit the applicability of the regulations under this subpart to the applicant's operations. This process is intended to ensure that the Service both fully considers relevant deed provisions and any other information concerning the particular acquisitions before imposing requirements on the applicant's operations. The Service will respect any applicable deed conditions; however, these new regulatory requirements still apply to the extent that they do not conflict with such deed conditions, which we believe is the situation in most cases.

The Service will consider any comments on its authority to promulgate these regulations and address them in making its determinations for a final rule.

#### **Non-Federal Oil and Gas Rights Within Refuges**

Non-Federal oil and gas rights exist within the NWRS in situations where the oil and gas interest has been severed from the estate acquired by the United States, either because:

- The United States acquired property from a grantor that did not own the oil and gas interest; or
- The United States acquired the property from a grantor that reserved the oil and gas interest from the conveyance.

Non-Federal oil and gas interests can be held by individuals, partnerships, for-profit corporations, nonprofit organizations, or States and their political subdivisions. Interests in non-Federal oil and gas are property rights that may only be taken for public use with payment of just compensation in accordance with the Fifth Amendment of the U.S. Constitution. This proposed rule is not intended to result in the taking of a property interest, but rather to impose reasonable regulations on activities that involve or affect federally owned lands and resources of the NWRS to avoid or minimize impacts from such activities to the maximum extent practicable.

These regulations do not apply to the development of the Federal mineral estate, including Federal oil and gas, which are administered by the Bureau of Land Management (BLM), under the Mineral Leasing Act and the Federal Land Policy and Management Act. In areas where oil and gas rights are owned by the United States, and leasing is authorized, the applicable regulations can be found at 43 CFR part 3100. There is a general prohibition to leasing Federal oil and gas on refuge lands (43 CFR 3101.5–1).

#### **Summary of Potential Impacts From Oil and Gas Operations on Refuge Resources and Uses**

Examples of non-Federal oil and gas operations conducted on refuges include: Geophysical (seismic) exploration; exploratory well drilling; field development well drilling; oil and gas well production operations, including installation and operation of well flowlines and gathering lines; enhanced recovery operations; well plugging and abandonment; and site reclamation.

Oil and gas activities have the potential to adversely impact refuge resources in some or all of the following manners:

- Surface water quality degradation from spills, storm water runoff, erosion, and sedimentation;
- Soil and groundwater contamination from existing drilling mud pits, poorly constructed wells, improperly conducted enhanced recovery techniques, spills, and leaks;
- Air quality degradation from dust, natural gas flaring, hydrogen sulfide gas,

and emissions from production operations and vehicles;

- Increased noise from seismic operations, blasting, construction, oil and gas drilling and production operations;
- Reduction of roadless areas on refuges;
- Noise and human presence effects on wildlife behavior, breeding, and habitat use;
- Disruption of wildlife migration routes;
- Adverse effects on sensitive and endangered species;
- Viewshed (an area of land, water, or other environmental element that is visible to the human eye from a fixed vantage point) intrusion by roads, traffic, drilling equipment, production equipment, pipelines, etc.;
- Night sky intrusion from artificial lighting and gas flares;
- Disturbance to archaeological and cultural resources associated with seismic exploration and road/site preparation, associated with maintenance activities, or by spills;
- Visitor safety hazards from equipment, pressurized vessels and lines, presence of hydrogen sulfide gas, and leaking oil and gas that can create explosion and fire hazards;
- Wildlife mortality from oil spills or entrapment in open-topped tanks or pits, poaching, and vehicle collisions;
- Fish kills from oil and oilfield brine spills; and
- Vegetation mortality from oilfield brine spills.

### Summary of Advance Notice of Proposed Rulemaking Comments

On February 24, 2014, we issued an advance notice of proposed rulemaking (ANPR) (79 FR 10080) to assist us in developing this proposed rule. The ANPR had a 60-day comment period, ending April 25, 2014. On June 9, 2014, we reopened the comment period for another 30 days, ending July 9, 2014 (79 FR 32903). The ANPR requested the public to focus their comments on seven topics identified as major areas of concern:

- (1) Plans of Operations and Special Use Permits;
- (2) Operating Standards;
- (3) Financial Assurances;
- (4) Access Fees;
- (5) Noncompliance;
- (6) Existing Operations; and
- (7) Impacts from the Proposed Rulemaking.

We received comments from unaffiliated private citizens (36), conservation organizations (14), State agencies (8), counties (2), Alaska Native Corporations (2), a tribal agency, oil and

gas owners and operators (6), business associations (5), and a Federal agency, along with almost 80,000 form letter comments from members of two environmental organizations.

The majority of commenters were in favor of strengthening and expanding the regulations to better protect refuge resources and values. Some commenters requested that we not revise the existing regulations, while others questioned the legality of regulating non-Federal oil and gas operations on refuges.

More information on the ANPR and these comments is available at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html> and also at [www.regulations.gov](http://www.regulations.gov) at Docket No. FWS-HQ-NWRS-2012-0086.

### Draft Environmental Impact Statement

We have prepared a draft environmental impact statement (DEIS), which is being published for public comment simultaneously with this proposed rule and is available at [www.regulations.gov](http://www.regulations.gov) and at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>, by clicking on the link titled "Oil and Gas DEIS." The DEIS describes three alternatives: Alternative A—No action; Alternative B—proposed rule (preferred alternative); and Alternative C. Alternative C would include all the proposed changes in Alternative B, would expand the coverage of the regulations to operations on non-Federal surface locations that drill beneath the surface of a refuge to access their non-Federal oil and gas right, and would require all existing operations to obtain operations permits and maintain financial assurance.

### Overview of Proposed Regulations

This proposed rule was developed in coordination with the NPS and as a result is consistent with its recently published proposed rule governing non-Federal oil and gas rights within the NPS (NPS 9B Regulations). An operator working on both NWRS and NPS lands would experience little difference in regulatory resource and use protections, regulatory structure based on performance standards, operations permit processes and requirements, monitoring and compliance, and other terms and conditions. However, there are some variations between the two proposed rules necessitated by differing authorities and missions and the scope of the two agencies' non-Federal oil and gas programs.

The proposed rule would generally require that operators receive permits, either special use permits or rights-of-way (ROW) permits, for new non-Federal oil and gas operations on NWRS

lands; provide a regulatory framework to achieve the necessary protections for refuge resources; and improve regulatory consistency to the benefit of both refuge resources and oil and gas operators. The proposed rule contains performance-based standards that provide flexibility to resource managers and operators to use various and evolving technologies within different environments to achieve the standards. It establishes standards for surface use and site management, specific resource protections, spill prevention and response, waste management, and reclamation. Additionally, the proposed rule contains procedures for permit applications and Service review and approval. Finally, there are provisions for financial assurance (bonding), access fees, mitigation, change of operator, permit modification, and prohibitions and penalties. We incorporated public input received during the ANPR process to shape the proposed rule.

### Proposed Permitting Approach

The proposed permitting process would allow the Service to ensure that refuge resources, as well as public health and safety, are protected to the greatest extent practicable. Under the proposed rule, the Service would require the following:

- *New operations are by permit only.* Operators conducting new operations or modifying their existing operation in a manner that will have additional impacts on refuge resources beyond the scope, intensity, and/or duration of existing impacts must obtain an operations permit (special use or ROW permit) before commencing new or modified operations within a refuge. This requirement addresses exploration, drilling, production, enhanced recovery operations, transportation, plugging, and reclamation operations. We encourage operators to contact the Service early in the process so that the Service can provide suggestions to improve the application. Additionally, an operator will not be authorized to begin operations until the operator has received all other required State and Federal permits.

- *Operations under an existing Service permit may continue under the terms of that permit* as long as they comply with existing Federal, State, and local laws and regulations, and the general terms and conditions outlined in their permit and this rule. Operators would be required to obtain a new permit or amend their existing permit if they propose to conduct new operations or modify their existing operations (*i.e.*, propose activities outside the scope of their existing approval that would have

impacts on refuge resources as determined by the Service). At the time of reclamation, the Service would review existing permits and modify them as necessary to ensure compliance with all Service reclamation standards.

- *Operations not under a Service permit* and being conducted prior to the effective date of the final rule promulgating this subpart, or prior to a boundary change or establishment of a new refuge unit, would be considered “pre-existing operations” and may continue to operate as they have been as long as they comply with existing Federal, State, and local laws and regulations and the general terms and conditions outlined in this proposed rule. However, these operations would be required to obtain a permit if they propose to conduct new operations or modify their operations in a manner that will have additional impacts on refuge resources.

- *All operators must have a permit* for plugging and reclamation and comply with all Service reclamation standards.

- *Wells drilled from outside refuges or on non-Federal inholdings to access non-Federal minerals* would be exempt from these regulations. However, except where 43 CFR 36.10 controls any access on, across, or through federally owned or managed lands in Alaska, operators must comply with the applicable provisions of this subpart, which may require obtaining an operations permit for new access or amending an existing authorization for access.

The Service believes that this proposed permitting process is the best way to manage oil and gas operations and protect refuge resources on NWRS lands. The most effective way for the Service to avoid or minimize impacts is by using time, place, and manner stipulations. The “place” factor in the “time, place, and manner” equation is often most important in terms of ability to protect an environmental resource. The risks created by a poorly selected location cannot easily be overcome with even the best operational methods. Conversely, proper site selection can do much to mitigate the effects of accidents or environmentally unsound practices. The “time” factor restricts the timing of operations to remove or minimize impacts on resources that are only seasonally present. The “manner” factor is the method in which oil and gas activities are conducted, using best management practices. Therefore, requiring a permit that contains such stipulations is the most effective way to avoid or minimize impacts of new operations.

Since new operations create the greatest additional impacts, proper site planning, timing restrictions, and best management practices can accomplish great improvements in resource protection. Existing operations with a special use or ROW permit would be allowed to continue their operations under the terms of that permit, because such stipulations have already been implemented in those permits. A permit requirement on an existing operation not currently under a permit could result in significant administrative and operational costs, similar to those of new operations, on both the Service and the operator. These costs could be disproportional to the environmental benefits gained where the operator’s well has already been drilled and the area of operations (access route, well site, production facilities, and routes for gathering lines) has already been established. Many of the unnecessary impacts occurring from existing operations without permits can best be cost effectively addressed through ensuring adherence to existing Federal and State rules. Additionally, in this proposed rule, the Service would assimilate non-conflicting State oil and gas rules so that our Law Enforcement officers can ensure compliance with those requirements. This approach to permitting allows the Service to focus its limited time and resources on those new operations that create the highest level of incremental impacts. Also, by requiring all operations to have a permit for plugging and reclamation, it ensures rehabilitation of habitat damaged by all operations.

When a well is drilled outside a refuge or on a non-Federal inholding, impacts to refuge resources are avoided or minimized to a great extent. Therefore, the Service’s approach of exempting downhole aspects of these operations that occur within a refuge from the proposed regulations is intended to provide an incentive for operators to use directional drilling from a surface location not administered by the Service in order to reach their oil and gas rights under the refuge-administered surface estate. However, anytime an operator needs to physically cross Service land for access, including access to a non-Federal surface location, such as an inholding, to conduct operations then the operator must comply with the applicable provisions of this subpart (in Alaska, 43 CFR 36.10), including obtaining an operations permit for new access or modification of existing access.

### *Operating Standards*

Refuges have sustained significant damages from leaks and spills, unplugged or inadequately plugged wells, abandoned equipment, and insufficient or no reclamation of refuge lands and resources. Avoidance of spills and similar problems is the best means of ensuring that taxpayers are not left with the costs of restoring refuge resources. By incorporating new operating standards into the regulations, this should ensure that any future damages to refuge land and resources are minimized to the greatest extent possible.

Regulations based on performance-based standards do not grow stale over time and provide flexibility to resource managers and operators to achieve standards across various environments using new and evolving technology. In contrast, prescriptive regulations define specific requirements of time, place, and manner without considering how these measures achieve a desired level of resource protection or how they may apply in different environments. The Service examined other Federal and State oil and gas regulations and determined that the performance-based standards approach provided the most efficient means of successfully avoiding or minimizing the effects of oil and gas operations on refuge resources and visitor uses. A one-size-fits-all (*i.e.*, prescriptive) approach does not work due to the widely differing environments and national extent of refuges with oil and gas. The proposed, performance-based standards model has been successfully used by NPS for more than 35 years.

In developing and analyzing the proposed rule and alternatives, the Service found that the preponderance of impacts and risks of impacts to refuge resources associated with exploration and development of oil and gas emanate from surface activities. This holds true for operations that include the use of hydraulic fracturing. The Service found that well drilling and production operations that include the use of hydraulic fracturing have the same types of surface activities (*e.g.*, road and pad construction, tractor-trailer truck traffic, use of water, use of chemicals, use of large diesel-powered engines, generation of waste) as operations that do not include hydraulic fracturing. Hydraulic fracturing operations can, in some cases, increase the scope, intensity, and duration of activities commonly associated with oil and gas well drilling and completion. In context of this proposed rule, the term “hydraulic fracturing” means those

operations conducted in an individual wellbore designed to increase the flow of hydrocarbons from the rock formation to the wellbore through modifying the permeability of reservoir rock by applying fluids under pressure to fracture it. It does not include the comprehensive list of all oil and gas activities associated with development that happens to include hydraulic fracturing. While the proposed rule's operating standards are not specific to hydraulic fracturing operations, they were developed with the expectation that hydraulic fracturing would occur on refuge lands and give the Service the ability to effectively manage the additional impacts that hydraulic fracturing may have on refuge resources and uses.

The Service notes that the Bureau of Land Management (BLM) has recently promulgated regulations addressing hydraulic fracturing on Federal and Indian lands at 43 CFR part 3160 (80 FR 16128, March 26, 2015). We carefully considered the recently promulgated BLM oil and gas regulations on hydraulic fracturing. The agencies take different approaches to operating standards, because of their differing statutory bases for regulating the exercise of oil and gas rights. Specifically, the BLM has regulatory authority over the development of the Federal mineral estate, including Federal oil and gas resources under Federal and Indian lands. Whereas, the Service regulations address private property rights within refuge units and are based on the directive of the NWRSA for the NWRS "to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans." Therefore, the Service's regulations are largely focused on avoiding or minimizing impacts to federally owned lands and resources of the NWRS to the maximum extent practicable by using the most technologically feasible, least damaging oil and gas development methods to protect refuge resources and uses.

As a result, BLM can and has appropriately set more prescriptive standards in its regulation, while the Service is proposing to set required non-prescriptive operating standards, similar to the NPS 9B regulations, which allow operators flexibility to design operations while still protecting refuge resources, uses, and visitor health and safety. For example, BLM's regulation at 43 CFR 3162.5-2 (Control of wells) sets a performance standard with regard to

protection of usable quality water, and BLM also prescribes regulatory measures necessary to achieve and verify the performance standard (43 CFR 3162.3-3(e)). The Service's approach is to review an operator's submissions to determine if they are avoiding or minimizing impacts to the maximum extent practicable, and if not, to add terms and conditions in the permits to ensure that they do so.

#### *State Regulations*

The Service's goal, reflected in this proposed rule, is to complement State regulatory programs to the benefit of the surface estate and the resources for which we are entrusted, while not compromising the ability of operators to develop their resource. The Service and State oil and gas agencies have fundamentally different missions. The Service's legal mandate is to conserve fish, wildlife, and plant resources and their habitats for the benefit of present and future generations. In contrast, State oil and gas regulations typically focus on the protection of mineral rights and "conservation" of the oil and gas resources (*i.e.*, minimizing waste of oil and gas resources). From a regulatory perspective, the Service must manage oil and gas operations in order to protect its surface resources to meet its mission and congressional mandate.

Most States provide for protection of surface and groundwater via well design requirements and oil pollution control measures. However, State programs vary widely with regard to protection of surface resources and surface use conflicts. In general, State oil and gas regulations do not address protections necessary for wildlife and its habitat. The Service conducted a review of State oil and gas regulations in 2013. Of the 43 States that have oil and gas regulations, all have requirements for plugging wells, but few have adequate requirements for removal of equipment and full reclamation of the site comparable to Service standards. Some State laws or regulations address impacts or damage to surface land owners; some do not. Some afford stronger protection to sensitive areas such as wildlife management areas; others do not. Some States address the use and closure of open pits; others do not. Bond requirements, oil spill cleanup and reporting, and fines differ considerably, as does the frequency of inspections of oil and gas exploration and production sites. Therefore, one of the issues that operators face is differing procedures and requirements from State to State. The proposed regulations are intended to provide a consistent set of

procedures and operational standards for operations on refuges.

The intention of the Service's proposed regulations is to avoid or minimize potential procedural and operational duplication of State programs, while working cooperatively to achieve common objectives between the Service, States, and operators. For example, the proposed regulation includes a downhole operating standard for isolation and protection of subsurface (and surface) resources throughout the life of a well. The standard would inform the public and operators of the Service's responsibility for all its resources, including groundwater. However, the Service generally proposes not to otherwise regulate downhole activities. We welcome comments on whether, and to what extent, compliance with State regulations (as a general matter or with respect to particular States) is expected to provide adequate protection of groundwater and other subsurface resources. Meeting operating standards specific to downhole activities, by compliance with State regulation, industry operating guidelines, or Service-identified requirements, also serves to protect surface resources by reducing the risks associated with well control and well construction and maintenance.

In the context of enforcing State oil and gas regulations, the Service would focus on noncompliance issues that have the potential to adversely affect refuge resources and visitor uses by assimilating non-conflicting State oil and gas law into our prohibited acts and penalties. Assimilation allows us to enforce on refuges State oil and gas requirements as a matter of Federal law. States may not have enough inspectors to ensure companies are meeting State standards. Louisiana, the State with the most non-Federal oil and gas production on refuge lands, recently reported that it lacks an adequate number of inspectors and its inspection rate is too low. Under this proposed rule, the Service would work cooperatively with States to ensure that operators on refuges are meeting both Service and State regulations that pertain to oil and gas operations.

#### **Section-by-Section Analysis**

##### *§ 28.11 Purpose of Regulations*

Proposed § 28.11 would be amended for a technical correction.

##### *§ 29.32 Non-Federal Mineral Rights*

Proposed § 29.32 would be amended to clarify the scope and general policy of subpart D.

Proposed § 29.32(a) clarifies that this section is applicable to all NWRS non-Federal mineral rights owners within the National Wildlife Refuge System, excluding coordination areas, as defined in 50 CFR 25.12, and that it is the expectation of the Service that: All exploration, development, and production operations are conducted in a manner that avoids or minimizes impacts to refuge resources to the maximum extent practicable; operators comply with all applicable Federal and State laws; and all structures and equipment are removed when no longer necessary and the area restored to pre-operation conditions to the extent possible. Proposed § 29.32(b) states that nothing in the section will be applied to contravene or nullify rights vested in holders of mineral interests on refuge lands.

#### §§ 29.40–29.44 Purpose and Scope

The existing regulations are inadequate to protect the resources the refuges were created to maintain. The proposed rule would clarify that the revised regulations will apply to all non-Federal oil and gas operations conducted on NWRS lands, excluding coordination areas, in order to protect federally owned or refuge-administered lands, waters, or wildlife resources; visitor uses or experiences; and visitor and employee health and safety, as Congress prescribed as the mission of the NWRS at 16 U.S.C. 668dd(a)(4).

The purpose of proposed § 29.40(a) is to ensure operators use technologically feasible, least-damaging methods to remove non-Federal oil and gas resources from the subsurface of NWRS lands in order to protect and conserve refuge resources. Examples of technologically feasible, least-damaging methods include, but are not limited to, use of directionally drilling (slant drilling) to avoid surface impacts to important habitat, consolidating infrastructure (drilling multiple wells off a single pad) to reduce fragmentation, use of survey methods that do not require line of sight, or mat drilling in sensitive habitats.

Proposed § 29.40(b) provides that subpart D applies to operators who conduct or propose to conduct non-Federal oil and gas operations on the Service-administered surface estate of lands held in fee or less-than fee (excluding coordination areas) as well as to operations on any waters within the boundaries of the refuge. Because operations on and in the waters within refuge boundaries have the potential to broadly impact resources throughout the refuge, we are proposing that these regulations apply on and within waters

subject to the jurisdiction of the United States located within that unit, including navigable waters and areas within their ordinary reach (up to the mean high-water line in places subject to the ebb and flow of the tide, or up to the ordinary high-water mark in other places that are navigable), irrespective of ownership of submerged lands, tidelands or lowlands, and jurisdictional status. Further, we note that Congress specifically defined the term refuges in the NWRSIA as including “waters, or an interest in land and waters” at 16 U.S.C. 668ee(11).

Operations are defined in proposed § 29.50 as “all existing and proposed functions, work, and activities in connection with the exercise of oil or gas rights not owned by the United States and located or occurring within a refuge. Operations include, but are not limited to: Access by any means to or from an area of operations; construction; geological and geophysical exploration; drilling, well servicing, workover, or recompletion; production; enhanced recovery operations; gathering (including installation and maintenance of flowlines and gathering lines); storage, transport, or processing of petroleum products; earth moving; excavation; hauling; disposal; surveillance, inspection, monitoring, or maintenance of wells, facilities, and equipment; reclamation; road and pad building or improvement; shot hole and well plugging and abandonment, and reclamation; and all other activities incident to any of the foregoing. Operations do not include reconnaissance surveys as defined in this subpart or oil and gas pipelines that are located within a refuge under authority of a deeded or other right-of-way.”

These regulations are not intended to apply to operations on neighboring private lands or non-Federal surface estates within refuge boundaries. As discussed previously, if an operator must physically cross Service lands, the operator must obtain an operations permit and comply with other applicable provisions for that access. Use of aircraft, including, but not limited to, airplanes, helicopters, and unmanned aircraft vehicles that do not land on, or are not launched from, refuge-administered surface estate land or waters, is not subject to these regulations.

Proposed § 29.40(c) of this subpart would acknowledge that the intent of the proposed rule is to reasonably regulate such activities, but not to result in a taking of private property. Although we would place refuge-protecting mitigation measures on proposed

operations, the Service does not intend that implementation of these regulations would result in a denial of access to prospective operators to exercise their non-Federal oil and gas rights. We would work with operators to ensure they have reasonable access to their operations and that refuge resources and values are protected without resulting in a taking in violation of the Fifth Amendment of the U.S. Constitution.

Proposed § 29.41 clarifies this subpart applies to operators if they conduct or propose to conduct a non-Federal oil or gas operation within a refuge.

Proposed § 29.42 clarifies what authorization is necessary to conduct operations on NWRS lands. The regulations at § 29.42(a) would require that all operators must demonstrate “up front” that they hold a valid existing right to conduct operations within a refuge. Until the operator demonstrates a valid existing right to conduct operations, the operator may not operate within a refuge and we will not undertake a formal review of the operator’s permit application.

Proposed § 29.42(b) would require operators with a new oil and gas operation to obtain a temporary access permit to conduct reconnaissance surveys and/or an operations permit to conduct drilling or production within a refuge. This permit requirement would ensure that new operations on NWRS lands use best management practices and are conducted in a time, place, and manner that avoid or minimize potential impacts to refuge resources to the maximum extent practicable.

Proposed § 29.42(c) would clarify that for refuge units in Alaska, access to oil and gas rights within any refuge would continue to be governed by title XI of the Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 410hh–410hh–5, 16 U.S.C. 3101 *et seq.*, 43 U.S.C. 1601 *et seq.*), and the Department’s implementing regulations and standards found at 43 CFR part 36 and 50 CFR part 29 subpart B. This includes authorization to charge access fees, as well as penalties for any violations of permits issued under these regulations. However, where the proposed rule does not conflict with these provisions, regulations, and standards, the proposed rule will apply to operations in Alaska. For example, the operating standards at proposed §§ 29.110–29.118 and the provisions regarding well plugging at proposed §§ 29.180–29.181 would be incorporated into an operator’s ROW permit. Additionally, the prohibited acts and penalties at proposed § 29.190 would apply where they do not conflict.

Proposed § 29.43 would authorize an operator who currently holds an approved permit to continue operations, subject to the applicable provisions of that permit, until they propose to conduct new operations or modify existing operations.

If an operator does not hold an existing special use permit but is conducting an operation prior to the effective date of the final rule, proposed § 29.44 would authorize the operator to continue with this operation in accordance with local, State, and Federal laws and regulations. However, these operations would need to comply with proposed §§ 29.60 through 29.63, which outline additional information requirements, prohibitions, and reclamation requirements, as well as the requirements that, before conducting a new operation or modifying a pre-existing operation, an operator must obtain an operations permit in accordance with §§ 29.90 through 29.97.

#### § 29.50 Definitions

The proposed rule would establish and organize definitions for terms commonly used throughout the regulations.

#### §§ 29.60–29.64 Pre-Existing Operations

Proposed § 29.60 defines pre-existing operations as those being conducted under local, State, and Federal laws and regulations and without an approved permit from the Service as of the effective date of a final rule, or prior to a boundary change or establishment of a new refuge unit. These operations may continue without an operations permit subject to the terms and conditions of this section. Proposed operations that become located within a refuge unit as the result of a boundary adjustment would be subject to the same process.

Proposed § 29.61(a)–(d) describes the information for pre-existing operations that would be required to be submitted to the Service to be in compliance with the rule. For a new oil and gas operation within a refuge, we would require an operator to submit the information necessary for us to approve the least-damaging locations for its access route, drilling site, production facilities, and gathering lines routes. However, for pre-existing operations, the operator's well has already been drilled and the area of operations (access route, well site, production facilities, and routes for gathering lines) has already been established. Therefore, under proposed § 29.61, within 90 days of the effective date of a final rule promulgating this subpart, operators would have to provide the Service with the information described in this section,

including ownership documentation, contact information, a scaled map clearly delineating the existing area of operations, and copies of all relevant plans and permits. This information is needed for future monitoring of the pre-existing operations to ensure compliance with existing standards (local, State, Federal).

The proposed regulations at § 29.62(a) would require the operator to obtain an operations permit if the operator enters a new phase of operations, such as when an operator ends production operations and proceeds to well plugging and final reclamation. Proposed § 29.62(b) would require the operator to obtain an operations permit if the Service determines that the operator is modifying a pre-existing operation. Modifying is defined at proposed § 29.50 as “conducting new activities that are outside the scope of your existing operations in a manner that has additional impacts on refuge resources, visitor uses, refuge administration, or human health and safety beyond the scope, intensity, and/or duration of existing impacts. If an operator is considering altering their operation in a manner that may result in additional impacts to refuge resources, they should consult with the Service to determine whether proposed changes would constitute a modification. Examples of a modification include drilling additional wells from the same pad, creating additional surface disturbance (e.g., expanding the footprint of a well pad, realigning a road), or converting a natural gas well into a wastewater disposal well, as these modifications will have impacts beyond the scope, intensity, and/or duration of existing impacts. This provision is not intended to apply to minor actions, such as repositioning of surface facilities within the current footprint of pre-existing operations, minor changes in color schemes, or minor, non-routine maintenance actions.

Proposed § 29.63 ensures that pre-existing operations will be reclaimed to Service standards at proposed § 29.117(d). Operators must comply with the proposed reclamation requirements, including obtaining an operations permit for all reclamation activities.

Under proposed § 29.64, pre-existing operations would have to comply with the general terms and conditions at proposed §§ 29.120 and 29.121, as well as proposed §§ 29.170(a) (change of operator), 29.180–29.181 (well plugging), 29.190 (prohibited acts and penalties), and 29.200 (appeals). Suspensions would not be necessary if operators are meeting Service standards.

#### §§ 29.70–29.73 Temporary Access Permits

Proposed §§ 29.70–29.73 outline the process to obtain a temporary access permit. The temporary access permit is a special use permit that authorizes an operator to conduct reconnaissance surveys. Proposed § 29.71 identifies the information necessary for the Service to evaluate the operator's proposal to conduct reconnaissance surveys. This includes a brief description of intended operations so we can determine the operator's reconnaissance survey needs. Proposed § 29.72 describes the process for us to review the operator's temporary access permit application for completeness. Under proposed § 29.73, a temporary access permit would be issued for reconnaissance surveys for a period not to exceed 60 calendar days, but may be extended for a reasonable additional period when justified by an operator.

#### § 29.80 Accessing Oil and Gas Rights From a Non-Federal Surface Location (Including Inholdings)

As discussed above, operators are exempt from the regulations if they directionally drill from a non-Federal surface location, including on non-Federal inholdings, and do not require physical access across Service lands to reach a bottom hole located within refuge boundaries. Proposed § 29.80 identifies the information an operator would be encouraged to submit to the Service to ensure that the Service has the necessary information to contact operators in case of an emergency or if unanticipated damages to refuge resources occur. If the operator needs to physically cross Service land for access to non-Federal lands, the operator would be required to comply with applicable provisions of this subpart only for that access, including obtaining an operations permit for any new access or a modification of existing access.

#### §§ 29.90–29.97 Operations Permit: Application

The proposed regulations require early collaboration in the planning process to provide operators guidance on information requirements, alternative areas of operations locations, and potential mitigation and avoidance measures.

The proposed rule at §§ 29.90–29.97 organizes information requirements for each type of operation. Further discussion of the specific information proposed to be collected can be found under the section below, *Paperwork Reduction Act of 1995 (PRA)*.

Proposed § 29.90 would require operators to submit an operations

permit application, unless the operator is exempt from those requirements because they are operating under an existing special use or ROW permit, they are operating a pre-existing operation, they are only conducting a reconnaissance survey, or they are drilling from a private (non-Federal) surface location that is either outside the refuge boundary or is a surface inholding within the boundary, provided that no operations associated with the oil and gas right take place on federally owned or Service-administered surface estate within the refuge.

Proposed § 29.91 urges operators to have a pre-application meeting with the Service to allow for an early exchange of information, including discussion of Service and operator concerns, as well as avoid delays in the application process. At this meeting, operators are encouraged to provide information on oil and gas ownership (including deeds or other relevant information which the applicant believes would control the applicability of the regulations under this subpart to the applicant's operations), operation schedules, contact information for company officials and their contractors, map of the proposed area of operations, description of access and transportation plans, and a description of the survey methodology for refuge resources, such as wildlife or cultural resources.

Proposed § 29.92 clarifies that operators do not need to include previously submitted information in their operations permit application, provided such information is on file with the Service, still current, and accurate. Operators may also submit copies of documents submitted to other agencies to meet the information requirements of their operations permit application.

Proposed § 29.93 clarifies that the operator only needs to submit the information for the operation for which they are seeking approval.

Proposed § 29.94 lists information requirements common to all operations, including information about existing conditions of the area of operations, proposed new surface uses, use of water, management of waste including flowback fluids from hydraulic fracturing operations, mitigation actions, alternatives considered, a spill control and emergency preparedness plan, and proposed reclamation.

Proposed § 29.95 identifies the additional information a geophysical operator would need to submit to the Service.

Proposed § 29.96 identifies the additional information a drilling

operator would need to submit to the Service.

Proposed § 29.97 identifies the additional information a production operator would need to submit to the Service.

#### §§ 29.100–29.104 Operations Permit: Application Review

The proposed regulations at §§ 29.100–29.104 establish a two-stage permit application review process (an initial review and a formal review), provide realistic timeframes to provide notice back to an operator, and consolidate the final decisions the Service can make on an operator's permit application.

Proposed § 29.100 provides general information about how the Service will review an operator's application, which is an initial review to ensure that information is complete followed by formal review. Proposed § 29.101 describes the Service's initial review of an operator's permit application. During initial review, the Service would determine whether the applicant has supplied all information necessary for the Service to evaluate the operation's potential effects to federally owned or administered lands, waters, or resources of Service units; visitor uses or experiences; or visitor or employee health and safety. The Service would respond to an applicant within 30 days and state whether the information contained in the permit application is complete, identify the additional information required for the application to be complete, or notify the applicant that the Service needs more time to complete review. Once a permit application is complete, the Service conducts a formal review. For operators accessing oil and gas rights within Alaska refuges, proposed § 29.101(c) ensures that the regulations under title XI of ANILCA apply.

During the formal review process, under proposed §§ 29.102–29.103, the Service would evaluate the potential impacts of the proposed operations on refuge resources in compliance with applicable Federal laws, such as the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*); the Endangered Species Act of 1973, as amended (ESA, 16 U.S.C. 1531 *et seq.*); the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703–712); and the National Historic Preservation Act of 1966 (NHPA, 16 U.S.C. 470 *et seq.*). Under proposed § 29.102(b), the Service would identify any additional operating conditions that would apply to the operator's approved application.

Operators conducting non-Federal oil and gas operations in refuge units must

also comply with all applicable non-conflicting State and local laws (proposed 50 CFR 29.120). As discussed above, it is the policy of the Service to be consistent with and complementary to State law to the maximum extent possible. Operators would still be required to obtain State-issued permits where applicable.

Additionally, proposed § 29.103(a) requires that, before approving an operations permit, the Service determine that the operator will use technologically feasible, least-damaging methods that provide for protection of the refuge's resources and public health and safety.

Proposed § 29.103(b) includes two prerequisites to approval: (1) Submittal of adequate financial assurance, and (2) proof of adequate liability insurance.

Proposed § 29.104 describes the actions the Service will take on the operations permit application. Proposed § 29.104(a) establishes a general 180-day timeframe to complete its formal review. These decisions require time to adequately analyze an operator's proposal, work with the operator on a design that incorporates acceptable avoidance and mitigation measures, and compliance with the associated Federal statutory responsibilities such as NEPA, ESA, and NHPA. The proposed regulations would allow for a longer period of time, if the parties agree to it, or if the Service determines that it needs more time to comply with applicable laws, executive orders, and regulations. The Service seeks comment on whether 180 days is reasonable and any incremental impacts on operators.

For operations that need to access inholdings in Alaska, proposed § 29.104(b) provides the timelines for ANILCA title XI/Access (43 CFR part 36).

Proposed § 29.104(c) would establish two final actions: (1) Approved, with or without conditions; or (2) Denied, and the justification for the denial. The Service would notify the operator in writing of the final action. If approved, this written notification constitutes the Service's authorization to conduct activities.

#### §§ 29.110–29.119 Operating Standards

Proposed §§ 29.110–29.119 would clarify the purpose and function of operating standards. As discussed above, the Service would set performance-based operating standards to allow operators the flexibility to design their proposed operation using the latest technological innovations with an overall objective of using technologically feasible, least-damaging methods that will best protect refuge

resources, values, and visitor health and safety.

The proposed rule would organize operating standards into the following categories: §§ 29.111 through 29.116 are operating standards that apply to all operations; § 29.117 contains operating standards that apply to reclamation; § 29.118 contains operating standards that apply to geophysical operations; and § 29.119 contains operating standards that apply to drilling and production operations, including enhanced recovery operations. Organizing the standards in this manner would allow the Service and the operator to readily understand which operating standards are applicable to the particular type of proposed operation.

Proposed § 29.111 addresses general facility design and management standards. These include the extent of surface disturbance, spill control, waste management, air emissions, and control of noxious and invasive species.

Proposed § 29.111(a) would ensure that either existing or newly created surface disturbance is kept to the minimum necessary for the safe conduct of operations.

Proposed § 29.111(b) would require installation and maintenance of secondary containment for all equipment and facilities using or containing contaminating substances such as oil, brine, formation water, or well stimulation chemicals. This could include constructing dikes around tank batteries to contain spills, fencing off the area to exclude livestock and large wildlife to prevent them from rubbing against valves or pipes and causing spills, stormproofing buildings used for storing hazardous chemicals, or using containment tubs or trays underneath chemical containers to catch drips or spills.

Proposed § 29.111(c) would require maintaining waste in as small an area as feasible. This could include a focus on practices that minimize the generation of waste, but could also include a waste containment system, waste disposal schedule, and identification of responsible parties if waste is not properly confined.

Proposed § 29.111(d) would require adherence to all State and Federal air quality standards.

Proposed § 29.111(e) would require operators to construct, maintain, and use roads to minimize fugitive dust emissions. Many methods are available to minimize fugitive dust emissions, such as vehicle speed limits (< 25 mph), applying water or other refuge-approved dust control treatment, and constructing roads to a minimum refuge-approved design standard.

Proposed § 29.111(f) would require operators to minimize emissions of air pollutants and releases or flaring of gas. Some States require additional air quality devices be installed (e.g., Colorado's secondary burn units) or installing additional scrubbers in areas not meeting attainment goals.

Proposed § 29.111(g) would require operators to minimize leakage of air pollutants and hydrocarbons to the atmosphere.

Proposed § 29.111(h) would require operators to control the introduction of noxious and invasive species on their area of operations. This could include inspecting all vehicles prior to their arrival on the refuge, removing noxious weeds from equipment and vehicles, using only approved native species in reclamation seed mixes, and immediately implementing interim reclamation in order to minimize the potential for the spread of invasive species in disturbed soils.

Proposed § 29.111(i) would require operators to maintain a safe distance (i.e., 500 feet) from any refuge structure or facility used by refuges for interpretation, public recreation, or administration in order to protect federally owned or administered structures or facilities, visitor uses or experiences, or visitor or employee health and safety. This distance may increase or decrease depending on the situation.

The Service is proposing specific standards at § 29.112 that would address fish and wildlife protection.

Proposed § 29.112(a) would require that operators and contractors abide by all refuge regulations to protect fish, wildlife, and plants. Our regulations in title 50, chapter I, subchapter C of the Code of Federal Regulations provide general and specific refuge regulations, such as hunting and fishing, safety, and recreation, among others.

Proposed § 29.112(b) would require that operators, as well as their employees and contractors, be educated and informed by refuge staff of applicable wildlife protection practices. This would include information such as obeying all posted speed limits, avoiding closed refuge areas, and training staff on what constitutes wildlife violations.

Proposed § 29.112(c) would require operators to provide a safe environment for fish and wildlife free from physical and chemical hazards. This could include maintaining equipment in good condition, immediately reporting and cleaning all spills, and proactive management to prevent spills.

Proposed § 29.112(d) would require that operators comply with all seasonal

and other restrictive wildlife buffers. This could include following timing buffers (e.g., avoid areas between the hours of 6 p.m. through 6 a.m.), seasonal buffers (e.g., avoid areas between November 15 and April 15), or distance buffers (e.g., avoid human presence within  $\frac{1}{4}$  mile of certain nest sites).

The Service is proposing specific standards at § 29.113 that would address hydrologic resources.

Proposed § 29.113(a) would require operators to maintain a safe distance (i.e., 500 feet) from all waters to reduce the risk of contaminating those waters with oil and gas-related fluids. This distance may increase or decrease depending on the situation. Often distance and slope are the only buffers that prevent contaminants from reaching waterways.

Proposed § 29.113(b) would require operators to construct facilities in a manner to maintain hydrologic movement and function. This could include installing structures to divert runoff away from well sites, not siting facilities in floodplains, or installing culverts in access roads to maintain natural drainage patterns.

Proposed § 29.113(c) would require operators to maintain the existing water quality of the site. This could include applying spill prevention, containment, and countermeasures (SPCC) practices to prevent chemical, oil, or brine leaks and spills from contaminating surface water, and implementing erosion control measures to prevent or minimize siltation of surface waters.

Proposed § 29.113(d) would require operators to maintain natural levels of erosion and sedimentation. This could include recontouring and reseeding disturbed areas, implementing larger buffers away from waterways, building roads and pads according to refuge specifications, and installing water bars and right-sized culverts.

The Service is proposing specific standards at § 29.114 that would address safety.

Proposed § 29.114(a) would require operators to maintain their area of operations in a manner that avoids or minimizes the cause or spread of fire. This could include maintaining fire breaks around facilities and equipment, and not driving across grassy areas during hot, dry conditions.

Proposed § 29.114(b) would require operators to maintain all facilities and operations to prevent physical and chemical hazards to refuge resources, visitors, and employees. This could include storing chemicals onsite, locking storage buildings and sheds, and substituting hazardous chemicals with non-hazardous ones.



Proposed § 29.114(c) would require operators to provide site security to prevent hazardous conditions from affecting visitors or employees. This could include fencing around the facility, pump jack, well pad, or well head; locking buildings; or posting guards.

The Service is proposing specific standards at § 29.115 that would address lighting and visual impacts.

Proposed § 29.115(a) would require operators to reduce effects to night skies by minimizing light emissions from their operations. This could include using the minimum lighting necessary for site safety, and directing lights downward to minimize the effect on night skies.

Proposed § 29.115(b) would require operators to minimize the contrast between their facilities and the surrounding environment by blending their operations with the background to minimize their appearance. This could include painting facilities, equipment, and buildings to blend with the background; siting facilities in low areas beyond hills or rises; using topography to help screen facilities; and using road and well pad materials similar in composition and color to minimize their appearance (e.g., using native materials for roads and well pads).

The Service is proposing specific standards at § 29.116 that would address noise reduction. This could include sound abatement techniques, such as hospital-grade mufflers, constructing sound buffers (e.g., hay bales around a drilling rig), and reducing speed limits to reduce the effects of noise on wildlife and visitors.

The Service is proposing specific standards at proposed § 29.117 for reclamation and protection measures required of all operators.

Proposed § 29.117(a) would require the operator to promptly clean up and remove contaminating substances from their area of operations in accordance with all applicable Federal, State, and local laws.

Proposed § 29.117(b) would require partial reclamation of areas no longer necessary for their operations. It would also require an operator to initiate reclamation within 6 months of completion of authorized operations.

Proposed § 29.117(c) would require an operator to protect all survey markers.

Proposed § 29.117(d) provides steps that must be accomplished to re-establish the ecological function of the site.

The Service is proposing specific standards at proposed § 29.118 for operators proposing geophysical operations.

Proposed § 29.118(a) directs operators to use surveying methods that minimize the need for vegetative trimming and removal. This could include avoiding use of line-of-sight surveying methods.

Proposed § 29.118(b) protects pipelines, telephone lines, railroad tracks, roads, power lines, water wells, oil and gas wells, oil- and gas-production facilities, and buildings. This could include using industry-accepted minimum safe-offset distances.

Proposed § 29.118(c) directs operators to match equipment to the environment to minimize impacts. This could include using boat-mounted drilling rigs in marshy habitats, putting helicopter equipment into areas where impacts would be difficult to mitigate with tracked vehicles, or conducting operations when ground is frozen or sensitive species are not present.

Proposed § 29.118(d) describes how operators are to reclaim sites when using shot holes as the energy source. This could include using biodegradable charges, plugging shot holes, and leaving sites clean without impeding surface reclamation or posing a hazard.

Proposed § 29.118(e) clarifies that, for geological and geophysical exploration for oil and gas within the coastal plain of the Arctic National Wildlife Refuge, the regulations at 50 CFR part 37 apply.

The Service is proposing specific standards at proposed § 29.119 for operators proposing drilling and production operations.

Proposed § 29.119(a) establishes drilling standards, including waste management, such as using containerized mud systems, avoiding earthen pits, and using sound well control equipment and practices. Well design and operation must provide for isolation and protection of usable water zones. Drill cuttings must be disposed of at an approved site off-refuge.

Proposed § 29.119(b) establishes standards for production operations including monitoring and maintenance of equipment, proper site security, and removal of unnecessary equipment.

#### *§§ 29.120–29.122 General Terms and Conditions*

The Service proposes a “General Terms and Conditions” section to summarize those terms and conditions that apply to all operations.

Proposed § 29.120(a) outlines the operating standards that all operators must comply with and states that those standards for new operations would be incorporated in the terms and conditions of their operations permit. This section also notifies an operator that violation of these terms and

conditions can lead to fines and/or prosecution.

The proposed § 29.120(b) holds operator’s contractors or subcontractors accountable for compliance with all requirements of this subpart.

Under proposed § 29.120(c), the Service would retain a right to charge fees for processing and administering permit applications if they prove to be a significant workload. The Service may still require reimbursement for costs incurred in processing applications, whether or not the application is withdrawn or a permit is issued.

Proposed § 29.120(d) restricts the use of surface water or groundwater on NWRS lands. If not covered by a State-held water right, any use of water within a refuge must be approved by the Service upon the Service’s determination that it will not impair any refuge resource or use.

Proposed § 29.120(e) would require operators to provide a statement under penalty of perjury, signed by an official authorized to legally bind the company, that the operations will comply with applicable Federal, State, and local laws and regulations and that the information provided to the Service is true and correct.

Proposed § 29.120(f) would require an operator to indemnify and hold harmless the United States and its employees from all liability resulting from activities conducted under an operations permit.

Proposed § 29.120(g) would require an operator to take all reasonable precautions to avoid, minimize, rectify, or reduce overall impacts of the proposed operations. The operator may be required to mitigate for any impacts to refuge resources and lost uses by creating or restoring habitat, or providing other forms of compensation under applicable State laws.

Proposed § 29.120(h) holds operators responsible for unauthorized or unanticipated damages because of their operations, and actions of their employees or contractors, and reclamation of damages caused by operations as a result of weather, fire, earthquakes, or similar uncontrolled actions. For example, an operator would remain responsible for removing a tank from a marsh after a hurricane blows it off site.

Because monitoring and reporting requirements apply, in varying degrees, to all operations, the Service is proposing to include monitoring and reporting requirements under general terms and conditions at proposed § 29.121.

Proposed § 29.121(a) would require an operator to provide the Service access to

its area of operations for monitoring compliance with the rule. This monitoring may include sample collection and analysis of soil, surface water, or ground water. Access to the site is open to the Service regardless of time, season, and date, and could include third-party monitors or refuge staff.

Proposed § 29.121(b) would allow the Service to require that operators hire third-party contractors (third-party monitor) when necessary to ensure compliance and protect refuge resources and values. The use of third-party monitors helps ensure that the Service receives unbiased, reliable, and timely monitoring information demonstrating an operator's compliance with its permit. This proposed section also describes the criteria that the Service would consider when making the decision to require an operator to pay for a third-party monitor. The criteria could include an operator's proposal for self-monitoring. The third-party monitor would report directly to the Service to ensure oversight and accountability and prevent the appearance of a conflict of interest. Use of third-party monitors is a common industry practice.

Proposed § 29.121(c) would require operators to report any injuries to or mortality of fish, wildlife, or endangered or threatened plants resulting from their operations to the Service within 24 hours of any incident. Such occurrences, regardless of the context, should be reported as soon as possible, but no later than 24 hours after the incident. This could include a gas release resulting in wildlife mortality, collisions with company vehicles, or entrapment in a facility or on a well pad. This requirement is in addition to any report required by other applicable Federal or State laws.

Proposed § 29.121(d) would require operators to report any accidents involving serious personal injury or death, and of any fires or spills on the site immediately after the accident occurs. Operators must also provide a full written report to the Service within 90 days of the incident explaining what happened, why it happened, who was involved, the results, and how the company intends to prevent similar incidents in the future. This requirement is in addition to any report required by other applicable Federal or State laws.

Proposed § 29.121(e) would require that the operator submit any information requested by the Service that is necessary to verify compliance with either a provision of the operations permit or this subpart. To ease any burden, the proposed rule would allow

an operator to submit reports that the operator has already submitted to a State or other Federal agency to meet this reporting requirement.

Proposed § 29.121(f) would require that the operator provide public disclosure of chemicals used in hydraulic fracturing operations using the FracFocus Chemical Disclosure Registry or another approved database system.

Proposed § 29.122 provides that an operations permit is valid for the period of the operation. However, a permit may be modified by an operator or the Service, as outlined in proposed § 29.160.

#### §§ 29.140–29.142 Access Fees

Operators may need to cross Federal lands where they have no pre-existing property or other legal right to do so. Under proposed § 29.140, operators would have to obtain permission from the Service for such access across NWRS lands. Proposed § 29.140(b) clarifies that access in Alaska is governed by regulations and standards at 43 CFR part 36. This would include access fees and violations of permits issued under those regulations.

Proposed § 29.141 provides that the Service may charge the operator a fee for such additional access. The NPS, Forest Service, and Bureau of Land Management (BLM), as well as private landowners, already charge similar fees for such access. Such fees are based on the fair market value of the use of Federal property outside the scope of their property right.

Proposed § 29.141(a) would require operators to pay a fee for new access (e.g., roads or gatherings lines) across Federal lands not within the scope of their oil and gas right. The Service would set the fee amount using generally accepted practices. For example, the Service could set fees consistent with current Service regulations regarding fees for access, calculate fees using the BLM's Linear Rights-of-way Fee Schedule, or use an appraisal.

Under proposed § 29.141(b), the Service would retain the right to charge a fee for access on an existing road consistent with a posted fee schedule. This fee would be used to reflect any increased maintenance costs on these roads when compared to the normal use by the general public or refuge staff, such as purchasing fuel for a road grader, gravel for a road, or maintaining refuge equipment used in road maintenance.

Proposed § 29.141(c) would give the Service the ability to allow the operator

to undertake in-kind services to offset fees to the extent permitted by law.

Proposed § 29.142 would clarify that, while the Service will not charge an operator a fee for emergency access to their operation, the operator would remain liable for any damages caused to refuge resources as a result of such emergency access.

#### §§ 29.150–29.154 Financial Assurance

The current regulations at 50 CFR 29.32 do not require financial assurance for well plugging and reclamation. In the event of a company default, the Service must find the funds to plug wells and restore the site (i.e., remove well pad, roads and surface equipment, and restore habitat). Proposed § 29.150 would require an operator to file an acceptable method of financial assurance as a condition of the operations permit in order to ensure that adequate funds will be available to carry out the plugging and reclamation requirements of the operations permit if an operator becomes insolvent or defaults on his/her obligations. One example of an acceptable method of financial assurance is a performance bond. The assurance is intended to ensure that funding is available for restoration of the site, removal of equipment and contaminated soil, and revegetation of the area, in the event an operator defaults on their obligations under the permit. This financial assurance is in addition to any financial assurance required by any other Federal or State regulatory authority.

Proposed § 29.151(a) would make the financial assurance amount equal to the cost of plugging and abandonment and reclamation, as conducted by a third-party contractor. It also provides that, if the plugging and abandonment and reclamation costs exceed the operator's bond amount, they are obligated to pay that difference.

Proposed § 29.151(b) provides a method to reduce the operator's bond amount if the operator provides in-kind reclamation.

Proposed § 29.152 allows the Service to adjust the amount of financial assurance due to changed conditions or circumstances that increase or decrease the estimated costs of reclamation. For instance, if an operator elects to conduct interim reclamation, the bond amount for full reclamation could be reduced based on the amount of the site reclaimed. On the other hand, if the operator modifies their operations in a manner that would make the cost of plugging or reclamation more expensive, the bond amount could be increased.

Proposed § 29.153 describes the conditions under which the Service would release the financial assurance. The Service will release an operator's bond if they have met all applicable reclamation operating standards, as well as any additional conditions outlined in their operations permit.

Proposed § 29.154 describes those circumstances that would result in forfeiture. Failure to comply with any provision of the operations permit could result in forfeiture of the operator's financial assurance to the extent it would cost the Service to remedy the noncompliance. Also, under this provision, if the operator forfeits their financial assurance, the Service may prohibit the operator from removing all structures, equipment, or other material from the operator's area of operations; require the operator to secure the operations site and take any other necessary steps to protect refuge lands or resources, visitor uses, and visitor or employee health and safety; and/or suspend review of any pending permit applications until the Service determines that all violations have been resolved.

#### *§ 29.160 Modification to an Operation*

The objectives of proposed § 29.160 are to provide the Service or operator a method to modify an operations permit to address new or unanticipated changes in operational or environmental conditions. Any modification to an approved permit must meet the same criteria that apply to an operations permit as outlined in the application review process (proposed §§ 29.100 through 29.104). Examples of a modification could include drilling additional wells from the same pad, creating additional surface disturbance (expanding the footprint of a well pad, realigning a road), or converting a natural gas well into a wastewater disposal well so that the resulting modification has notable impacts to the refuge resource.

Minor actions that are not specifically addressed in the operations permit but are within the scope of the impacts analyzed would not be considered modifications for the purpose of this section. Examples of such minor actions would include repositioning of surface facilities within the permitted area of operations, minor changes in color schemes, or non-routine maintenance actions.

#### *§§ 29.170–29.171 Change of Operator*

A change of operator occurs anytime an entity exercising non-Federal oil and gas rights transfers those rights to another party. However, a transfer of

stock or change in the membership of the Board of Directors is not by itself a transfer subject to Service approval to which this provision applies. We encourage the transferring party, as well as new operators, to consult with the refuge manager prior to transfer of operations to facilitate the transition.

Proposed § 29.170 outlines the steps the operator must take if they are the transferring party.

Under proposed § 29.170(a), if an operator's operations are not under a Service-issued permit, the operator must provide the Service within 30 calendar days of the transfer the contact information of the party to whom the operator transferred their operation, the effective date of the transfer, and a description of the rights transferred. The operator must also provide written acknowledgement from the new operator that the contents of the notification are true and correct.

Under proposed § 29.170(b), if operations are being conducted under a Service-issued permit, in addition to the notification requirements above, the operator remains responsible for compliance with their operations permit until the new operator agrees in writing to adopt the permit with all its terms and conditions. In addition, if financial assurance is a component of the permit, the Service will retain the financial assurance until the new operator replaces it.

Proposed § 29.171 describes the responsibilities of the new operator.

Proposed § 29.171(a) states that, when pre-existing operations are transferred to a new operator, the new operator may continue operating under the same conditions as the previous operator, but within 30 calendar days from the date of the transfer, would have to provide to the Service its right-to-operate documentation and company contact information.

Proposed § 29.171(b) states that, if operations being conducted under a Service-issued permit are transferred to a new operator, the new operator would need to agree in writing to conduct operations in accordance with all terms and conditions of the previous operator's permit and file any financial assurance required under the permit with the Service.

Under proposed § 29.171(c), new operators have the ability to propose modifications to operations transferred to them as outlined in § 29.160.

#### *§§ 29.180–29.181 Well Plugging*

The proposed procedures are consistent with the way many States approach the issue of inactive wells, and recognize that certain economic or

logistical reasons exist to justify maintenance of wells in shut-in status for extended periods of time. Rather than a "produce or plug" policy, the proposed regulations provide assurance that shut-in wells are maintained in an environmentally sound and safe manner.

Proposed § 29.180 would require operators to plug a well within 60 days after cessation of drilling operations (when no further action has been taken); or within a year of continuous inactivity after completion of production operations; or after expiration of the period approved in the operations permit to maintain the well in shut-in status.

Under proposed § 29.181, operators would be able to seek an extension to the plugging requirement by applying for an operations permit or modification to existing operations permit to maintain a well in shut-in status for up to 5 years. The operator must: Describe why drilling or production operations have ceased; provide a reasonable future use of the well; demonstrate mechanical integrity of the well; and follow maintenance requirements.

#### *§§ 29.190–29.192 Prohibited Acts and Penalties*

Proposed § 29.190 provides notices to operators of the prohibited acts that would constitute a violation of these regulations. This list is in addition to general prohibited acts for members of the public while on NWRS lands outlined at 50 CFR part 27. Prohibited acts listed in proposed § 29.190 include operating in violation of terms or conditions of an operations permit under § 29.43; damaging Federal property; conducting operations without Service authorization; failure to comply with suspension or revocation orders; and failure to comply with local, State, and Federal statutes or regulations.

Proposed §§ 29.191–29.192 would give the Service the discretion to take various enforcement actions if the operator engages in a prohibited act, including fines, imprisonment, and/or suspension or revocation of the right to operate an operation. In order to protect refuge resources, the Service may refrain from processing an applicant's permit if the applicant has not taken action elsewhere to remedy severe and substantial violations within the NWRS. These new provisions do not affect other regulatory provisions that authorize termination of a permit for noncompliance under 50 CFR 25.43, or the general penalty provisions under 50 CFR 28.31.

### § 29.200 Appeals

This section would provide that the operator has the right to appeal a decision through the process outlined in current regulations at 50 CFR 25.45. For ROWs, appeals would still be governed by 50 CFR 29.22; in Alaska, appeals would still be governed by 43 CFR 36.8. Under the provisions of 50 CFR 25.45, the operator has 20 days after notification of any adverse decision to respond. The operator shall be notified within 20 days after receipt of their response of the final decision. If the Service intends to proceed with the proposed action, the operator shall have 30 days from the final decision to file an appeal to the project leader (e.g., refuge complex manager or refuge regional supervisor). The operator shall be notified in writing within 30 days from the date of the appeal of that decision. The operator has 30 days from receipt of the decision to further appeal in writing to the Regional Director. The Regional Director's decision shall be final and issued in writing to the operator within 30 days from the date of the appeal. The operator shall be provided an opportunity for oral presentation within the respective 30-day appeal periods. The operator must also use this administrative appeals process before challenging the Service's decision in court. The time to file appeals and to complete the process of appeals may be extended at the discretion of the Regional Director.

### § 29.210 Public Information

This section would offer information on how the public can learn about oil and gas activities on refuge lands. The proposed rule provides the ability for an operator to protect proprietary or confidential information from disclosure to the public. Operators need to clearly mark those documents that they wish to protect from public disclosure as "proprietary or confidential information" such that these documents are readily identifiable by the Service decision maker. The Service has also included proposed provisions that allow an operator engaged in hydraulic fracturing operations or other operations involving the use of chemicals to withhold chemical formulations that are deemed to be a trade secret.

### § 29.220 Information Collection

This section would provide information on Office of Management and Budget (OMB) approval of the collection of information set forth in these regulations.

### Compliance With Other Laws, Executive Orders, and Department Policies

#### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is significant, because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. As noted above, we have carefully considered both the NPS's proposed amendments to the 9B regulations and the recent BLM regulations related to hydraulic fracturing, to ensure consistency to the greatest extent possible. The Service is aware of the current litigation concerning BLM's final hydraulic fracturing rule, *State of Wyoming v. U.S. Department of the Interior*, Case No: 2:15-CV-043-SWS (D. Wyo.) (consolidated with No. 2:15-CV-041-SWS), and *Southern Ute Indian Tribe v. U.S. Department of the Interior*, Case No: 15-CV-01303-MSK (D. Colo.), and will consider public comment as well as any rulings that may occur in the litigation in reaching final decisions on its final rule.

#### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory

flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

We certify that, if promulgated as proposed, this rule would not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analysis found in the report entitled Non-Federal Oil and Gas Rulemaking Economic Analysis, which can be viewed at [www.regulations.gov](http://www.regulations.gov) or at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>, by clicking on the link entitled Non-Federal Oil and Gas Rulemaking Economic Analysis.

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This proposed rule is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Would not have an annual effect on the economy of \$100 million or more;

(b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

These conclusions are based on the cost-benefit and regulatory flexibility analysis found in the report entitled Non-Federal Oil and Gas Rulemaking Economic Analysis, which can be viewed at [www.regulations.gov](http://www.regulations.gov) and also at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>, by clicking on the link entitled Non-Federal Oil and Gas Rulemaking Economic Analysis.

#### *Unfunded Mandates Reform Act (UMRA)*

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. It addresses use of refuge lands, and

would impose no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### *Takings (Executive Order 12630)*

This proposed rule is not intended to result in the taking of private property or otherwise have takings implications under Executive Order 12630. The provisions of this proposed rule would afford access to operators exercising non-Federal mineral rights under reasonable regulation. No other private property is affected. A takings implication assessment is not required.

#### *Federalism (Executive Order 13132)*

Under the criteria in section 1 of Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement. It addresses use of refuge lands, and would impose no requirements on other agencies or governments. A federalism summary impact statement is not required.

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

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### *Consultation With Indian Tribes (Executive Order 13175 and Department Policy)*

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this proposed rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes, but we opened consultation under the Department's tribal consultation policy with all interested tribes.

#### *Paperwork Reduction Act of 1995 (PRA)*

This proposed rule contains a collection of information that we have submitted to OMB for approval under

the PRA (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

We are proposing to collect the following information associated with non-Federal oil and gas operations on National Wildlife Refuge System lands. Operators do not need to resubmit information that is already on file with the Service, provided the information is still current and accurate. Documents and materials submitted to other Federal and State agencies may be submitted, if they meet the specific requirements of the Service.

*Pre-existing Operations (§ 29.61).* Within 90 days after the effective date of these regulations, or after a boundary change or establishment of a new refuge unit, pre-existing operators without a Service-issued permit must submit:

- Documentation of the right to operate within the refuge.
- Contact information (names, phone numbers, and addresses) of the primary company representative; the representative responsible for field supervision; and the representative responsible for emergency response.
- Scaled map clearly delineating the existing area of operations.
- Copies of all plans and permits required by local, State, and Federal agencies.

*Temporary Access Permit Application (§ 29.71).* We propose to use Parts 1 and 2 of FWS Form 3–2469 (Oil and Gas Operations Special Use Permit Application) as the application for a Temporary Access Permit. The operator must provide the information requested in Parts 1 and 2 of the form, including, but not limited to:

- Contact information (name, legal address, and telephone number) for the person(s) responsible for the overall management of the proposed operations.
- Documentation demonstrating the right to operate within the refuge.
- Name, legal address, telephone number, and qualifications of all specialists responsible for conducting the reconnaissance surveys. (Only required if the assistants/subcontractors/subpermittees will be operating on the refuge without the permittee being present.)
- Brief description of the intended operation so that we can determine reconnaissance survey needs.
- Description of the survey methods that will be used to identify the natural and cultural resources.
- Location map (to-scale and determined by us to be acceptable) delineating the proposed reconnaissance survey area in relation

to the refuge boundary and the proposed area of operations.

- Description of proposed means of access and routes for conducting the reconnaissance surveys.

*Accessing Oil And Gas Rights From a Non-Federal Surface Location (§ 29.80).* We encourage operators to provide us, at least 60 calendar days prior to beginning operations, the names, telephone numbers, and addresses of the primary company representative, the representative responsible for field supervision, and the representative responsible for emergency response.

*Pre-Application Meeting for Operations Permit (§ 29.91).* Before submitting an application for an Operations Permit, operators should participate in a pre-application meeting with the Service and provide:

- Documentation demonstrating the right to operate within the refuge.
- An overview of the proposed operation and timing.

*Operations Permit Application (§§ 29.94, 29.95, 29.96, and 29.97).* We propose to use FWS Form 3–2469 (Oil and Gas Operations Special Use Permit Application) as the application for an Operations Permit. All applicants must provide the information requested in Parts 1, 3, 4, 8, 9, and 10, FWS Form 3–2469, including, but not limited to:

#### *Part 1 (§ 29.94(a)–(b))*

- Contact information (name, legal address, and telephone number) for the person(s) responsible for the overall management of the proposed operations.
- Documentation demonstrating the right to operate within the refuge.

#### *Part 3 (§ 29.94(c)–(f))*

- Description of the natural features of the proposed area of operations, such as: Streams, lakes, ponds, wetlands (including estimated depths to the top and bottom of zones of usable water); topographic relief; and areas that the Service has indicated are sensitive.
- Locations of existing roads, trails, railroad tracks, pipeline rights-of-way, pads, and other disturbed areas.
- Locations of existing structures that the operations could affect, including buildings; pipelines; oil and gas wells including both producing and plugged and abandoned wells; injection wells; freshwater wells; underground and overhead electrical lines; and other utility lines.
- Descriptions of the natural resource and cultural resource survey reports for the proposed area of operations.

#### *Part 4 (§ 29.94(g)–(n))*

- Location maps (to-scale and determined by us to be acceptable) that clearly identify:

(1) Proposed area of operations, existing conditions, and proposed new surface uses, including the boundaries of each of the oil and gas tracts in relation to the proposed operations and the relevant refuge boundary.

(2) Proposed access routes of new surface disturbances as determined by a location survey.

(3) Location of all support facilities, including those for transportation (e.g., vehicle parking areas, helicopter pads, etc.), sanitation, occupation, staging areas, fuel storage areas, refueling areas, loading docks, water supplies, and disposal facilities).

- Method and diagrams (including cross sections) of any proposed pad construction, road construction, cut-and-fill areas, and surface maintenance, including erosion control.

- Number and types of equipment and vehicles, including an estimate of vehicular round trips associated with the operation.

- Estimated timetable for the proposed operations, including any operational timing constraints.

- Type and extent of security measures proposed at the area of operation.

- Power sources and their transmission systems for the proposed operations.

- Types and quantities of all solid and liquid waste generated and the proposed methods of storage, handling, and disposal.

- Source, quantity, access route, and transportation/conveyance method for all water to be used in operations, including hydraulic fracturing, and estimates of any anticipated waste water volumes generated, including flowback fluids from hydraulic fracturing operations, and the proposed methods of storage, handling, and recycling or disposal.

#### *Part 8 (§ 29.94(o))*

- Description of proposed steps to mitigate anticipated adverse environmental impacts on refuge resources and uses, including, but not limited to: refuge's land features, land uses, fish and wildlife, vegetation, soils, surface and subsurface water resources, air quality, noise, lightscapes, viewsheds, cultural resources, and economic environment.

- Description of any anticipated impacts that cannot be mitigated.

- Description of all alternatives considered that meet the criteria of technologically feasible, least-damaging methods of operations, as well as the costs and environmental effects of such alternatives.

#### *Part 9 (§ 29.94(p))*

- Contact information (name, address, and telephone number) for persons that we can contact in the event of a spill, fire, or accident, including the order in which the persons should be contacted.

- Notification procedures and steps taken to minimize damage in the event of spill, fire, or accident.

- Identification of contaminating or toxic substances used within the area of operations or expected to be encountered during operations.

- Trajectory analysis for potential spills that are not contained on location.

- Identification of abnormal pressure, temperature, toxic gases or substances, or other hazardous conditions at the area of operations or expected to be encountered during operations.

- Measures (e.g., procedures, facility design, equipment, etc.) to minimize risks to human health and safety, and the environment.

- Steps to prevent accumulations of oil or other materials deemed to be fire hazards from occurring in the vicinity of well locations and lease tanks.

- Equipment and methods for containment and cleanup of contaminating substances, including a description of the equipment available at the area of operations and equipment available from local contractors.

- Storm water drainage plan and actions intended to mitigate storm water runoff.

- Material safety data sheets (where required by law) for each material that will be used or encountered during operations, including expected quantities maintained at the area of operations.

- Description of the emergency actions that will be taken in the event of injury or death to fish and wildlife or vegetation.

- Description of the emergency actions that will be taken in the event of accidents causing human injury.

- Contingency plans for conditions and emergencies other than spills, such as if the area of operations is located in areas prone to hurricanes, flooding, tornados, fires, or earthquakes.

#### *Part 10 (§ 29.94(q)–(r))*

- Description of the specific equipment, materials, methods, and schedule that will be used to meet the operating standards for reclamation at § 29.117.

- Itemized list of the estimated costs that a third party would charge to complete reclamation.

*Geophysical Exploration (§ 29.95).* Applicants proposing geophysical exploration must also provide the

information requested in Part 5 of FWS Form 3–2469, including, but not limited to:

- Map showing the positions of each survey line including all source and receiver locations as determined by a locational survey, and shot point offset distances from wells, buildings, other infrastructure, cultural resources, and environmentally sensitive areas.

- Number of crews and numbers of workers in each crew.

- Description of the acquisition methods (including the procedures and specific equipment that will be used), and energy sources (e.g., explosives, vibroseis trucks, etc.).

- Description of methods of access along each survey line for personnel, materials, and equipment.

- List of all explosives, blasting equipment, chemicals, and fuels that will be used in the proposed operations, including a description of proposed disposal methods, transportation methods, safety measures, and storage facilities.

*Proposed Drilling Operations (§ 29.96).* Applicants proposing drilling operations must also provide the information requested in Part 6 of FWS Form 3–2469, including, but not limited to:

- Description of well pad construction, including dimensions and cross sections of: Cut-and-fill areas and excavations for ditches, sumps, and spill control equipment or structures, including lined areas.

- Description of the drill rig and equipment layout, including rig components, fuel tanks, testing equipment, support facilities, storage areas, and all other well-site equipment and facilities.

- Description of type and characteristics of the proposed drilling mud systems.

- Description of the equipment, materials, and methods of surface operations associated with drilling, well casing and cementing, well control, well evaluation and testing, well completion, hydraulic fracturing or other well stimulation, and well plugging.

#### *Production Operations (§ 29.97).*

Applicants proposing production operations must also provide the information requested in Part 7 of FWS Form 3–2469, including, but not limited to:

- Dimensions and a to-scale layout of: The well pad, clearly identifying well locations and noting partial reclamation areas; gathering, separation, metering, and storage equipment; electrical lines; fences; spill control equipment or structures including lined areas, artificial lift equipment, tank batteries,

treating and separating vessels, secondary or enhanced recovery facilities, water disposal facilities, gas compression and/or injection facilities; metering points; sales point (if on lease); tanker pickup points; gas compressor, including size and type (if applicable); and any other well site equipment.

- General description of anticipated stimulations, servicing, and workovers.
- Description of the procedures and equipment used to maintain well control.

- Description of method and means used to transport produced oil and gas, including vehicular transport; flowline and gathering line construction and operation, pipe size, and operating pressure; cathodic protection methods; surface equipment use; surface equipment location; maintenance procedures; maintenance schedules; pressure detection methods; and shutdown procedures.

- Road and well pad maintenance plan, including equipment and materials to maintain the road surface and control erosion.

- Vegetation management plan on well sites, roads, pipeline corridors, and other disturbed surface areas, including control of noxious and invasive species.

- Stormwater management plan on the well site.

- Produced water storage and disposal plan.

- Description of the equipment, materials, and procedures proposed for well plugging.

*Financial Assurance (§§ 29.103(b) and 29.150).* Before operations begin, operators must submit:

- Financial assurance in the amount specified by the Service and in accordance with the requirements of §§ 29.150 through 29.154.

- Proof of liability insurance with limits sufficient to cover injuries to persons or property caused by the operations.

*Identification of Wells and Related Facilities (§ 29.119(b)(3)).* Operators must identify wells and related facilities with a sign that must remain in place until the well is plugged and abandoned and related facilities are closed. Each sign must show the name of the well, name of the operator, and the emergency contact phone number.

Reporting (§ 29.121(b)–(f))

- Third-party monitors will report directly to the Service regarding compliance with the operations permit and efforts to protect federally owned or administered lands, waters, or the resources of refuges, visitor uses and experiences, and visitor or employee health and safety.

- Operators must notify the Service within 24 hours of any injuries to or mortality of fish, wildlife, or endangered or threatened plants.

- Operators must notify the Service of any accidents involving serious personal injury or death and of any fires or spills on the site immediately after the accident occurs. A full written report on the accident must be submitted to the Service within 90 days after the accident occurs.

- Operators must submit reports or other information necessary to verify compliance with the permit or with any provision of subpart D of the regulations.

- If operations include hydraulic fracturing, the operator must provide the Service with a report including the true vertical depth of the well, total water volume used, and a description of the base fluid and each additive in the hydraulic fracturing fluid, including the trade name, supplier, purpose, ingredients, Chemical Abstract Service Number (CAS), maximum ingredient concentration in additive (percent by mass), and maximum ingredient concentration in hydraulic fracturing fluid (percent by mass). The report must be submitted through FracFocus or another Service-designated database.

*Permit Modifications (§ 29.160(a)).* To request a modification to operations under an approved permit, permittees must provide, in writing, to the Service, the operator's assigned permit number, a description of the proposed modification, and an explanation of why the modification is needed.

#### **Change of Operator (§§ 29.170, 29.171)**

##### *Transfer of Right To Operate (§ 29.170)*

Operators conducting operations under §§ 29.43 or 29.44 must notify the Service in writing within 30 calendar days from the date the new operator acquires the rights to conduct operations. Written notification must include:

- Names and addresses of the person or entity conveying the right and of the person or entity acquiring the right.
- Effective date of transfer.
- Description of the rights, assets, and liabilities being transferred and which ones, if any, are being reserved by the previous operator.

New operators must provide:

- Written acknowledgement that the contents of the notification are true and correct.
- Financial assurance.

##### *Change of Operator (§ 29.171)*

§ 29.171(a). When operations conducted under § 29.44 are transferred,

the transferee must provide to the Service within 30 calendar days from the date of the transfer:

- Documentation demonstrating that the operator holds the right to operate within the refuge.

- Names, phone numbers, and addresses of the primary company representative, the representative responsible for field supervision, and the representative responsible for emergency response.

§ 29.171(b). If operations conducted under § 29.43 or an operations permit are transferred, the transferee must provide the following within 30 days of commencing operations:

- Information required under § 29.171(a).

- Written agreement to conduct operations in accordance with all terms and conditions of the previous operator's permit.

- Financial assurance that is acceptable to the Service and made payable to the Service.

##### *Extension to Well Plugging*

*Requirement (§ 29.181(a)).* To maintain a well in a shut-in status for up to 5 years, operators may apply for either an operations permit or a modification to operations under an approved permit. The application or modification must include the information requested in FWS Form 3–2469, including, but not limited to:

- Explanation of why the well is shut-in or temporarily abandoned and future plans for utilization.

- Demonstration of the mechanical integrity of the well.

- Description of the manner in which the operator's well, equipment, and area of operations will be maintained in accordance with the standards in subpart D of the regulations.

#### **Public Information**

§ 29.210(d). An operator, or the operator and the owner of the information required under this subpart may support a claim to be exempt from public disclosure of information otherwise required. If required information is withheld, the regulation requires submission of an affidavit that:

- Identifies the owner of the withheld information and provides the name, address, and contact information for an authorized representative of the owner of the information;

- Identifies the Federal statute or regulation that would prohibit the Service from publicly disclosing the information if it were in the Service's possession;

- Affirms that the operator has been provided the withheld information from the owner of the information and is

maintaining records of the withheld information, or that the operator has access and will maintain access to the information held by the owner of the information;

- Affirms that the information is not publicly available;
- Affirms that the information is not required to be publicly disclosed under any applicable local, State, or Federal law;
- Affirms that the owner of the information is in actual competition and identifies competitors or others that could use the withheld information to cause the owner substantial competitive harm;
- Affirms that the release of the information would likely cause substantial competitive harm to the owner and provides the factual basis for that affirmation; and
- Affirms that the information is not readily apparent through reverse engineering with publicly available information.

§ 29.210(e). If the operator relies upon information from third parties, such as the owner of the withheld information, to make the previous affirmations, the operator must provide a written affidavit from the third party that sets forth the relied-upon information.

§ 29.210(f). The Service may require any operator to submit to the Service any withheld information, and any information relevant to a claim that withheld information is exempt from public disclosure.

§ 29.210(h). The operator is required to maintain records of any withheld information until the later of the Service's release of the operator's financial assurance or 7 years after completion of operations on refuge lands. Any subsequent operator will be responsible for maintaining access to records of any withheld information during its operation of the well. The operator will be deemed to be maintaining the records if it can promptly provide the complete and accurate information to the Service,

even if the information is in the custody of its owner.

§ 29.210(i). If any of the chemical identity information required in this subpart is withheld, the operator must provide the generic chemical name in the submission required. The generic chemical name must be only as nonspecific as is necessary to protect the confidential chemical identity, and should be the same as or no less descriptive than the generic chemical name provided to the Environmental Protection Agency.

OMB Control No: 1018-XXXX.

Title: Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands, 50 CFR 29, subpart D.

Service Form Number(s): 3-2469.

Description of Respondents:

Businesses that conduct oil and gas exploration on national wildlife refuges.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Annual Nonhour Cost Burden: None.

Activity/requirement	Estimated number of annual responses	Completion time per response (hours)	Estimated total annual burden hours
Preexisting Operations—provide documentation (§ 29.61)	40	50	2,000
Temporary Access Permit Application (§ 29.71)	35	17	595
Accessing Oil and Gas Rights from Non-Federal Location—provide contact information (§ 29.80)	5	1	5
Pre-application Meeting for Operations Permit—provide documentation (§ 29.91)	45	2	90
Operations Permit Application (§§ 29.94–29.97)	45	140	6,300
Financial Assurance (§ 29.103, 29.150)	45	1	45
Identification of Wells—signage requirements (§ 29.119(b))	45	2	90
Reporting (§ 29.121(b)).			
Third-Party Monitor Report	300	17	5,100
Notification—Injuries/Mortality to Fish and Wildlife and Threatened/Endangered Plants	20	1	20
Notification—Accidents Involving Serious Injuries/Death and Fires/Spills	20	1	20
Written Report—Accidents Involving Serious Injuries/Deaths and Fires/Spills	20	16	320
Report—Verify Compliance with Permits	240	4	960
Notification—Chemical Disclosure of Hydraulic Fracturing Fluids uploaded to FracFocus (§ 29.121(f))	5	1	5
Permit Modifications (§ 29.160(a))	10	16	160
Change of Operator (§§ 29.170, 29.171)	40	8	320
Extension to Well Plugging (§ 29.181(a)).			
Application for Permit	10	140	1,400
Modification	5	16	80
Public Information (§ 29.210)			
Affidavit in Support of Claim of Confidentiality (§§ 29.210(c) and (d))	1	1	1
Confidential Information (§ 29.210(e) and (f))	1	1	1
Maintenance of Confidential Information (§ 29.210(h))	1	1	1
Generic Chemical Name Disclosure (§ 29.210(i))	1	1	1
Total	934		17,514

As part of our continuing efforts to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden associated with this proposed information collection. We specifically invite comments concerning:

- Whether or not the collection of information is necessary for the proper performance of our management functions involving management of non-Federal oil and gas rights, including whether or not the information will have practical utility;

- The accuracy of our estimate of the burden for the 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.



If you wish to comment on the information collection requirements of this proposed rule, send your comments directly to OMB (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in the **ADDRESSES** section). Please identify your comments with 1018–AX36. Please provide a copy of your comments to the Service Information Collection Clearance Officer (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in the **ADDRESSES** section).

#### *National Environmental Policy Act (NEPA)*

This rule constitutes a major Federal action with the potential to significantly affect the quality of the human environment. We have prepared the draft environmental impact statement (DEIS) under the requirements of the NEPA of 1969 (42 U.S.C. 4321 *et seq.*). The DEIS is available online at [www.regulations.gov](http://www.regulations.gov) and also at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>, by clicking on the link entitled “Non-Federal Oil and Gas DEIS.”

In addition, EPA is publishing a notice announcing the draft EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) The publication date of EPA’s notice of availability is the official start of the public comment period for the draft EIS. Under the Clean Air Act, EPA also must subsequently announce the final EIS via the **Federal Register**. The EPA is charged under section 309 of the Clean Air Act to review all Federal agencies’ environmental impact statements (EISs) and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The Environmental Impact Statement (EIS) Database provides information about EISs prepared by Federal agencies, as well as EPA’s comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the 60-day public comment period for draft EISs, and the start of the 30-day “wait period” for final EISs, during which agencies are generally required to wait 30 days before making a decision on a proposed action. For more information, see <http://www.epa.gov/compliance/nepa/eisdata.html>. You may search for EPA comments on EISs,

along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-eneпа-public/action/eis/search>.

#### *Effects on the Energy Supply (Executive Order 13211)*

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

#### *Clarity of This Rule*

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

#### **Drafting Information**

This proposed rule reflects the collective efforts of Service staff in the NWRS, Division of Natural Resource and Conservation Planning, Branch of Wildlife Resources, refuges, and field offices, with assistance from the Department of the Interior, Office of the Solicitor.

#### **Public Participation**

It is the policy of the Department of the Interior, whenever feasible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section. All comments must be received by 11:59 p.m. Eastern Time on the last day of the comment period (see **DATES**).

We are particularly interested in comments concerning:

1. Substantive differences between the Service’s proposed regulations of oil and gas activity and those of other Federal agencies, including differences in the associated costs and benefits.

2. The costs and benefits of applying this rule to inholdings and operators accessing oil and gas rights from a surface location outside the refuge boundary.

3. Whether the performance and operating standards are clear and certain in their purpose, including §§ 29.40(c), 29.103(a), 29.110(b), and 29.119.

#### **Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### **List of Subjects**

##### *50 CFR Part 28*

Law enforcement, Penalties, Wildlife refuges.

##### *50 CFR Part 29*

Oil and gas exploration, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Wildlife refuges.

#### **Proposed Regulation Promulgation**

In consideration of the foregoing, the Service proposes to amend 50 CFR parts 28 and 29 as follows:

#### **PART 28—ENFORCEMENT, PENALTY, AND PROCEDURAL REQUIREMENTS FOR VIOLATIONS OF SUBCHAPTER C**

- 1. The authority citation for part 28 continues to read as follows:

**Authority:** Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); sec. 5, 43 Stat. 651 (16 U.S.C. 725); sec. 5, 45 Stat. 449 (16 U.S.C. 690d); sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); sec. 4, 76 Stat. 654 (16 U.S.C. 460k); sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) (5 U.S.C. 301).

- 2. Revise the heading of part 28 to read as set forth above.
- 3. Revise § 28.11 to read as follows:

##### **§ 28.11 Purpose of regulations.**

The regulations in this part govern enforcement, penalty, and procedural requirements for violations of subchapter C.

#### **PART 29—LAND USE MANAGEMENT**

- 4. The authority citation for part 29 is revised to read as follows:

**Authority:** Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); sec. 5, 43 Stat. 651 (16 U.S.C. 725); sec. 5, 45 Stat. 449 (16 U.S.C. 690d); sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); sec. 4, 76 Stat. 654 (16 U.S.C. 460k); sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) (5 U.S.C. 301); Pub. L. 106–113, 113 Stat. 1501A–139–140; sec. 1, 96 Stat. 1051 (31 U.S.C. 9701); sec. 1, 96 Stat. 971 (31 U.S.C. 3711); sec. 1110, 94 Stat. 2457 (16 U.S.C. 3161); sec. 28, 41 Stat. 449 (30 U.S.C. 185); sec. 1, 76 Stat. 1129 (40 U.S.C. 319).

■ 5. Revise § 29.32 to read as follows:

**§ 29.32 Non-Federal mineral rights.**

(a) Non-Federal mineral rights owners within the National Wildlife Refuge System, not including coordination areas, must, to the greatest extent practicable, conduct all exploration, development, and production operations in such a manner as to prevent damage, erosion, pollution, or contamination to the lands, waters, facilities, and vegetation of the area. So far as is practicable, such operations must also be conducted without interference to the operation of the refuge or disturbance to the wildlife thereon.

(1) Physical occupancy of the area must be kept to the minimum space necessary to conduct efficient mineral operations.

(2) Persons conducting mineral operations on refuge areas must comply with all applicable Federal and State laws and regulations for the protection of wildlife and the administration of the area.

(3) All waste and contaminating substances must be kept in the smallest practicable area, confined so as to prevent escape as a result of rains and high water or otherwise, and removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage, or injury to the lands, waters, facilities, or vegetation of the refuge or to wildlife.

(4) Structures and equipment must be removed from the area when the need for them has ended, and, upon the cessation of operations, the area must be restored as nearly as possible to its condition prior to the commencement of operations.

(b) Nothing in this section will be applied so as to contravene or nullify rights vested in holders of mineral interests on refuge lands.

■ 6. Add subpart D to read as set forth below:

**Subpart D—Non-Federal Oil and Gas Operations**

**Purpose and Scope**  
Sec.

- 29.40 What are the purpose and scope of the regulations in this subpart?  
29.41 When does this subpart apply to me?  
29.42 What authorization do I need to conduct operations?  
29.43 If I am already operating under Service authorization, what do I need to do?  
29.44 If I am operating without prior Service authorization, what do I need to do?

**Definitions**

- 29.50 What do the terms used in this subpart mean?

**Pre-existing Operations**

- 29.60 Do I need an operations permit for my pre-existing operation?  
29.61 What information must I provide to the Service?  
29.62 What if I intend to conduct new operations or modify my pre-existing operations?  
29.63 What reclamation requirements apply to my pre-existing operations?  
29.64 What other provisions apply to my operations?

**Temporary Access Permits**

- 29.70 When do I need a temporary access permit?  
29.71 How do I apply for a temporary access permit?  
29.72 When will the Service grant a temporary access permit?  
29.73 How much time will I have to conduct my reconnaissance surveys?

**Accessing Oil and Gas Rights From a Non-Federal Surface Location (Including Inholdings)**

- 29.80 Do I need a permit for accessing oil and gas rights from a non-Federal location?

**Operations Permit: Application**

- 29.90 Who must apply for an operations permit?  
29.91 What should I do before filing an application?  
29.92 May I use previously submitted information?  
29.93 Do I need to submit information for all possible future operations?  
29.94 What information must be included in all applications?  
29.95 What additional information must be included if I am proposing geophysical exploration?  
29.96 What additional information must be included if I am proposing drilling operations?  
29.97 What additional information must be included if I am proposing production operations?

**Operations Permit: Application Review**

- 29.100 How will the Service process my application?  
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**Subpart D—Non-Federal Oil and Gas Operations****Purpose and Scope****§ 29.40 What are the purpose and scope of the regulations in this subpart?**

(a) This subpart ensures that operators exercising non-Federal oil and gas rights within the National Wildlife Refuge System (NWRS), excluding coordination areas, use technologically feasible, least-damaging methods to:

(1) Protect federally owned or administered lands, waters, or resources of refuges;

(2) Protect refuge wildlife-dependent recreational uses or experiences and visitor or employee health and safety; and

(3) Conserve refuges for the benefit of present and future generations of Americans.

(b) This subpart applies to all operators conducting non-Federal oil and gas operations on Service-administered surface estate held in fee or less-than fee (excluding coordination areas) or waters within the boundaries of the refuge to the extent necessary to protect those property interests. These regulations apply to operations in waters subject to the jurisdiction of the United States located within the boundaries of the Refuge System, including navigable waters and areas within their ordinary reach (up to the mean high-water line in places subject to the ebb and flow of the tide and up to the ordinary high-water mark in other places) and without regard to the ownership of submerged lands, tidelands, or lowlands. For areas where the United States does not hold a property interest but that lie within the boundaries of a refuge (*i.e.*, inholdings), these regulations do not apply if refuge lands are not accessed.

(c) This subpart is not intended to result in a taking of any property interest. The purpose of this subpart is to reasonably regulate operations to protect federally owned or administered lands, waters, or resources of refuges, visitor uses and experiences, and visitor or employee health and safety.

**§ 29.41 When does this subpart apply to me?**

This subpart applies to you if you are an operator who conducts or proposes

to conduct non-Federal oil or gas operations on the surface of land or waters within the boundaries of a refuge.

**§ 29.42 What authorization do I need to conduct operations?**

(a) You must demonstrate that you have the right to operate in order to conduct activities within a refuge.

(b) Except as provided in §§ 29.43 or 29.44, before starting operations, you must obtain a temporary access permit under §§ 29.70 through 29.73 for reconnaissance surveys and/or an operations permit under §§ 29.90 through 29.97.

(c) In refuge units in Alaska, regulations at 43 CFR part 36 govern the permitting process for authorizing the use of refuge land in order to provide access to an operator's oil and gas right.

**§ 29.43 If I am already operating under Service authorization, what do I need to do?**

If you already have a Service-approved special use permit or ROW permit, you may continue to operate according to the terms and conditions of that approval, subject to the provisions of this subpart. If you propose to conduct new operations or modify your existing operations, you must either amend your current authorization or obtain an operations permit in accordance with §§ 29.90 through 29.97.

**§ 29.44 If I am operating without prior Service authorization, what do I need to do?**

Any operation being conducted on [INSERT EFFECTIVE DATE OF FINAL RULE] in accordance with local, State, and Federal laws and regulations may continue without an operations permit. However, your operation is subject to applicable requirements of this subpart, including §§ 29.60 through 29.64, **PRE-EXISTING OPERATIONS**, and the requirements that when you either propose to conduct new operations or modify your pre-existing operations, you must obtain an operations permit in accordance with §§ 29.90 through 29.97.

**Definitions****§ 29.50 What do the terms used in this subpart mean?**

In addition to the definitions in §§ 25.12, 29.21, and 36.2 of this subchapter, the following definitions apply to this subpart:

*Access* means any method of entering or traversing on or across federally owned or controlled lands or waters, including but not limited to: Vehicle, watercraft, fixed-wing aircraft, helicopter, unmanned aerial vehicle, off-road vehicle, mobile heavy equipment, snowmobile, pack animal, and foot.

*Area of operations* means lands or waters within a refuge unit on which operations are approved to be carried out, including roads or other areas that you are authorized to use related to the exercise of your oil and gas rights.

*Contaminating substance* means any toxic or hazardous substance that is used in or results from the conduct of operations and is listed under the Clean Air Act (42 U.S.C. 7401 *et seq.*), Clean Water Act regulations at 40 CFR part 116, the Resource Conservation and Recovery Act regulations at 40 CFR part 261, or the Hazardous Materials Transportation Act regulations at 49 CFR part 172. This includes, but is not limited to, explosives, radioactive materials, brine waters, formation waters, petroleum products, petroleum byproducts, and chemical compounds used for drilling, production, processing, well testing, well completion, and well servicing.

*Gas* means any fluid, either combustible or noncombustible, that is produced in a natural state from the earth and that maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

*Oil* means any viscous combustible liquid hydrocarbon or solid hydrocarbon substance that occurs naturally in the earth and is easily liquefiable on warming.

*Modifying* means conducting new activities that will have additional impacts on refuge resources, visitor uses, refuge administration, or human health and safety beyond the scope, intensity, and/or duration of existing impacts. In order to determine if new activities would have additional impacts, you must consult with the Service.

*Operations* means all existing and proposed functions, work, and activities in connection with the exercise of oil or gas rights not owned by the United States and located or occurring within a refuge.

(1) Operations include, but are not limited to: Access by any means to or from an area of operations; construction; geological and geophysical exploration; drilling, well servicing, workover, or recompletion; production; hydraulic fracturing, well simulation, and injection wells; gathering (including installation and maintenance of flowlines and gathering lines); storage, transport, or processing of petroleum products; earth moving; excavation; hauling; disposal; surveillance, inspection, monitoring, or maintenance of wells, facilities, and equipment; reclamation; road and pad building or improvement; shot hole and well plugging and abandonment, and

reclamation; and all other activities incident to any of the foregoing.

(2) Operations do not include reconnaissance surveys as defined in this subpart or oil and gas pipelines that are located within a refuge under authority of a deeded or other right-of-way.

*Operator* means any person or entity, agent, assignee, designee, lessee, or representative thereof exercising or proposing to exercise non-Federal oil and gas rights within the boundaries of a refuge.

*Operations permit* means a refuge permit (*i.e.*, special use permit or ROW permit) authorizing an operator to conduct operations within the boundaries of a refuge.

*Reconnaissance survey* means an inspection or survey conducted by qualified specialists for the purpose of preparing a permit application. A reconnaissance survey:

(1) Includes identification of the area of operations and collection of natural and cultural resource information within and adjacent to the proposed area of operations.

(2) Does not include surface disturbance activities except for minimal disturbance necessary to perform cultural resource surveys, natural resource surveys, and location surveys required under this subpart.

*Right to operate* means a deed, lease, memorandum of lease, designation of operator, assignment of right, or other documentation demonstrating that you hold a legal right to conduct the operations you are proposing within a refuge.

*ROW* means a right-of-way issued under 50 CFR part 29 or, for Alaska, under 43 CFR part 36.

*Service, we, us* and *our* means the U.S. Fish and Wildlife Service.

*Technologically feasible, least-damaging methods* are those that we determine, on a case-by-case basis, to be most protective of refuge resources and uses while ensuring human health and safety, taking into consideration all relevant factors, including environmental, economic, and technological factors and the requirements of applicable law.

*Temporary access permit* means a Service special use permit authorizing an operator to access that operator's proposed area of operations to conduct reconnaissance surveys to collect basic information necessary to prepare an operations permit application.

*Third-party monitor* means a qualified specialist, who is not an employee, agent, or representative of the operator, and who has demonstrated to the Service the relevant expertise to monitor

operations for compliance with applicable laws, regulations, and permit requirements.

*Usable water* means an aquifer or its portion that:

(1) Supplies any public water system; or

(2) Contains a sufficient quantity of ground water to supply a public water system; and currently supplies drinking water for human consumption; or contains fewer than 10,000 mg/l total dissolved solids; and

(3) Is not an exempted aquifer.

*Waste* means any material that is discarded. It includes, but is not limited to: Drilling fluids and cuttings; produced fluids not under regulation as a toxic or hazardous substance; human waste; garbage; fuel drums; pipes; oil; refined oil and other hydrocarbons; contaminated soil; synthetic materials; manmade structures or equipment; or native and nonnative materials.

*You* means the operator, unless otherwise specified or indicated by the context.

#### Pre-Existing Operations

##### **§ 29.60 Do I need an operations permit for my pre-existing operation?**

No. Pre-existing operations are those conducted as of [INSERT EFFECTIVE DATE OF FINAL RULE] without an approved permit from the Service or prior to a boundary change or establishment of a new refuge unit. Pre-existing operations may be continued without an operations permit, but are required to operate in accordance with applicable local, State, and Federal laws, including regulations, and are subject to applicable provisions of this subpart, including requirements for a permit when the operator proposes to conduct new operations or to modify pre-existing operations.

##### **§ 29.61 What information must I provide to the Service?**

You must submit the following information to the refuge where your pre-existing operation is occurring by [INSERT DATE 90 DAYS AFTER THE EFFECTIVE DATE OF FINAL RULE] or 90 days after a boundary change or establishment of a new refuge:

(a) Documentation demonstrating that you hold the right to operate within a refuge.

(b) The names, phone numbers, and addresses of your:

(1) Primary company representative;

(2) Representative responsible for field supervision; and

(3) Representative responsible for emergency response.

(c) A scaled map clearly delineating your existing area of operations.

(d) Copies of all plans and permits required by local, State, and Federal agencies.

##### **§ 29.62 What if I intend to conduct new operations or modify my pre-existing operations?**

(a) You must obtain an operations permit before conducting operations that are begun after [INSERT EFFECTIVE DATE OF FINAL RULE] in accordance with §§ 29.90 through 29.97, Operations Permit: Application.

(b) You must obtain an operations permit prior to modifying your pre-existing operations.

##### **§ 29.63 What reclamation requirements apply to my pre-existing operations?**

Upon completion of your production operation, you will be subject to the reclamation standards in § 29.117(d). You must obtain an operations permit prior to conducting well plugging and reclamation in accordance with applicable sections of this subpart.

##### **§ 29.64 What other provisions apply to my operations?**

Your pre-existing operations are also subject to the following regulations in this part 29:

(a) §§ 29.120 and 29.121, General Terms and Conditions;

(b) § 29.170(a), Change of Operator;

(c) §§ 29.180 and 29.181, Well

Plugging;

(d) § 29.190, Prohibited Acts and Penalties; and

(e) § 29.200, Appeals.

#### Temporary Access Permits

##### **§ 29.70 When do I need a temporary access permit?**

You must apply to the Service for a temporary access permit to access your proposed area of operations in order to conduct reconnaissance surveys. This permit will describe the means, routes, timing, and other terms and conditions of your access as determined by the Service to result in only the minimum disturbance necessary to perform surveys. For Alaska, the temporary access provisions at 43 CFR 36.10 still apply.

##### **§ 29.71 How do I apply for a temporary access permit?**

You must submit the information requested in FWS Form 3-2469 (Oil and Gas Operations Special Use Permit Application) to the refuge in which you propose to conduct operations. Information includes, but is not limited to:

(a) The name, legal address, and telephone number of the operator, employee, agent, or contractor

responsible for overall management of the proposed operations;

(b) Documentation demonstrating that you hold the right to operate within the refuge;

(c) The name, legal address, telephone number, and qualifications of all specialists responsible for conducting the reconnaissance surveys (Only required if the assistants/subcontractors/subpermittees will be operating on the refuge without the permittee being present.);

(d) A brief description of the intended operation so that we can determine reconnaissance survey needs;

(e) A description of the survey methods you intend to use to identify the natural and cultural resources;

(f) A map (to-scale and determined by us to be acceptable) delineating the proposed reconnaissance survey area in relation to the refuge boundary and the proposed area of operations; and

(g) A description of proposed means of access and routes for conducting the reconnaissance surveys.

**§ 29.72 When will the Service grant a temporary access permit?**

Within 30 calendar days of receipt of the application for a reconnaissance survey, we will advise you whether the application fulfills the requirements of §§ 29.70 through 29.71 and issue you a temporary access permit or provide you with a statement of additional information that is needed for us to conduct review of your application.

**§ 29.73 How much time will I have to conduct my reconnaissance surveys?**

Your temporary access permit will be in effect for a maximum of 60 calendar days from the date of issuance, unless a longer term is specified in the permit approval. We may extend the term of the permit for a reasonable period of time, based upon your written request that explains why an extension is necessary.

**Accessing Oil and Gas Rights From a Non-Federal Surface Location (Including Inholdings)**

**§ 29.80 Do I need a permit for accessing oil and gas rights from a non-Federal location?**

No. Using directional drilling from a non-Federal surface location to reach your oil and gas rights within a refuge is exempt from these regulations. However, you are encouraged to provide the Service the names, phone numbers, and addresses of your primary company representative, representative responsible for field supervision, and representative responsible for emergency response at least 60 calendar

days prior to conducting your operation. If you require access across Federal surface estate, that access is subject to applicable provisions of this subpart, including obtaining an operations permit for any new access or modification of existing access.

**Operations Permit: Application**

**§ 29.90 Who must apply for an operations permit?**

Except as otherwise provided in §§ 29.43, 29.44, 29.70 and 29.80, if you are proposing to conduct operations within a refuge, you must submit an application (FWS Form 3–2469, or if in Alaska SF–299) for an operations permit to the Service.

**§ 29.91 What should I do before filing an application?**

You should participate in a pre-application meeting with the Service to allow for an early exchange of information between you and the Service with the intent of avoiding delays in your application process.

(a) For the meeting, you should provide:

(1) Documentation demonstrating that you hold the legal right to operate; and  
(2) An overview of your proposed operation and timing.

(b) The Service will provide guidance on the permitting process and information on available resource data, and identify additional data needs.

**§ 29.92 May I use previously submitted information?**

Yes.

(a) You do not need to resubmit information that is already on file with the Service, provided that such information is still current and accurate. You may reference this information in your oil and gas operations permit application.

(b) You may submit documents and materials submitted to other Federal and State agencies noting how the information meets the specific requirements of §§ 29.93 through 29.97.

**§ 29.93 Do I need to submit information for all possible future operations?**

No. You need only provide information for those operations for which you are seeking immediate approval. Approval of activities beyond the scope of your application may be subject to a new application and approval process.

**§ 29.94 What information must be included in all applications?**

All applications must include the information requested on FWS Form 3–2469 (or SF–299, if applicable), including, but not limited to:

(a) The name, legal address, and telephone number of the operator, employee, agent, or contractor responsible for overall management of the proposed operations.

(b) Documentation demonstrating that you hold the legal right to operate within the refuge.

(c) A description of the natural features of your proposed area of operations, such as: Streams, lakes, ponds, wetlands (including estimated depths to the top and bottom of zones of usable water); topographic relief; and areas the Service has indicated to you are sensitive.

(d) The location of existing roads, trails, railroad tracks, pipeline rights-of-way, pads, and other disturbed areas.

(e) The location of existing structures that your operations could affect, including buildings, pipelines, oil and gas wells including both producing and plugged and abandoned wells, injection wells, freshwater wells, underground and overhead electrical lines, and other utility lines.

(f) Descriptions of the natural resource and cultural resource survey reports for your proposed area of operations.

(g) Locations map(s) (to-scale and determined by us to be acceptable) that clearly identifies:

(1) Proposed area of operations, existing conditions, and proposed new surface uses, including the boundaries of each of your oil and gas tracts in relation to your proposed operations and the relevant refuge boundary.

(2) Proposed access routes of new surface disturbances as determined by a location survey.

(3) Proposed location of all support facilities, including those for transportation (e.g., vehicle parking areas, helicopter pads, etc.), sanitation, occupation, staging areas, fuel storage areas, refueling areas, loading docks, water supplies, and disposal facilities.

(h) The method and diagrams, including cross-sections, of any proposed pad construction, road construction, cut-and-fill areas, and surface maintenance, including erosion control.

(i) The number and types of equipment and vehicles, including an estimate of vehicular round trips associated with your operation.

(j) An estimated timetable for the proposed operations, including any operational timing constraints.

(k) The type and extent of security measures proposed at your area of operations.

(l) The power sources and their transmission systems for the proposed operations.

(m) The types and quantities of all solid and liquid waste generated and the proposed methods of storage, handling, and disposal.

(n) The source, quantity, access route, and transportation/conveyance method for all water to be used in operations, including hydraulic fracturing, and estimations of any anticipated wastewater volumes generated, including flowback fluids from hydraulic fracturing, and the proposed methods of storage, handling, and recycling or disposal.

(o) The following information regarding mitigation actions and alternatives considered:

(1) A description of the steps you propose to take to mitigate anticipated adverse environmental impacts on refuge resources and uses, including, but not limited to, the refuge's land features, land uses, fish and wildlife, vegetation, soils, surface and subsurface water resources, air quality, noise, lightscapes, viewsheds, cultural resources, and economic environment.

(2) A description of any anticipated impacts that you cannot mitigate.

(3) A description of alternatives considered that meet the criteria of technologically feasible, least-damaging methods of operations, as well as the costs and environmental effects of such alternatives.

(p) You must submit the following information about your spill control and emergency preparedness plan. You may use a spill prevention control and countermeasure plan prepared under 40 CFR part 112 if the plan includes all of the information required by this section. You must submit:

(1) The names, addresses, and telephone numbers of the people whom the Service can contact in the event of a spill, fire, or accident, including the order in which the individuals should be contacted.

(2) The notification procedures and steps taken to minimize damage in event of spill, fire, or accident.

(3) Identification of contaminating or toxic substances used within your area of operations or expected to be encountered during operations.

(4) Trajectory analysis for potential spills that are not contained on location.

(5) Identification of abnormal pressure, temperature, toxic gases or substances, or other hazardous conditions at your area of operations or expected to be encountered during operations.

(6) Measures (e.g., procedures, facility design, equipment, etc.) to minimize risks to human health and safety, and the environment.

(7) Steps to prevent accumulations of oil or other materials deemed to be fire hazards from occurring in the vicinity of well locations and lease tanks.

(8) The equipment and methods for containment and cleanup of contaminating substances, including a description of the equipment available at your area of operations and equipment available from local contractors.

(9) A stormwater drainage plan and actions intended to mitigate stormwater runoff.

(10) Material safety data sheets, where required by law, for each material you will use or encounter during operations, including expected quantities maintained at your area of operations.

(11) A description of the emergency actions you will take in the event of injury or death to fish and wildlife or vegetation.

(12) A description of the emergency actions you will take in the event of accidents causing human injury.

(13) Contingency plans for conditions and emergencies other than spills, such as if your area of operations is located in areas prone to hurricanes, flooding, tornadoes, fires, or earthquakes.

(q) A description of the specific equipment, materials, methods, and schedule that will be used to meet the operating standards for reclamation at § 29.117.

(r) An itemized list of the estimated costs that a third party would charge to complete reclamation.

**§ 29.95 What additional information must be included if I am proposing geophysical exploration?**

If you propose to conduct geophysical exploration, you must submit the information requested on FWS Form 3–2469, including, but not limited to:

(a) A map showing the positions of each survey line including all source and receiver locations as determined by a locational survey, and including shot point offset distances from wells, buildings, other infrastructure, cultural resources, and environmentally sensitive areas;

(b) The number of crews and numbers of workers in each crew;

(c) A description of the acquisition methods, including the procedures and specific equipment you will use, and energy sources (e.g., explosives, vibroseis trucks);

(d) A description of the methods of access along each survey line for personnel, materials, and equipment; and

(e) A list of all explosives, blasting equipment, chemicals, and fuels you will use in the proposed operations,

including a description of proposed disposal methods, transportation methods, safety measures, and storage facilities.

**§ 29.96 What additional information must be included if I am proposing drilling operations?**

If you are proposing to drill a well, you must submit the information requested on FWS Form 3–2469, including, but not limited to:

(a) A description of the well pad construction, including dimensions and cross sections of cut-and-fill areas and excavations for ditches, sumps, and spill control equipment or structures, including lined areas;

(b) A description of the drill rig and equipment layout, including rig components, fuel tanks, testing equipment, support facilities, storage areas, and all other well-site equipment and facilities;

(c) A description of the type and characteristics of the proposed drilling mud systems; and

(d) A description of the equipment, materials, and methods of surface operations associated with your drilling, well casing and cementing, well control, well evaluation and testing, well completion, hydraulic fracturing or other well stimulation, and well plugging programs.

**§ 29.97 What additional information must be included if I am proposing production operations?**

If you are proposing to produce a well, you must submit the information requested on FWS Form 3–2469, including, but not limited to:

(a) The dimensions and the to-scale layout of the well pad, clearly identifying well locations, noting partial reclamation areas; gathering, separation, metering, and storage equipment; electrical lines; fences; spill control equipment or structures, including lined areas, artificial lift equipment, tank batteries, treating and separating vessels, secondary or enhanced recovery facilities, water disposal facilities, gas compression and/or injection facilities; metering points; sales point (if on lease); tanker pickup points; gas compressor, including size and type (if applicable); and any other well site equipment.

(b) A general description of anticipated stimulations, servicing, and workovers.

(c) A description of the procedures and equipment used to maintain well control.

(d) A description of the method and means used to transport produced oil and gas, including vehicular transport; flowline and gathering line construction

and operation, pipe size, and operating pressure; cathodic protection methods; surface equipment use; surface equipment location; maintenance procedures; maintenance schedules; pressure detection methods; and shutdown procedures.

(e) A road and well pad maintenance plan, including equipment and materials to maintain the road surface and control erosion.

(f) A vegetation management plan on well sites, roads, pipeline corridors, and other disturbed surface areas, including control of noxious and invasive species.

(g) A stormwater management plan on the well site.

(h) A produced water storage and disposal plan.

(i) A description of the equipment, materials, and procedures proposed for well plugging.

### Operations Permit: Application Review

#### § 29.100 How will the Service process my application?

We will conduct initial review of your application to determine if all information is complete. Once your information is complete, we will begin formal review.

#### § 29.101 How will the Service conduct an initial review?

(a) Within 30 calendar days of receipt of your application, the Service will notify you in writing that one of the following situations exists:

(1) Your application is complete, and the Service will begin formal review;

(2) Your application does not meet the information requirements, in which case we will identify the additional information required to be submitted before the Service will be able to conduct formal review of your application; or

(3) More time is necessary to complete the review, in which case the Service will provide the amount of additional time reasonably needed along with a justification.

(b) If you submit additional information as requested under § 29.101(a)(2), and the Service determines that you have met all applicable information requirements, the Service will notify you within 30 calendar days from receipt of the additional information that either:

(1) Your application is complete, and the Service will begin formal review; or

(2) More time is necessary to complete the initial review, in which case the Service will provide the amount of additional time reasonably needed along with a justification.

(c) When ANILCA title XI/Access to inholdings applies, 43 CFR 36.5 governs the review.

#### § 29.102 How will the Service conduct a formal review?

For those applications for which the Service determines that the applicant holds a valid property right, the Service will conduct a formal review of your application by:

(a) Evaluating the potential impacts of your proposal on federally owned or administered lands, waters, or resources of refuges; visitor uses or experiences; or visitor or employee health and safety in compliance with applicable Federal laws; and

(b) Identifying any additional operating conditions that would apply to your approved application.

#### § 29.103 What standards must be met to approve my application?

(a) In order to approve your operations permit application, it must comply with all applicable Federal, State, and local laws, and the Service must determine that your operations will:

(1) Use technologically feasible, least-damaging methods; and

(2) Meet all applicable operating standards.

(b) Before operations begin, you must submit to the Service:

(1) Financial assurance in the amount specified by the Service and in accordance with the requirements of §§ 29.150 through 29.154, Financial Assurance; and

(2) Proof of liability insurance with limits sufficient to cover injuries to persons or property caused by your operations.

#### § 29.104 What actions may the Service take on my operations permit application?

(a) We will make a decision on your application within 180 days from the date we deem your application complete unless:

(1) We and you agree that such decision will occur within a shorter or longer period of time; or

(2) We determine that an additional period of time is required to ensure that we have, in reviewing the permit application, complied with other applicable laws, Executive Orders, and regulations.

(b) For ANILCA title XI/Access to inholding timelines, 43 CFR part 36 governs.

(c) We will notify you in writing that your permit application is:

(1) Approved, with or without operating conditions; or

(2) Denied, and provide justification for the denial. Any such denial must be consistent with § 29.40(c).

### Operating Standards

#### § 29.110 What are the purposes of the Service's operating standards?

The purposes are to:

(a) Protect federally owned or administered lands, waters, and refuge resources; wildlife-dependent visitor uses and experiences; and visitor and employee health and safety; and

(b) Ensure use of technologically feasible, least-damaging methods. The operating standards give us and the operator flexibility to consider using alternative methods, equipment, materials design, and conduct of operations.

#### § 29.111 What general facility design and management standards must I meet?

As a permittee, you must:

(a) Design, construct, operate, and maintain access to your operational site to cause the minimum amount of surface disturbance needed to safely conduct operations and to avoid areas we have identified as containing sensitive resources.

(b) Install and maintain secondary containment materials and structures for all equipment and facilities using or storing contaminating substances. The containment system must be sufficiently impervious to prevent discharge and must have sufficient storage capacity to contain, at a minimum, the largest potential spill incident.

(c) Keep temporarily stored waste in the smallest area feasible, and confine the waste to prevent escape as a result of percolation, rain, high water, or other causes. You must regularly remove waste from the refuge and lawfully dispose of the waste in a direct and workable timeframe. You may not establish a solid waste disposal site on a refuge.

(d) Use engines that adhere to current Federal and State emission standards.

(e) Construct, maintain, and use roads in a manner to minimize fugitive dust emissions.

(f) Use equipment and implement work practice standards that are consistent with good air pollution control practices to minimize emissions of air pollutants, and releases or flaring of gas.

(g) Design, operate, and maintain your operations and equipment in a manner consistent with good air pollution control practices so as to minimize leaks of air pollutants and hydrocarbons to the atmosphere to the extent reasonably practicable.

(h) Control the invasion of noxious and invasive plant and animal species in your area of operations from the beginning through final reclamation.

(i) Avoid conducting ground-disturbing operations within 500 feet of any refuge structure or facility used by refuges for interpretation, public recreation, or administration. We may increase or decrease this distance as needed to protect federally owned or administered structures or facilities, visitor uses or experiences, or visitor or employee health and safety; or to ensure that you have reasonable access to your non-Federal oil and gas. Measurements for purposes of this paragraph are by map distance.

**§ 29.112 What fish and wildlife protection standards must I meet?**

To protect fish and wildlife resources on the refuge, you must:

(a) Along with your employees and contractors, adhere to all refuge regulations for the protection of fish, wildlife, and plants;

(b) Ensure that you, your employees, and contractors have been informed and educated by the refuge staff on the appropriate protection practices for wildlife conservation;

(c) Provide a safe environment for fish and wildlife that minimizes or avoids exposure to unpermitted physical and chemical hazards; and

(d) Comply with all seasonal buffers or restrictions to protect wildlife.

**§ 29.113 What hydrologic standards must I meet?**

You must:

(a) Avoid conducting ground-disturbing operations within 500 feet of surface water, including an intermittent or ephemeral watercourse, or wetland. We may increase or decrease this distance as needed to protect federally owned or administered lands, waters, or resources of the refuge, visitor uses or experiences, or visitor or employee health and safety; or to ensure that you have reasonable access to your non-Federal oil and gas. Measurements for purposes of this paragraph are by map distance.

(b) Construct facilities in a manner that maintains hydrologic movement and function.

(c) Not cause measurable degradation of surface water or groundwater beyond that of existing conditions.

(d) Conduct operations in a manner that maintains natural processes of erosion and sedimentation.

**§ 29.114 What safety standards must I meet?**

To ensure the safety of your operations, you must:

(a) Maintain your area of operations in a manner that avoids or minimizes the cause or spread of fire and does not intensify fire originating outside your operations area;

(b) Maintain structures, facilities, improvements, and equipment in a safe and professional manner in order to provide a safe environment for refuge resources, visitors, and employees, free from exposure to physical and chemical hazards; and

(c) Provide site-security measures to protect visitors from hazardous conditions resulting from the conduct of your operations.

**§ 29.115 What lighting and visual standards must I meet?**

(a) You must design, shield, and focus lighting to minimize the effects of spill light on the night sky or adjacent areas; and

(b) You must reduce visual contrast in the landscape in selecting the area of operations, avoiding unnecessary disturbance, choosing appropriate colors and materials for roads and permanent structures, and other means.

**§ 29.116 What noise reduction standards must I meet?**

You must prevent or minimize all noise that:

(a) Adversely affects refuge resources or uses, taking into account frequency, magnitude, or duration; or

(b) Exceeds levels that have been identified through monitoring as being acceptable to or appropriate for uses at the sites being monitored.

**§ 29.117 What reclamation and protection standards must I meet?**

(a) You must promptly clean up and remove from the refuge any released contaminating substances in accordance with all applicable Federal, State, and local laws.

(b) You must perform partial reclamation of areas that are no longer necessary to conduct operations. You must begin final reclamation within 6 months after you complete your authorized operations unless we authorize a different reclamation period in writing.

(c) You must protect all survey markers (*e.g.*, monuments, witness corners, reference monuments, and bearing trees) against destruction, obliteration, or damage from operations. You are responsible for reestablishment, restoration, and referencing of any monuments, corners, and bearing trees that are destroyed, obliterated, or damaged by your operations.

(d) You must complete reclamation by:

(1) Plugging all wells;

(2) Removing all above-ground structures, equipment, roads, and all other manmade material and debris resulting from operations;

(3) Removing or neutralizing any contaminating substances;

(4) Reestablishing native vegetative communities, or providing for conditions where ecological processes typical of the ecological zone (*e.g.*, plant or wildlife succession) will reestablish themselves;

(5) Grading to reasonably conform the contours to pre-existing elevations that are most appropriate to maximizing ecologic functional value;

(6) Restoring conditions to predisturbance hydrologic movement and functionality;

(7) Restoring natural systems using native soil material that is similar in character to the adjacent undisturbed soil profiles;

(8) Ensuring that reclamation does not interfere with visitor use or with administration of the unit;

(9) Attaining conditions that are consistent with the management objectives of the refuge, designed to meet the purposes for which the refuge was established; and

(10) Coordinating with us or with other operators who may be using a portion of your area of operations to ensure proper and equitable apportionment of reclamation responsibilities.

**§ 29.118 What additional operating standards apply to geophysical operations?**

If you conduct geophysical operations, you must do all of the following:

(a) Use surveying methods that minimize the need for vegetative trimming and removal.

(b) Locate source points using industry-accepted minimum safe-offset distances from pipelines, telephone lines, railroad tracks, roads, power lines, water wells, oil and gas wells, oil- and gas-production facilities, and buildings.

(c) Use equipment and methods that, based upon the specific environment, will minimize impacts to federally owned or administered lands, waters, and resources of refuges; visitor uses and experiences; and visitor and employee health and safety.

(d) If you use shot holes, you must:

(1) Use biodegradable charges;

(2) Plug all shot holes to prevent a pathway for migration for fluids along any portion of the bore; and

(3) Leave the site in a clean and safe condition that will not impede surface reclamation or pose a hazard to human health and safety.

(e) For geological and geophysical exploration for oil and gas within the



coastal plain of the Arctic National Wildlife Refuge, the regulations at 50 CFR part 37 apply.

**§ 29.119 What additional operating standards apply to drilling and production operations?**

If you conduct drilling and production operations, you must meet all of the following standards:

(a) To conduct drilling operations, you must:

(1) Use containerized mud circulation systems for operations;

(2) Not create or use earthen pits;

(3) Take all necessary precautions to keep your wells under control at all times, using only employees, contractors, or subcontractors trained and competent in well control procedures and equipment operation, and using industry-accepted well control equipment and practices; and

(4) Design, implement, and maintain integrated casing, cementing, drilling fluid, completion, stimulation, and blowout prevention programs to prevent escape of fluids to the surface and to isolate and protect usable water zones throughout the life of the well, taking into account all relevant geologic and engineering factors.

(b) To conduct production operations, in addition to meeting the standards of paragraphs (a)(1) through (a)(4) of this section, you must do all of the following:

(1) Monitor producing conditions for early indications that could lead to loss of mechanical integrity of producing equipment.

(2) Maintain all surface equipment and the wellhead to prevent leaks or releases of any fluids or air pollutants.

(3) Identify wells and related facilities with appropriate signage. Signs must remain in place until the well is plugged and abandoned and the related facilities are removed. Signs must be of durable construction, and the lettering must be legible and large enough to be read under normal conditions at a distance of at least 50 feet. Each sign must show the name of the well, name of the operator, and the emergency contact phone number.

(4) Regularly remove all equipment and materials that are no longer needed for a particular phase of your operation.

(5) Plug all wells, leaving the surface in a clean and safe condition that will not impede surface reclamation or pose a hazard to human health and safety, in accordance with § 29.117.

**General Terms and Conditions**

**§ 29.120 What terms and conditions apply to all operators?**

The following terms and conditions apply to all operators, regardless of

whether these terms and conditions are expressly included in the operations permit:

(a) You must comply with all applicable operating standards in §§ 29.111 through 29.119; these operating standards will be incorporated in the terms and conditions of your operations permit. Violation of these operating standards, unless otherwise provided in your operations permit, will subject you to the Prohibited Acts and penalties provisions of §§ 29.190 through 29.192.

(b) You are responsible for ensuring that all of your employees, agents, contractors, and subcontractors comply fully with the requirements of this subpart.

(c) You may be required to reimburse the Service for the costs of processing and administering temporary access permits and operations permits.

(d) If not covered by a State-held water right, any use of water within a refuge must be approved by the Service upon the Service's determination that it will not impair any refuge resource or use.

(e) You must provide the refuge a statement under penalty of perjury, signed by an official who is authorized to legally bind the company, stating that proposed operations are in compliance with all applicable Federal, State, and local laws and regulations and that all information submitted to the Service is true and correct.

(f) You agree to indemnify and hold harmless the United States and its officers and employees from and against any and all liability of any kind whatsoever arising out of or resulting from the acts or omissions of you and your employees, agents, representatives, contractors, and subcontractors in the conduct of activities under the operations permit.

(g) You will be required to take all reasonable precautions to avoid, minimize, rectify, or reduce the overall impacts of your proposed oil and gas activities to the refuge. You may be required to mitigate for impacts to refuge resources and lost uses by providing for habitat creation, habitat restoration, land purchase, or other compensation agreed to by the Service.

(h) You will be responsible for unanticipated and unauthorized damages as a direct or indirect result of your operations. You will be responsible for the actions and consequences of your employees and subcontractors. You will also be responsible for any reclamation of damages to refuge resources caused by your operations as a result of severe weather, fire, earthquakes, or the like thereof.

**§ 29.121 What monitoring and reporting is required for all operators?**

(a) The Service may access your area of operations at any time to monitor the effects of your operations to ensure compliance with the regulations in this subpart.

(b) The Service may determine that third-party monitors are necessary to ensure compliance with your operations permit and to protect federally owned or administered lands, waters, or the resources of refuges, visitor uses and experiences, and visitor or employee health and safety.

(1) The Service's determination will be based on the scope and complexity of the proposed operation, reports that you are required to submit under paragraph (e) of this section, and whether the refuge has the staff and technical ability to ensure compliance with the operations permit and any provision of this subpart.

(2) A third-party monitor will report directly to the Service at intervals determined by the Service. We will make the information reported available to you upon your request.

(3) You will be responsible for the cost of the third-party monitor.

(c) You must notify the Service within 24 hours of any injuries to or mortality of fish, wildlife, or endangered or threatened plants resulting from your operations.

(d) You must notify the Service of any accidents involving serious personal injury or death and of any fires or spills on the site immediately after the accident occurs. You must submit a full written report on the accident to the Service within 90 days after the accident occurs.

(e) Upon our request, you must submit reports or other information necessary to verify compliance with your permit or with any provision of this subpart. To fulfill this request, you may submit to us reports that you have submitted to the State under State regulations, or that you have submitted to any other Federal agency.

(f) If your operations include hydraulic fracturing, you must provide the Service with a report including the true vertical depth of the well, total water volume used, and a description of the base fluid and each additive in the hydraulic fracturing fluid, including the trade name, supplier, purpose, ingredients, Chemical Abstract Service Number (CAS), maximum ingredient concentration in additive (percent by mass), and maximum ingredient concentration in hydraulic fracturing fluid (percent by mass). The report must be submitted through FracFocus or another Service-designated database.

**§ 29.122 For how long is my operations permit valid?**

Operations permits remain valid for the duration of the operation. Provisions of § 29.160 apply.

**Access Fees****§ 29.140 May I cross Federal property to reach the boundary of my oil and gas right?**

(a) The Service may grant you the privilege of access on, across, or through federally owned or administered lands or waters in any refuge to reach the boundary of your oil and gas right. You should contact the Service to determine if additional permits are necessary for access.

(b) In refuge units in Alaska, regulations and standards at 43 CFR part 36 govern access, including access fees, to an operator's oil and gas right.

**§ 29.141 Will the Service charge me a fee for access?**

(a) The Service will charge you a fee if you require use of federally owned or administered lands or waters outside the boundary or scope of your oil and gas right:

(1) If you require new use of federally owned or administered lands or waters, we will charge you a fee based on the fair market value of that use.

(2) Fees under this section will not be charged for access within the scope of your oil and gas right or access to your right that is otherwise provided for by law.

(b) If access to your oil and gas right is across an existing refuge road, we may charge a fee according to a posted fee schedule.

(c) We, to the extent permitted by law, may allow you to undertake in-kind services to offset fees.

**§ 29.142 Will I be charged a fee for emergency access to my operations?**

No.

(a) The Service will not charge a fee for access across federally owned or administered lands beyond the scope of your oil and gas right as necessary to respond to an emergency situation at your area of operations if we determine after the fact that the circumstances required an immediate response to either:

(1) Prevent or minimize injury to refuge resources; or

(2) Ensure public health and safety.

(b) You will be liable for any damage caused to refuge resources as a result of such emergency access.

**Financial Assurance****§ 29.150 When do I have to provide financial assurance to the Service?**

You will need to provide financial assurances as a condition of approval

for your operations permit when you submit your application. You must file financial assurance with us in a form acceptable to the Service and payable upon demand. This financial assurance is in addition to any financial assurance required by any other Federal or State regulatory authority.

**§ 29.151 How does the Service establish the amount of financial assurance?**

(a) We will base the financial assurance amount upon the estimated cost that a third-party contractor would charge to complete reclamation in accordance with this subpart. If the cost of reclamation exceeds the amount of your financial assurance, you will remain liable for all costs of reclamation in excess of the financial assurance.

(b) The Service will reduce the required amount of your financial assurance during the pendency of operations by the amount we determine is represented by in-kind reclamation you provide during your operations.

**§ 29.152 Will the Service adjust the amount required for my financial assurance?**

The Service may require, or you may request, an adjustment to the financial assurance amount because of any circumstance that increases or decreases the estimated costs established under § 29.151.

**§ 29.153 When will the Service release my financial assurance?**

(a) Your responsibility under the financial assurance will continue until either:

(1) The Service determines that you have met all applicable reclamation operating standards and any additional reclamation requirements that may be included in your operations permit; or

(2) A new operator assumes your operations, as provided in § 29.170(b).

(b) You will be notified by the Service within 30 calendar days of our determination that your financial assurance has been released.

**§ 29.154 Under what circumstances will I forfeit my financial assurance?**

(a) You may forfeit all or part of your financial assurance if we cannot secure your compliance with the provisions of your operations permit or a provision of this subpart. The part of your financial assurance forfeited is based on costs to the Service to remedy your noncompliance.

(b) In addition to forfeited financial assurance, we may temporarily:

(1) Prohibit you from removing all structures, equipment, or other materials from your area of operations;

(2) Require you to secure the operations site and take any necessary actions to protect federally owned or administered lands, waters, and resources of the refuge; visitor uses; and visitor or employee health and safety; and

(3) Suspend review of any permit applications you have submitted until we determine that all violations of permit provisions or of any provision of this subpart are resolved.

(4) Seek recovery as provided in § 29.151 for all costs of reclamation in excess of the posted financial assurance.

**Modification to an Operation****§ 29.160 Can I modify operations under an approved permit?**

The Service may amend an approved temporary access permit or an operations permit to adjust to changed conditions or to address unanticipated conditions, either upon our own action or at your request.

(a) To request a modification to your operation, you must provide, in writing, to the Service, your assigned permit number, a description of the proposed modification, and an explanation of why the modification is needed. We will review your request for modification under the approval standards at §§ 29.72 or 29.103.

(b) If the Service needs to amend your temporary access permit or operations permit, you will receive a written notice that:

(1) Describes the modification required and justification; and

(2) Specifies the time within which you must incorporate the modification into your operations.

(c) You may not implement any modification until you have received the Service's written approval.

**Change of Operator****§ 29.170 What are my responsibilities if I transfer my right to operate?**

(a) If your operations are being conducted under § 29.44, you must notify the Service in writing within 30 calendar days from the date the new operator acquires the rights to conduct operations. Your written notification must include:

(1) The names and addresses of the person or entity conveying the right and of the person or entity acquiring the right;

(2) The effective date of transfer;

(3) The description of the rights, assets, and liabilities being transferred and which ones, if any, are being reserved by the previous operator; and

(4) A written acknowledgement from the new operator that the contents of the notification are true and correct.

(b) If your operations are being conducted under § 29.43 or an operations permit:

(1) You must provide notice under paragraph (a) of this section.

(2) You remain responsible for compliance with your operations permit, and we will retain your financial assurance until the new operator:

(i) Adopts and agrees in writing to conduct operations in accordance with all terms and conditions of your operations permit;

(ii) Provides financial assurance with us that is acceptable to the Service and made payable to the Service; and

(iii) Receives written notification from the Service that transfer of the operations permit has been approved.

#### **§ 29.171 What must I do if operations are transferred to me?**

(a) If another operator transfers operations conducted under § 29.44, as the transferee you may continue operating under the requirements of that section, but within 30 calendar days from the date of the transfer, you must provide to the Service:

(1) Documentation demonstrating that you hold the right to operate; and

(2) The names, phone numbers, and addresses of your:

(i) Primary company representative;

(ii) Representative responsible for field supervision; and

(iii) Representative responsible for emergency response.

(b) If another operator transfers operations conducted under § 29.43 or an operations permit, in addition to the information required under paragraph (a) of this section, you must within 30 days of commencing transferred operations:

(1) Agree in writing to conduct operations in accordance with all terms and conditions of the previous operator's permit; and

(2) File financial assurance with us that is acceptable to the Service and made payable to the Service; and

(3) Receive written approval from the Service for the transfer of the operation's permit.

(c) You may modify operations transferred to you in accordance with § 29.160.

#### **Well Plugging**

##### **§ 29.180 When must I plug my well?**

Except as provided in § 29.181, you must plug your well, in accordance with the standards and procedures outlined in this subpart, when any of the following occurs:

(a) Your drilling operations have ended and you have taken no further

action on your well within 60 calendar days;

(b) Your well, which has been completed for production operations, is continuously inactive for a period of 1 year; or

(c) The period approved in your operations permit to maintain your well in shut-in status has expired.

##### **§ 29.181 Can I get an extension to the well plugging requirement?**

(a) You may apply for either an operations permit or a modification to your approved operations permit to maintain your well in a shut-in status for up to 5 years. Provide the information requested on FWS Form 3–2469, including, but not limited to:

(1) An explanation of why the well is shut-in or temporarily abandoned and your future plans for utilization;

(2) A demonstration of the mechanical integrity of the well; and

(3) A description of the manner in which your well, equipment, and area of operations will be maintained in accordance with the standards in the subpart.

(b) Based on the information provided under this section, we may approve your application to maintain your well in shut-in status for a period up to 5 years.

(c) You may apply for additional extensions by submitting a new application under paragraph (a) of this section.

#### **Prohibited Acts and Penalties**

##### **§ 29.190 What acts are prohibited under this subpart?**

The following acts are prohibited:

(a) Operating in violation of the terms or conditions of a temporary access permit, an operations permit, a permit under § 29.43, or any applicable provision of this subpart, including § 29.60 for pre-existing operations.

(b) Damaging federally owned or administered lands, waters, or resources of a refuge as a result of failure to comply with the terms or conditions of a temporary access permit, an operations permit, operations being conducted under §§ 29.43 or 29.44, or any provision of this subpart.

(c) Conducting operations without a temporary access permit or an operations permit, unless conducting operations under §§ 29.43 or 29.44.

(d) Failure to comply with any suspension or revocation order issued under this subpart.

(e) Failure to comply with any applicable Federal law or regulation, including any applicable State law or regulation. Unless specifically covered by the general and special regulations

set forth in this subchapter, the laws and regulations of the State within whose exterior boundaries a national wildlife refuge or portion thereof is located will govern the exploration, production, storage, and transportation of oil and gas. Such non-conflicting State laws and regulations that are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(f) Failure to comply with any of the above in Alaska, except for violations of 43 CFR part 36, which are governed by the regulations in subpart B of this part.

##### **§ 29.191 What enforcement actions can the Service take?**

If you engage in a prohibited act:

(a) The Service may suspend and/or revoke your approved operations permit and your authorization for operations as set forth at § 29.43 and § 29.44; and/or

(b) All prohibited acts are subject to the penalty provisions set forth at § 28.31 of subchapter C of this chapter.

##### **§ 29.192 How do violations affect my ability to obtain a permit?**

Until you comply with the regulations in this subpart, we will not consider a new request to conduct any operations within a refuge.

#### **Appeals**

##### **§ 29.200 Can I, as operator, appeal Service decisions?**

Yes. If you disagree with a decision made by the Service under this subpart, you may use the appeals process in § 25.45 of subchapter C of this chapter. For ROWs, appeals would still be governed by § 29.22; in Alaska, appeals would still be governed by 43 CFR 36.8.

#### **Public Information**

##### **§ 29.210 How can the public learn about oil and gas activities on refuge lands?**

(a) Interested parties may view the publicly available documents at the refuge's office during normal business hours or by other means prescribed by the refuge. The availability for public inspection of information about the nature, location, character, or ownership of refuge resources will conform to all applicable law and implementing regulations, standards, and guidelines.

(b) The refuge will make available for public inspection any documents that an operator submits to the Service under this subpart except those that you have identified as proprietary or confidential.

(c) For the information required in § 29.121(f), the operator and the owner of the information will be deemed to have waived any right to protect from public disclosure information submitted

through FracFocus or another Service-designated database.

(d) For information required under this subpart that the owner of the information claims to be exempt from public disclosure and is withheld from the Service, a corporate officer, managing partner, or sole proprietor of the operator must sign and the operator must submit to the authorized officer an affidavit that:

(1) Identifies the owner of the withheld information and provides the name, address, and contact information for a corporate officer, managing partner, or sole proprietor of the owner of the information;

(2) Identifies the Federal statute or regulation that would prohibit the Service from publicly disclosing the information if it were in the Service's possession;

(3) Affirms that the operator has been provided the withheld information from the owner of the information and is maintaining records of the withheld information, or that the operator has access and will maintain access to the withheld information held by the owner of the information;

(4) Affirms that the information is not publicly available;

(5) Affirms that the information is not required to be publicly disclosed under any applicable local, State, tribal, or Federal law;

(6) Affirms that the owner of the information is in actual competition and identifies competitors or others that could use the withheld information to cause the owner of the information substantial competitive harm;

(7) Affirms that the release of the information would likely cause substantial competitive harm to the

owner of the information and provides the factual basis for that affirmation; and

(8) Affirms that the information is not readily apparent through reverse engineering with publicly available information.

(e) If the operator relies upon information from third parties, such as the owner of the withheld information, to make the affirmations in paragraphs (d)(6) through (d)(8) of this section, the operator must provide a written affidavit from the third party that sets forth the relied-upon information.

(f) The Service may require any operator to submit to the Service any withheld information, and any information relevant to a claim that withheld information is exempt from public disclosure.

(g) If the Service determines that the information submitted under paragraph (e) of this section is not exempt from disclosure, the Service will make the information available to the public after providing the operator and owner of the information with no fewer than 10 business days' notice of the Service's determination.

(h) The operator must maintain records of the withheld information until the later of the Service's release of the operator's financial assurance or 7 years after completion of operations on refuge lands. Any subsequent operator will be responsible for maintaining access to records required by this paragraph during its operation of the well. The operator will be deemed to be maintaining the records if it can promptly provide the complete and accurate information to the Service, even if the information is in the custody of its owner.

(i) If any of the chemical identity information required in this subpart is withheld, the operator must provide the generic chemical name in the submission required. The generic chemical name must be only as nonspecific as is necessary to protect the confidential chemical identity, and should be the same as or no less descriptive than the generic chemical name provided to the Environmental Protection Agency.

### Information Collection

#### **§ 29.220 Has the Office of Management and Budget approved the collection of information?**

The Office of Management and Budget reviewed and approved the information collection requirements contained in this subpart and assigned OMB Control No. 1018-XXXX. We use the information collected under this subpart to manage non-Federal oil and gas operations within refuge boundaries for the purpose of protecting wildlife and habitat, water quality and quantity, wildlife-dependent recreational opportunities, and the health and safety of employees and visitors on NWRS lands. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed in 50 CFR 2.2.

**Karen Hyun,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

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