FEDERAL REGISTER

Vol. 80 Tuesday,

No. 249 December 29, 2015

Pages 81155–81438

OFFICE OF THE FEDERAL REGISTER

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

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Presidential Documents

Title 3—

The President

Proclamation 9384 of December 23, 2015

To Modify the Harmonized Tariff Schedule of the United States

By the President of the United States of America

A Proclamation

1. On September 9, 2012, leaders of the 21 Asia-Pacific Economic Cooperation (APEC) economies agreed to reduce applied tariff rates to 5 percent or less by the end of 2015 on 54 environmental goods. On November 19, 2015, leaders of the APEC economies reaffirmed that commitment.

2. Section 103(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4202(a)), authorizes the President, under certain circumstances, to proclaim such modification of any existing duty as the President determines to be required or appropriate to carry out an agreement entered into in accordance with section 103(a). The President may proclaim such modification provided that the modification does not reduce the rate of duty to a rate that is less than 50 percent of the rate of such duty that applied on June 29, 2015.

3. Section 502 of the Protecting Americans from Tax Hikes Act of 2015 authorizes the President to exercise the authority under section 103(a)(1)(B) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 to implement an agreement by members of APEC to reduce any rate of duty on certain environmental goods included in Annex C of the APEC Leaders' Declaration issued on September 9, 2012.

4. The United States applies duties to imports of certain environmental goods included in Annex C of the APEC Leaders' Declaration issued on September 9, 2012, of 8 percent, 5.6 percent, and 6.7 percent, the same rates that applied on June 29, 2015. On September 9, 2012, the United States agreed to cut applied duties on these environmental goods to 5 percent. The United States reaffirmed that commitment on November 19, 2015.

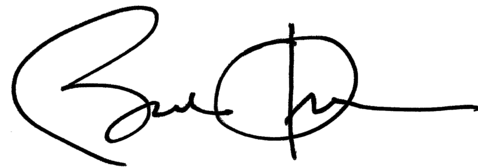
5. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 103(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, section 502 of the Protecting Americans from Tax Hikes Act of 2015, and section 604 of the 1974 Act, do proclaim that:

(1) In order to reduce the applied tariff rates of the United States to the level agreed upon by APEC leaders, the HTS is modified as set forth in the Annex to this proclamation.

(2) The modifications to the HTS set forth in the Annex to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after December 31, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.



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ANNEX
MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after December 31, 2015, the Harmonized Tariff Schedule of the United States is hereby modified as set forth herein.

1. Subheading 4418.72.95 is modified by deleting from the "Rates of Duty 1-General" subcolumn the duty rate "8%" and by inserting in lieu thereof the duty rate "5%".

2. Subheading 8404.20.00 is modified by deleting from the "Rates of Duty 1-General" subcolumn the duty rate "5.6%" and by inserting in lieu thereof the duty rate "5%".

3. Subheadings 8406.90.20, 8406.90.30, 8406.90.40 and 8406.90.45 are each modified by deleting from the "Rates of Duty 1-General" subcolumn the duty rate "6.7%" and by inserting in lieu thereof in each such subheading the duty rate "5%".

[FR Doc. 2015–32853
Filed 12–28–15; 8:45 am]
Billing code 7020–02–C

Rules and Regulations

Federal Register

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

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR part 457

[Docket No. FCIC–15–0001]

RIN 0563–AC47

Common Crop Insurance Regulations; Cotton Crop Insurance Provisions, Extra Long Staple Cotton Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Cotton Crop Insurance Provisions and Extra Long Staple (ELS) Cotton Crop Insurance Provisions. The intended effect of this action is to provide policy changes and to clarify existing policy provisions to better meet the needs of policyholders. As discussed further within this rule, FCIC received requests to simplify program administration consistent with evolving farming practices in cotton crop production. The changes will be effective for the 2017 and succeeding crop years.

DATES: This final rule is effective December 29, 2015. However, FCIC will accept written comments on this final rule until close of business February 29, 2016. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: FCIC prefers interested persons submit their comments electronically through the Federal eRulemaking Portal. Interested persons may submit comments, identified by Docket ID No. FCIC–15–0001, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

FCIC will post all comments received, including those received by mail, without change to *http://www.regulations.gov,* including any personal information provided. Once these comments are posted to this Web site, the public can access all comments at its convenience from this Web site. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* If interested persons are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, FCIC requests that the document attachment be in a text-based format. If interested persons want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of the submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the Risk Management Agency (RMA) Web Content Team at (816) 823–4694 or by email at *rmaweb.content@rma.usda.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an entity, such as an association, business, labor union, etc.). Interested persons may review the complete User Notice and Privacy Notice for Regulations.gov at *http://www.regulations.gov/#!privacyNotice.*

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the collections of information in this rule have been approved by OMB under control number 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the indemnity amount for an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act (FCIA) authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have a significant impact on a substantial number of small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See 2 CFR part 415, subpart C.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or action by FCIC directing the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC amends the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.104 Cotton Crop Insurance Provisions and 7 CFR 457.105 Extra Long Staple Cotton Crop Insurance Provisions to be effective for the 2017 and succeeding crop years. FCIC received requests to simplify program administration consistent with evolving farming practices in cotton crop production.

FCIC is issuing this final rule without opportunity for prior notice and comment. The Administrative Procedure Act exempts rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' from the statutory requirement for prior notice and opportunity for public comment (5 U.S.C. 553(a)(2)). However, FCIC is providing a 60-day comment period and invites interested persons to participate in this rulemaking by submitting written comments. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

1. The changes to 7 CFR 457.104 Cotton Crop Insurance Provisions are as follows:

(a) Section 9 (''Duties in the Event of Damage or Loss'')—FCIC is revising paragraph (a). The provisions require, in the event of damage or loss, the insured must leave cotton stalks intact for the insurance provider's inspection. FCIC has received requests to remove these provisions. The primary reasons provided to FCIC for removing the provisions include the following reasons:

- University extension in some regions recommends destroying the stalks as soon as possible after harvest to mitigate the possibility of insect infestation (specifically boll weevil);
- The provision requires cotton to be treated differently than other row crops, which do not require the insured to leave stalks intact for inspection;
- The provision was originally written to address multiple harvests on the same acreage, but today producers manage their cotton crops to result in harvest occurring once a year. Years ago, producers planted more late-maturing varieties and the bolls would open at different times during the harvest season causing a producer to pick the same acreage twice.
- Cotton farming practices have changed in some regions over the years and producers have grown accustomed to mowing the stalks immediately following the cotton picker; and
- Producers mow or shred cotton stalks so they can plant their winter grazing or cover crops. Since cotton stalks are woody, the sooner they can mow or shred the stalks, the sooner the stalks will begin to break down. When a cotton stalk inspection is required, a producer may have to wait up to two weeks before the field can be mowed. Depending on weather and individual circumstances, the stalk inspection is an inconvenience to producers and may interfere with timely completion of their normal operations and preparation for the winter/cover crop.

FCIC recognizes the potential existence of these issues, but also recognizes there may be situations in which a cotton stalk inspection has merit or necessity. Therefore, FCIC is revising the provision to allow insurance companies discretion to require, in certain circumstances, that insureds leave the cotton stalks intact for company inspection. FCIC is also revising the provision to allow FCIC to include specific circumstances in the Special Provisions for which FCIC will require insureds to leave cotton stalks intact, and FCIC will require the company to conduct a cotton stalk inspection, making discretion inapplicable when any Special Provisions circumstance required by FCIC occurs.

(b) Section 10 (''Settlement of Claim'')—FCIC is revising paragraph (c)(1)(i)(E). The current provision states production to count will include, among other things, all appraised production for acreage on which cotton stalks were destroyed in violation of section 9. As discussed above, FCIC is revising section 9, which is applicable only if the AIP exercises its discretion under appropriate circumstances to require that insureds leave cotton stalks intact. FCIC is revising paragraph (c)(1)(i)(E) to state this provision applies only if section 9(a) applies.

2. The changes to 7 CFR 457.105 Extra Long Staple Cotton Crop Insurance Provisions are as follows:

(a) Section 6 (''Insurable Acreage'')—FCIC is revising paragraph (b) to correct a prior **Federal Register** official publication error that inadvertently resulted in missing language from this provision. The words ''. . . normally further care for the crop, must . . .'' were not properly published within

paragraph (b). This provision was intended to match the Cotton Crop Insurance Provisions language found at 7 CFR 457.104, section 6(b).

(b) Section 9 (''Duties in the Event of Damage of Loss'')—FCIC is revising paragraph (a)(2). The provisions require, in the event of damage or loss, the insured must leave cotton stalks intact for the insurance provider's inspection. FCIC has received requests to remove these provisions. The primary reasons provided to FCIC for removing the provisions include the following reasons:

- University extension in some regions recommends destroying the stalks as soon as possible after harvest to mitigate the possibility of insect infestation (specifically boll weevil);
- The provision requires cotton to be treated differently than other row crops, which do not require the insured to leave stalks intact for inspection;
- The provision was originally written to address multiple harvests on the same acreage, but today producers manage their cotton crops to result in harvest occurring once a year. Years ago, producers planted more late-maturing varieties and the bolls would open at different times during the harvest season causing a producer to pick the same acreage twice.
- Cotton farming practices have changed in some regions over the years and producers have grown accustomed to mowing the stalks immediately following the cotton picker; and
- Producers mow or shred cotton stalks so they can plant their winter grazing or cover crops. Since cotton stalks are woody, the sooner they can mow or shred the stalks, the sooner the stalks will begin to break down. When a cotton stalk inspection is required, a producer may have to wait up to two weeks before the field can be mowed. Depending on weather and individual circumstances, the stalk inspection is an inconvenience to producers and may interfere with timely completion of their normal operations and preparation for the winter/cover crop.

FCIC recognizes the potential existence of these issues, but also recognizes there may be situations in which a cotton stalk inspection has merit or necessity. Therefore, FCIC is revising the provision to allow insurance companies discretion to require, in certain circumstances, that insureds leave the cotton stalks intact for company inspection. FCIC is also revising the provision to allow FCIC to include specific circumstances in the Special Provisions for which FCIC will require insureds to leave cotton stalks intact, and FCIC will require the company to conduct a cotton stalk inspection, making discretion inapplicable when any Special Provisions circumstance required by FCIC occurs.

(c) Section 10 (''Settlement of Claim'')—FCIC is revising paragraph (c)(1)(i)(E). The current provision says the production to count will include, among other things, all appraised production for acreage on which cotton stalks were destroyed in violation of section 9. As discussed above, FCIC is revising section 9, which is applicable only if the AIP exercises its discretion under appropriate circumstances to require that insureds leave cotton stalks intact. FCIC is revising paragraph (c)(1)(i)(E) to state this provision applies only if section 9(a)(2) applies.

(e) Section 12 (''Prevented Planting'')—FCIC is removing the reference to limited level of coverage in section 12(b) because it is no longer applicable.

List of Subjects in 7 CFR Part 457

Crop insurance, Cotton, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2017 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 2. Amend § 457.104 as follows:

■ a. In the introductory text, by removing ''2011'' and adding ''2017'' in its place; and

■ b. By revising sections 9(a) and 10(c)(1)(i)(E).

The revisions read as follows:

§ 457.104 Cotton crop insurance provisions.

* * * * *

9. Duties in the Event of Damage or Loss

(a) In addition to your duties under section 14 of the Basic Provisions, in the event of damage or loss, at our option or if required by FCIC in the Special Provisions, you may be required to leave the cotton stalks intact for our inspection. If applicable, the stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss given to us.

* * * * *

10. Settlement of Claim

* * * * *

(c) * * *

(1) * * *

(i) * * *

(E) If applicable, on which the cotton stalks are destroyed, in violation of section 9.

* * * * *

■ 3. Amend § 457.105 as follows:

■ a. In the introductory text, by removing ''2014'' and adding ''2017'' in its place;

■ b. By revising sections 6(b), 9(a)(2), 10(c)(1)(i)(E), and the last sentence in section 12(b).

The revisions read as follows:

§ 457.105 Extra Long Staple Cotton crop insurance provisions.

* * * * *

6. Insurable Acreage

* * * * *

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

* * * * *

9. Duties in the Event of Damage or Loss

(a) * * *

(2) At our option or if required by FCIC in the Special Provisions, you may be required to leave the cotton stalks intact for our inspection. If applicable, the stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss is given to us.

* * * * *

10. Settlement of Claim

* * * * *

(c) * * *

(1) * * *

(i) * * *

(E) If applicable, on which the cotton stalks are destroyed, in violation of section 9.

* * * * *

12. Prevented Planting

* * * * *

(b) * * * If you have additional coverage and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

Signed in Washington, DC, on December 17, 2015.

Brandon Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2015–32308 Filed 12–28–15; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC–2015–0025]

RIN 1557–AE01

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–1526]

RIN 7100–AE40

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AD90

Community Reinvestment Act Regulations

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint final rule; technical amendment.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define ''small bank'' or ''small savings association'' and ''intermediate small bank'' or ''intermediate small savings association.'' As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). The Agencies also propose to make technical edits to remove obsolete references to the Office of Thrift Supervision (OTS) and update cross-references to regulations implementing certain Federal consumer financial laws in their CRA regulations.

DATES: January 1, 2016.

FOR FURTHER INFORMATION CONTACT:

OCC: Margaret Hesse, Senior Counsel, Community and Consumer Law Division, (202) 649–6350; Priscilla Benner, Attorney, Legislative and Regulatory Activities Division, (202) 649–5490; for persons who are deaf or hard of hearing, TTY, (202) 649–5597; or Bobbie K. Kennedy, Bank Examiner, Compliance Policy Division, (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, (202) 912–7879; or Nikita Pastor, Counsel, (202) 452–3667, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–6859; or Richard M. Schwartz, Counsel, Legal Division, (202) 898–7424, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background and Description of the Joint Final Rule

The Agencies' CRA regulations establish CRA performance standards for small and intermediate small banks and savings associations. The CRA regulations define small and intermediate small banks and savings associations by reference to asset-size criteria expressed in dollar amounts, and they further require the Agencies to publish annual adjustments to these dollar figures based on the year-to-year change in the average of the CPI–W, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. 12 CFR 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2). This adjustment formula was first adopted for CRA purposes by the OCC, the Board, and the FDIC on August 2, 2005, effective September 1, 2005. 70 FR 44256 (Aug. 2, 2005). The Agencies noted that the CPI–W is also used in connection with other federal laws, such as the Home Mortgage Disclosure Act. *See* 12 U.S.C. 2808; 12 CFR 1003.2. On March 22, 2007, and effective July 1, 2007, the former OTS, the agency then responsible for regulating savings associations, adopted an annual adjustment formula consistent with that of the other federal banking agencies in its CRA rule previously set forth at 12 CFR 563e. 72 FR 13429 (Mar. 22, 2007).

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[1] and effective July 21, 2011, CRA rulemaking authority for federal and state savings associations was transferred from the OTS to the OCC, and the OCC subsequently republished, at 12 CFR 195, the CRA regulations applicable to those institutions.[2] In addition, the Dodd-Frank Act transferred responsibility for supervision of savings and loan holding companies and their non-depository subsidiaries from the OTS to the Board and the Board subsequently amended its CRA regulation to reflect this transfer of supervisory authority.[3]

The threshold for small banks and small savings associations was revised most recently in December 2014, and became effective January 1, 2015 (79 FR 77852 (Dec. 29, 2014)). The current CRA regulations provide that banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than $1.221 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least $305 million as of December 31 of both of the prior two calendar years and less than $1.221 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1). This joint final rule revises these thresholds.

During the period ending November 2015, the CPI–W decreased by 0.42 percent. As a result, the Agencies are revising 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) to make this annual adjustment. Beginning January 1, 2016, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than $1.216 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least $304 million as of December 31 of both of the prior two calendar years and less than $1.216 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. The Agencies also publish current and historical asset-size thresholds on the Web site of the Federal Financial Institutions Examination Council at *http://www.ffiec.gov/cra/.*

[1] Pub. L. 111–203, 124 Stat. 1376 (2010).

[2] *See* OCC interim final rule, 76 FR 48950 (Aug. 9, 2011).

[3] *See* Board interim final rule, 76 FR 56508 (Sept. 13, 2011).

In addition, the Agencies are making technical edits to 12 CFR 25.42, 228.42, and 345.42 to remove obsolete references to the ''Office of Thrift Supervision'' and to 12 CFR 563e in the CRA rules. As explained above, Title III of the Dodd-Frank Act transferred the powers, authorities, rights, and duties of the OTS to the Agencies. Specifically, among other changes, Title III abolished the OTS; transferred rulemaking and supervisory authority over savings and loan holding companies and supervisory authority over their non-depository subsidiaries to the Board; transferred rulemaking authority over federal savings associations and state savings associations, and supervisory authority over federal savings associations, to the OCC; and transferred supervisory authority over state savings associations to the FDIC.[4]

Further, the Agencies are updating references to certain regulations implementing Federal consumer financial laws in the CRA regulations, as Title X of the Dodd-Frank Act transferred rulemaking authority for a number of Federal consumer financial laws, including the Home Mortgage Disclosure Act (HMDA) and the Truth in Lending Act (TILA), to the Consumer Financial Protection Bureau (CFPB), effective July 21, 2011. The CFPB subsequently published an interim final rule to establish its own Regulation C to implement HMDA,[5] and also published an interim final rule to establish its own Regulation Z to implement TILA.[6] Accordingly, the Agencies are updating the citations in the CRA regulations [7] to reference the CFPB's Regulation C and Regulation Z, located at 12 CFR 1003 and 12 CFR 1026, respectively.

Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The amendments to the regulations to adjust the asset-size thresholds for small and intermediate small banks and savings associations result from the application of a formula established by a provision in the respective CRA regulations that the Agencies previously published for comment. *See* 70 FR 12148 (Mar. 11, 2005), 70 FR 44256 (Aug. 2, 2005), 71 FR 67826 (Nov. 24, 2006), and 72 FR 13429 (Mar. 22, 2007). Sections 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) are amended by adjusting the asset-size thresholds as provided for in §§ 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2).

Accordingly, the Agencies' rules provide no discretion as to the computation or timing of the revisions to the asset-size criteria. Furthermore, deleting the obsolete references to the ''Office of Thrift Supervision'' and its CRA regulation and updating cross-references to reflect the transfer of rulemaking authority for many Federal consumer financial laws to the CFPB are technical and non-substantive revisions. For these reasons, the Agencies have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary.

The effective date of this joint final rule is January 1, 2016. Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. Because this rule adjusts asset-size thresholds consistent with the procedural requirements of the CRA rules, the Agencies conclude that it is not substantive within the meaning of the APA's delayed effective date provision. Moreover, the Agencies find that there is good cause for dispensing with the delayed effective date requirement, even if it applied, because their current rules already provide notice that the small and intermediate small asset-size thresholds will be adjusted as of December 31 based on twelve-month data as of the end of November each year. In addition, the technical edits to remove obsolete references to the ''Office of Thrift Supervision'' and its CRA rule in the Agencies' CRA rules and update citations to certain regulations are not substantive within the meaning of the APA's delayed effective date provision.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking when a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the Agencies have determined that it is unnecessary to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320), the Agencies reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C. 1532, requires the OCC to prepare a budgetary impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. As discussed above, the OCC has determined that the publication of a general notice of proposed rulemaking is unnecessary. Accordingly, this joint final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons discussed in the preamble, 12 CFR parts 25 and 195 are amended as follows:

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[4] *See* 12 U.S.C. 5412–5413.

[5] 12 CFR part 1003. *See* 76 FR 78465 (Dec. 19, 2011).

[6] 12 CFR part 1026. *See* 76 FR 79768 (Dec. 22, 2011).

[7] *See* 12 CFR 25.12(h)(2)(i), 25.12(j)(2), 25.12(l), 25.42(b)(3), 25.42(d), 25.43(b)(2), 195.12(h)(2)(i), 195.12(j)(2), 195.12(l), 195.42(b)(3), 195.42(d), 195.43(b)(2), 228.12(h)(2)(i), 228.12(j)(2), 228.12(l), 228.42(b)(3), 228.42(d), 228.43(b)(2), 345.12(h)(2)(i), 345.12(j)(2), 345.12(l), 345.42(b)(3), 345.42(d), and 345.43(b)(2).

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

■ 2. Section 25.12 is amended:

■ a. In paragraph (h)(2)(i), by removing ''part 203'' and adding ''part 1003'' in its place;

■ b. In paragraph (j)(2), by removing ''§ 226.2'' and adding ''§ 1026.2'' in its place;

■ c. In paragraph (l), by removing ''§ 203.2'' and adding ''§ 1003.2'' in its place; and

■ d. By revising paragraph § 25.12(u)(1).

The revision reads as follows:

§ 25.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.216 billion. *Intermediate small bank* means a small bank with assets of at least $304 million as of December 31 of both of the prior two calendar years and less than $1.216 billion as of December 31 of either of the prior two calendar years.

* * * * *

§ 25.42 [Amended]

■ 3. Section 25.42 is amended:

■ a. In paragraphs (b)(3) and (d), by removing ''part 203'' and adding ''part 1003'' in its place, wherever it appears; and

■ b. In paragraph (i), by removing '', the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision,'' and adding ''and the Federal Deposit Insurance Corporation,'' in its place, and by removing ''parts 228, 345, or 563e'' and adding ''parts 195, 228, or 345'' in its place.

§ 25.43 [Amended]

■ 4. Section 25.43 is amended in paragraph (b)(2) by removing ''part 203'' and adding ''part 1003'' in its place.

PART 195—COMMUNITY REINVESTMENT

■ 5. The authority citation for part 195 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

■ 6. Section 195.12 is amended:

■ a. In paragraph (h)(2)(i), by removing ''part 203'' and adding ''part 1003'' in its place;

■ b. In paragraph (j)(2), by removing ''§ 226.2'' and adding ''§ 1026.2'' in its place;

■ c. In paragraph (l), by removing ''§ 203.2'' and adding ''§ 1003.2'' in its place; and

■ d. By revising paragraph (u)(1).

The revision is set forth below:

§ 195.12 Definitions.

* * * * *

(u) *Small savings association*—(1) *Definition. Small savings association* means a savings association that, as of December 31 of either of the prior two calendar years, had assets of less than $1.216 billion. *Intermediate small savings association* means a small savings association with assets of at least $304 million as of December 31 of both of the prior two calendar years and less than $1.216 billion as of December 31 of either of the prior two calendar years.

* * * * *

§ 195.42 [Amended]

■ 7. Section 195.42 is amended in paragraphs (b)(3) and (d) by removing ''part 203'' and adding ''part 1003'' in its place, wherever it appears.

§ 195.43 [Amended]

■ 8. Section 195.43 is amended in paragraph (b)(2) by removing ''part 203'' and adding ''part 1003'' in its place.

Federal Reserve System

12 CFR Chapter II

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 9. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

■ 10. Section 228.12 is amended:

■ a. In paragraph (h)(2)(i), by removing ''part 203'' and adding ''part 1003'' in its place;

■ b. In paragraph (j)(2), by removing ''§ 226.2'' and adding ''§ 1026.2'' in its place;

■ c. In paragraph (l), by removing ''§ 203.2'' and adding ''§ 1003.2'' in its place; and

■ d. Revising paragraph (u)(1).

The revision reads as follows:

§ 228.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.216 billion. *Intermediate small bank* means a small bank with assets of at least $304 million as of December 31 of both of the prior two calendar years and less than $1.216 billion as of December 31 of either of the prior two calendar years.

* * * * *

§ 228.42 [Amended]

■ 11. Section 228.42 is amended:

■ a. In paragraphs (b)(3) and (d), by removing ''part 203'' and adding ''part 1003'' in its place, wherever it appears; and

■ b. In paragraph (i), by removing '', the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision,'' and adding ''and the Federal Deposit Insurance Corporation,'' in its place, and by removing ''parts 25, 345, or 563e'' and adding ''parts 25, 195, or 345'' in its place.

§ 228.43 [Amended]

■ 12. Section 228.43 is amended in paragraph (b)(2), by removing ''part 203'' and adding ''part 1003'' in its place.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 13. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

■ 14. Section 345.12 is amended:

■ a. In paragraph (h)(2)(i), by removing ''part 203'' and adding ''part 1003'' in its place;

■ b. In paragraph (j)(2), by removing ''§ 226.2'' and adding ''§ 1026.2'' in its place;

■ c. In paragraph (l), by removing ''§ 203.2'' and adding ''§ 1003.2'' in its place; and

■ d. Revising paragraph (u)(1).

The revision reads as follows:

§ 345.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.216 billion. *Intermediate small bank* means a small bank with assets of at least $304 million as of December 31 of both of the prior two calendar years and less than $1.216 billion as of December 31 of either of the prior two calendar years.

* * * * *

§ 345.42 [Amended]

■ 15. Section 345.42 is amended:

■ a. In paragraphs (b)(3) and (d), by removing ''part 203'' and adding ''part 1003'' in its place, wherever it appears; and

■ b. In paragraph (i), by removing '', the Office of the Comptroller of the Currency, and the Office of Thrift Supervision,'' and adding ''and the Office of the Comptroller of the Currency,'' in its place, and by removing ''parts 25, 228, or 563e'' and adding ''parts 25, 195, or 228'' in its place.

§ 345.43 [Amended]

■ 16. Section 345.43 is amended in paragraph (b)(2) by removing ''part 203'' and adding ''part 1003'' in its place.

Dated: December 16, 2015.

Amy S. Friend,

Senior Deputy Comptroller and Chief Counsel.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 16, 2015.

Robert deV. Frierson,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, this 15th day of December, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–32670 Filed 12–28–15; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1199; Directorate Identifier 2014–NM–008–AD; Amendment 39–18351; AD 2015–26–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–07–10 for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. AD 2011–07–10 required revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness; doing detailed visual inspections; removing discrepant material; cleaning the surfaces of the valves, the plug of the sensing port, and the cabin pressure-sensing port plug; securing the insulation; installing a new safety valve, and replacing certain cabin pressure-sensing port plugs. This new AD retains all requirements of AD 2011–07–10, and requires a detailed visual inspection of both safety valves and the surrounding area for foreign material, room temperature vulcanizing (RTV) silicone, contamination, foam on the bulkhead structure, tape or insulation, and loose material; and corrective actions if necessary. This AD was prompted by reports of in-flight loss of cabin pressurization that was attributed to partial blockage of a safety valve cabin pressure-sensing port in conjunction with a failed safety valve manometric capsule. We are issuing this AD to detect and correct blockage of a safety valve cabin pressure-sensing port, which could result in loss of cabin pressure.

DATES: This AD becomes effective February 2, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 2, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of May 5, 2011 (76 FR 17758, March 31, 2011).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1199;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.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–2015–1199.

FOR FURTHER INFORMATION CONTACT: Luke Walker, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7363; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011). AD 2011–07–10 applied to certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The NPRM published in the **Federal Register** on April 15, 2015 (80 FR 20181) (''the NPRM'').

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2010–06R1, dated August 8, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The MCAI states:

> Investigation of a high altitude loss of cabin pressurization on a BD–100–1A10 aeroplane determined that it was caused by a partial blockage of a safety valve cabin pressure-sensing port, in conjunction with a dormant failure/leakage of the safety valve manometric capsule. The blockage, caused by accumulation of lint/dust on the grid of the port plug, did not allow sufficient airflow through the cabin pressure-sensing port to compensate for the rate of leakage from the manometric capsule, resulting in the opening of the safety valve. It was also determined that failure of the manometric capsule alone would not result in the opening of the safety valve.
>
> The original issue of this [Canadian] AD mandated a revision of the maintenance schedule, the cleaning of the safety valves, the removal of material from the area surrounding the safety valves and the modification of the safety valves with a gridless cabin pressure-sensing port plug.
>
> Since the original issue of this [Canadian] AD, there have been two additional reported events of in-flight loss of cabin pressurization that were attributed to partial blockage of a safety valve cabin pressure-sensing port in conjunction with a failed safety valve manometric capsule.
>
> Bombardier Aerospace has determined that aeroplanes with a particular interior installation require improved instructions to

clean the safety valves and their surrounding area. In addition, Aircraft Maintenance Manual tasks have been updated to ensure that inspection of the safety valves and their surrounding is carried out after any maintenance action.

Revision 1 of this [Canadian] AD is issued to mandate inspection and cleaning of the safety valves and their surrounding area on the affected aeroplanes.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-1199-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Revised Docket Number

We have changed the docket number specified in the NPRM from ''Docket No. FAA–2015–0827'' to ''Docket No. FAA–2015–1199'' in this final rule.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 100–25–21, Revision 02, dated July 25, 2013. The service information describes procedures for a detailed visual inspection of both safety valves and the surrounding area for foreign material, RTV silicone, contamination, foam on the bulkhead structure, tape or insulation, and loose material, and applicable 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.

Costs of Compliance

We estimate that this AD affects 67 airplanes of U.S. registry.

The actions required by AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), and retained in this AD take about 10 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 2011–07–10 is $850 per product.

We also estimate that it will take about 4 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $22,780, or $340 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1199;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), and adding the following new AD:

2015–26–03 Bombardier, Inc.: Amendment 39–18351. Docket No. FAA–2015–1199; Directorate Identifier 2014–NM–008–AD.

(a) Effective Date

This AD becomes effective February 2, 2016.

(b) Affected ADs

This AD replaces AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011).

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes, certificated in any category, serial numbers 20001 through 20274.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by reports of in-flight loss of cabin pressurization that were attributed to partial blockage of a safety valve cabin pressure-sensing port in conjunction with a failed safety valve manometric

capsule. We are issuing this AD to detect and correct blockage of a safety valve cabin pressure-sensing port, which could result in loss of cabin pressure.

(f) Compliance

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

(g) Retained Revision with No Changes

This paragraph restates the requirements of paragraph (g) of AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), with no changes. For all airplanes: Within 30 days after June 1, 2010 (the effective date of AD 2010–10–18, Amendment 39–16297 (75 FR 27406, May 17, 2010)), revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating Tasks 21–31–09–101 and 21–31–09–102 in the Bombardier Temporary Revision (TR) 5–2–53, dated October 1, 2009, to Section 5–10–40, ''Certification Maintenance Requirements,'' in Part 2 of Chapter 5 of Bombardier Challenger 300 BD–100 Time Limits/Maintenance Checks.

(1) For the new tasks identified in Bombardier TR 5–2–53, dated October 1, 2009: For airplanes identified in the ''Phase-in'' section of Bombardier TR 5–2–53, dated October 1, 2009, the initial compliance with the new tasks must be carried out in accordance with the phase-in schedule detailed in Bombardier TR 5–2–53, dated October 1, 2009, except where that TR specifies a compliance time from the date of the TR, this AD requires compliance within the specified time after June 1, 2010 (the effective date of AD 2010–10–18, Amendment 39–16297 (75 FR 27406, May 17, 2010)).

Thereafter, except as provided by paragraph (n)(1) of this AD, no alternative to the task intervals may be used.

(2) When the information in Bombardier TR 5–2–53, dated October 1, 2009, has been included in the general revisions of the applicable Airworthiness Limitations section, that TR may be removed from that Airworthiness Limitations section of the Instructions for Continued Airworthiness.

(h) Retained Inspection, Removal, Cleaning, and Installation With Certain Clarified Compliance Times

This paragraph restates the requirements of paragraph (h) of AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), with certain clarified compliance times. For airplanes having S/Ns 20003 through 20173 inclusive, 20176, and 20177: Within 50 flight hours after June 1, 2010 (the effective date of AD 2010–10–18, Amendment 39–16297 (75 FR 27406, May 17, 2010)), do a detailed visual inspection of the safety valves and surrounding areas for discrepant material (*e.g.,* foreign material surrounding the safety valves, room temperature vulcanizing (RTV) sealant on safety valves, RTV excess on the bulkhead, tape near the safety valve opening, and, on certain airplanes, insulation near the safety valve opening, and foam in the area surrounding the safety valves) and a detailed visual inspection for contamination (*e.g.,* RTV, dust, or lint) in the safety valve pressure ports, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–14, dated June 30, 2008 (for airplanes having S/Ns 20124, 20125, 20128, 20134, 20139, 20143, 20146, 20148 through 20173 inclusive, 20176, and 20177); or Bombardier Service Bulletin 100–25–21, dated June 30, 2008 (for airplanes having S/Ns 20003 through 20123 inclusive, 20126, 20127, 20129 to 20133 inclusive, 20135 to 20138 inclusive, 20140 through 20142 inclusive, 20144, 20145, and 20147).

(1) If any discrepant material is found during the detailed visual inspection, before further flight, remove the discrepant material, clean the surfaces of the valves, and secure the insulation, as applicable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–14, dated June 30, 2008 (for airplanes having S/Ns 20124, 20125, 20128, 20134, 20139, 20143, 20146, 20148 through 20173 inclusive, 20176, and 20177); or Bombardier Service Bulletin 100–25–21, dated June 30, 2008 (for airplanes having S/Ns 20003 through 20123 inclusive, 20126, 20127, 20129 through 20133 inclusive, 20135 through 20138 inclusive, 20140 through 20142 inclusive, 20144, 20145, and 20147).

(2) If contamination (*e.g.,* RTV, dust, or lint) is found on the safety valve pressure sensing ports, before further flight, do a detailed visual inspection of the outside and inside diameters of the pressure sensing port conduit for the presence of RTV; and before further flight do the actions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD, as applicable; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–14, dated June 30, 2008 (for airplanes having S/Ns 20124, 20125, 20128, 20134, 20139, 20143, 20146, 20148 through 20173 inclusive, 20176, and 20177); or Bombardier Service Bulletin 100–25–21, dated June 30, 2008 (for airplanes having S/Ns 20003 through 20123 inclusive, 20126, 20127, 20129 through 20133 inclusive, 20135 through 20138 inclusive, 20140 through 20142 inclusive, 20144, 20145, and 20147).

(i) If no RTV is found, clean the plug of the sensing port.

(ii) If any RTV is found, install a new safety valve.

(i) Retained Cleaning for Certain Airplanes With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), with no changes. For airplanes having S/Ns 20174, 20175, 20178 through 20189 inclusive, 20191 through 20228 inclusive, 20230 through 20232 inclusive, 20235, 20237, 20238, 20241, 20244, 20247, 20249 through 20251 inclusive, 20254, 20256 and 20259: Within 50 flight hours after June 1, 2010 (the effective date of AD 2010–10–18, Amendment 39–16297 (75 FR 27406, May 17, 2010)), clean the cabin pressure-sensing port plug in both safety valves, in accordance with Paragraph 2.B., ''Part A—Modification—Cleaning,'' of the Accomplishment Instructions of Bombardier Service Bulletin A100–21–08, dated June 18, 2009.

(j) Retained Cleaning for Certain Other Airplanes With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), with no changes. For airplanes having S/Ns 20003 through 20189 inclusive, 20191 through 20228 inclusive, 20230 through 20232 inclusive, 20235, 20237, 20238, 20241, 20244, 20247, 20249 through 20251 inclusive, 20254, 20256, and 20259: Within 50 flight hours after June 1, 2010 (the effective date of AD 2010–10–18, Amendment 39–16297 (75 FR 27406, May 17, 2010)), clean the cabin pressure-sensing port plug in both safety valves, in accordance with Paragraph 2.B., ''Part A—Modification—Cleaning,'' of the Accomplishment Instructions of Bombardier Service Bulletin A100–21–08, dated June 18, 2009. Repeat the cleaning thereafter at intervals not to exceed 50 flight hours until the actions specified by paragraph (k) of this AD are completed.

(k) Retained Replacement With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2011–07–10, Amendment 39–16647 (76 FR 17758, March 31, 2011), with no changes. For airplanes having S/Ns 20003 through 20189 inclusive, 20191 through 20228 inclusive, 20230 through 20232 inclusive, 20235, 20237, 20238, 20241, 20244, 20247, 20249 through 20251 inclusive, 20254, 20256, and 20259: Within 12 months after May 5, 2011 (the effective date of AD 2011–07–10), replace the cabin pressure-sensing port plug having part number (P/N) 2844–060 in both safety valves with a new gridless plug having P/N 2844–19 and re-identify the safety valves, in accordance with Paragraph 2.C., ''Part B—Modification—Replacement,'' of the Accomplishment Instructions of Bombardier Service Bulletin A100–21–08, dated June 18, 2009. Doing the actions in this paragraph terminates the repetitive cleanings required by paragraph (j) of this AD.

(l) New Requirement of This AD: Inspection and Cleaning

For airplanes having S/Ns 20003 through 20123 inclusive, 20126, 20127, 20129 through 20133 inclusive, 20135 through 20138 inclusive, 20140 through 20142 inclusive, 20144, 20145, and 20147: Within 500 flight hours or 15 months after the effective date of this AD, whichever occurs first, do a detailed visual inspection of both safety valves and the surrounding area for foreign material, RTV silicone, contamination, foam on the bulkhead structure, tape or insulation, and loose material, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–21, Revision 02, dated July 25, 2013. Do all applicable corrective actions before further flight, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–25–21, Revision 02, dated July 25, 2013.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service

Bulletin 100–25–21, Revision 01, dated February 26, 2013, which is not incorporated by reference in this AD.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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.

(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, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2010–06R1, dated August 8, 2013, 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–2015–1199.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (p)(5) and (p)(6) of this AD.

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on February 2, 2016.

(i) Bombardier Service Bulletin 100–25–21, Revision 02, dated July 25, 2013.

(ii) Reserved.

(4) The following service information was approved for IBR on May 5, 2011, (76 FR 17758, March 31, 2011).

(i) Bombardier Service Bulletin A100–21–08, dated June 18, 2009.

(ii) Bombardier Service Bulletin 100–25–14, dated June 30, 2008.

(iii) Bombardier Service Bulletin 100–25–21, dated June 30, 2008.

(iv) Bombardier Temporary Revision (TR) 5–2–53, dated October 1, 2009, to Section 5–10–40, ''Certification Maintenance Requirements,'' in Part 2 of Chapter 5 of Bombardier Challenger 300 BD–100 Time Limits/Maintenance Checks.

(5) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(6) 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.

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

Issued in Renton, Washington, on December 11, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–32080 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0648; Directorate Identifier 2013–NM–136–AD; Amendment 39–18344; AD 2015–25–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2010–06–04, for certain Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, B4–2C airplanes; Model A310 series airplanes; Model A300 B4–600 series airplanes; and Model A300 B4–600R series airplanes. AD 2010–06–04 required repetitive inspections to detect cracks of the pylon side panels (upper section) at rib 8; and corrective actions if necessary. This new AD continues to require repetitive inspections for cracking of the pylons 1 and 2 side panels (upper section) at rib 8 with reduced compliance times, and corrective actions if necessary. This AD also requires repetitive post-repair and post-modification inspections and repair if necessary. This AD also removes certain airplanes having a certain modification from the applicability. This AD was prompted by reports of cracks found on pylon side panels at rib 8 and a fleet survey and updated fatigue and damage tolerance analyses. We are issuing this AD to detect and correct cracking of pylon side panels (upper section) at rib 8, which could lead to reduced structural integrity of the pylon primary structure, which could cause detachment of the engine from the fuselage.

DATES: This AD becomes effective February 2, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 2, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of April 15, 2010 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0648;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0648.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–06–04,

Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)). AD 2010–06–04 applied to certain Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, B4–2C airplanes; Model A310 series airplanes; Model A300 B4–600 series airplanes; and Model A300 B4–600R series airplanes. The NPRM published in the **Federal Register** on September 22, 2014 (79 FR 56526).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0136R1, dated July 30, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, B4–2C airplanes; Model A310 series airplanes; Model A300 B4–600 series airplanes; and Model A300 B4–600R series airplanes. The MCAI states:

Cracks were found on pylon side panels (upper section) at rib 8 on Airbus A300, A310 and A300–600 aeroplanes equipped with General Electric engines. Investigation of these findings indicated that this problem was likely to also affect aeroplanes of this type design with other engine installations.

This condition, if not detected and corrected, could lead to reduced strength of the pylon primary structure, possibly resulting in pylon structural failure and in-flight loss of an engine.

Prompted by these findings, EASA issued AD 2008–0181 [*http://www.regulations.gov/#!documentDetail;D=FAA-2009-0789-0002*] [which corresponds to FAA AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))] to require repetitive detailed visual inspections [of the pylon side panels (upper section) at rib 8] and, depending on aeroplane configuration and/or findings, the accomplishment of applicable corrective action(s).

Since that [EASA] AD was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the risk for these aeroplanes is higher than initially determined and consequently, the threshold and interval must be reduced to allow timely detection of these cracks and the accomplishment of applicable correction action(s).

EASA issued AD 2013–0136 [*http://ad.easa.europa.eu/ad/2013-0136R1*] which retained the requirements of EASA AD 2008–0181, which was superseded, and required the inspections to be accomplished within reduced thresholds and intervals.

After publication of EASA AD 2013–0136, it appeared that Airbus Mod 03599 had no influence on the aeroplane configuration affected by this AD. At the same time Airbus Service Bulletin (SB) A30–54–6015 Revision 3 was not integrally taken into account as this revision no longer identifies configuration 3 aeroplanes.

For the reasons described above, EASA [AD] 2013–0136 is revised to exclude Airbus Mod 03599 from the applicability and to delete the reference to the configuration 3 for A300–600 aeroplanes.

Corrective actions include doing a repair. This AD also provides an optional modification (installing a doubler), which would terminate the repetitive inspections. Required actions also include repetitive post-repair and post-modification inspections and repair if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0648-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM (79 FR 56526, September 22, 2014) and the FAA's response.

Request To Revise Method Used To Determine Compliance Times

United Parcel Service (UPS) requested that we revise the proposed compliance times to be less complex. UPS stated that the proposed compliance times contain a method known as ''Average Flight Time'' (AFT) which results in a variable flight hour limit and adds unnecessary complexity to the threshold table and subsequent inspection actions. UPS added that use of the AFT method, along with a lack of standard procedures for implementing the AFT method would create uncertainty for operators and inspectors trying to determine the correct compliance time. UPS stated that in review of prior FAA ADs, including AD 98–18–02, Amendment 39–10718 (63 FR 45689, August 27, 1998), that the FAA does not concur with the AFT compliance time methodology as ''. . . such adjustments may not address the unsafe condition in a timely manner'' and ''. . . they (AFT compliance times) do not fit into the AD tracking process for operators or for Principle Maintenance Inspectors (PMIs) attempting to ascertain compliance with ADs.''

UPS compiled a table of fixed compliance times that it suggested would be simpler to use instead of the proposed AFT-based compliance times.

We disagree with the commenter's request to revise the compliance times in this AD. The compliance times, as proposed, use fixed flight-cycle and flight-hour compliance times. For only Model A310 series airplanes, the compliance times depend on whether airplanes are short range or long range airplanes. We acknowledge that this causes additional complexity in tracking and forecasting airplane utilization; however, the inspection schedule was created by Airbus to offer operators the greatest flexibility. Operators may elect to inspect within the range that complies with both the long range and short range utilization in order to reduce the complexity. We have not changed this AD in this regard.

Regarding AD 98–18–02, Amendment 39–10718 (63 FR 45689, August 27, 1998), at the time the FAA issued AD 98–18–02, the required actions in Airbus Industrie Service Bulletin A300–57–6027, Revision 2, dated September 13, 1994, contained inspection thresholds and intervals based on airplane flight cycles, and provided instructions for adjusting the flight cycle threshold and interval using each individual airplane's AFT utilization. The FAA did not agree with the AFT method because it could result in a different inspection threshold and interval for each individual airplane, and the FAA did not agree with adjusting a flight cycle based threshold and interval using the average flight time utilization without also having a related flight hour based threshold and interval.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 56526, September 22, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 56526, September 22, 2014).

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information. The service information describes procedures for repetitive inspections for cracking of the pylons 1 and 2 side panels (upper section) at rib 8 with reduced compliance times, and corrective actions if necessary. This service information also describes procedures for post-modification and post-repair detailed inspections for cracking, as applicable, of the left-hand (LH) and right-hand (RH) side panels of pylons 1 and 2, and repair if necessary. 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.

• Airbus Service Bulletin A300–54–0075, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated March 27, 2013.

• Airbus Service Bulletin A310–54–2018, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013.

• Airbus Service Bulletin A300–54–6015, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013.

Airbus has also issued the following service information. This service information describes procedures for modifying by installing a doubler on the LH pylon 1 and RH pylon 2, on pylon side panels (upper section), at rib 8. 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.

• Airbus Service Bulletin A300–54–0081, dated August 11, 1993.

• Airbus Service Bulletin A310–54–2024, dated August 11, 1993.

• Airbus Service Bulletin A300–54–6021, Revision 02, dated May 21, 2008.

Costs of Compliance

We estimate that this AD affects 156 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection [retained actions from AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))].	4 work-hours × $85 per hour = $340	$0	$340	$53,040.
Inspection [new actions]	24 work-hours × $85 per hour = $2,040 per inspection cycle.	0	$2,040 per inspection cycle.	$318,240 per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	58 work-hours × $85 per hour = $4,930	$3,910	$8,840.
Optional Modification	Up to 48 work-hours × $85 per hour = $4,080	Up to $1,026	Up to $5,106.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0648;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the ADDRESSES section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected

May 4, 2010 (75 FR 23572)), and adding the following new AD:

2015–25–06 Airbus: Amendment 39–18344. Docket No. FAA–2014–0648; Directorate Identifier 2013–NM–136–AD.

(a) Effective Date

This AD becomes effective February 2, 2016.

(b) Affected ADs

This AD replaces AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)).

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C airplanes, on which Airbus Modification 02434 has been embodied in production.

(2) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, except those on which Airbus Modification 10432 has been embodied in production.

(3) Airbus Model A300 B4-601, B4-603, B4-605R, B4-620, B-622, and B4-622R airplanes, except those on which Airbus Modification 10432 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Reason

This AD was prompted by reports of cracks found on pylon side panels at rib 8 and a fleet survey and updated fatigue and damage tolerance analyses. We are issuing this AD to detect and correct cracking of pylon side panels (upper section) at rib 8, which could lead to reduced structural integrity of the pylon primary structure, which could cause detachment of the engine from the fuselage.

(f) Compliance

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

(g) Retained Actions and Compliance With Revised Service Information

This paragraph restates the requirements of paragraph (f) of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)), with revised service information. Accomplishing the initial inspection required by paragraph (h) of this AD terminates the requirements of this paragraph.

(1) For Configuration 01 airplanes as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: At the applicable time specified in table 1 to paragraph (g) of this AD, except as required by paragraphs (g)(2) and (g)(3) of this AD, perform a detailed visual inspection of the pylons 1 and 2 side panels (upper section) at rib 8, in accordance with paragraph 3.B. of the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(9)(i) through (g)(9)(iii) of this AD or paragraphs (k)(1), (k)(2), or (k)(3) of this AD. Repeat the inspection at the time specified in table 1 to paragraph (g) of this AD.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—COMPLIANCE TIMES FOR CONFIGURATION 1 AIRPLANES

For Model—	That have accumulated—	Inspect before the accumulation of—	Or within—	And repeat the inspection at intervals not to exceed—
		Whichever occurs later		
A300 B2–1C, B2–203, and B2K–3C airplanes.	≤17,500 total flight cycles [1]	5,350 total flight cycles	2,500 flight cycles [2]	4,300 flight cycles.
A300 B2–1C, B2–203, and B2K–3C airplanes.	>17,500 total flight cycles [1]	20,000 total flight cycles or 40,000 total flight hours, whichever occurs first.	250 flight cycles [2]	4,300 flight cycles.
A300 B4–103, B4–203, and B4–2C airplanes.	≤18,000 total flight cycles [1]	5,350 total flight cycles	2,000 flight cycles [2]	4,300 flight cycles.
A300 B4–103, B4–203, and B4–2C airplanes.	>18,000 total flight cycles [1]	20,000 total flight cycles or 40,000 total flight hours, whichever occurs first.	250 flight cycles [2]	4,300 flight cycles.
A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes.	≤18,000 total flight cycles [1]	4,200 total flight cycles	2,000 flight cycles [2]	3,600 flight cycles.
A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes.	>18,000 total flight cycles [1]	20,000 total flight cycles or 40,000 total flight hours, whichever occurs first.	250 flight cycles [2]	3,600 flight cycles.
A310–200 airplanes with GE CF6–80A3 or Pratt & Whitney engines.	≤18,000 total flight cycles [1]	9,700 total flight cycles or 19,400 total flight hours, whichever occurs first.	1,500 flight cycles [2]	6,700 flight cycles or 13,400 flight hours, whichever occurs first.
A310–200 airplanes with GE CF6–80A3 or Pratt & Whitney engines.	>18,000 total flight cycles [1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles [2]	6,700 flight cycles or 13,400 flight hours, whichever occurs first.
A310–200 airplanes with GE CF6–80C2 engines.	≤18,000 total flight cycles [1]	7,800 total flight cycles or 15,600 total flight hours, whichever occurs first.	1,500 flight cycles [2]	5,800 flight cycles or 11,600 flight hours, whichever occurs first.
A310–200 airplanes with GE CF6–80C2 engines.	>18,000 total flight cycles [1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles [2]	5,800 flight cycles or 11,600 flight hours, whichever occurs first.
A310–300 SR [3] airplanes with Pratt & Whitney JT9D engines.	≤18,000 total flight cycles [1]	8,600 total flight cycles or 24,000 total flight hours, whichever occurs first.	1,500 flight cycles [2]	6,700 flight cycles or 18,700 flight hours, whichever occurs first.
A310–300 SR [3] airplanes with Pratt & Whitney JT9D engines.	>18,000 total flight cycles [1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles [2]	6,700 flight cycles or 18,700 flight hours, whichever occurs first.
A310–300 SR [3] airplanes with GE engines.	≤18,000 total flight cycles [1]	7,000 total flight cycles or 19,600 total flight hours, whichever occurs first.	1,500 flight cycles [2]	5,700 flight cycles or 15,900 flight hours, whichever occurs first.
A310–300 SR [3] airplanes with GE engines.	>18,000 total flight cycles [1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles [2]	5,700 flight cycles or 15,900 flight hours, whichever occurs first.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—COMPLIANCE TIMES FOR CONFIGURATION 1 AIRPLANES—Continued

For Model—	That have accumulated—	Inspect before the accumulation of—	Or within—	And repeat the inspection at intervals not to exceed—
		Whichever occurs later		
A310–300 SR[3] airplanes with Pratt & Whitney 4000 engines.	≤18,000 total flight cycles[1]	7,000 total flight cycles or 19,600 total flight hours, whichever occurs first.	1,500 flight cycles[2]	5,800 flight cycles or 16,200 flight hours, whichever occurs first.
A310–300 SR[3] airplanes with Pratt & Whitney 4000 engines.	>18,000 total flight cycles[1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles[2]	5,800 flight cycles or 16,200 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with Pratt & Whitney JT9D engines.	≤18,000 total flight cycles[1]	5,900 total flight cycles or 29,500 total flight hours, whichever occurs first.	1,500 flight cycles[2]	6,000 flight cycles or 30,300 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with Pratt & Whitney JT9D engines.	>18,000 total flight cycles[1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles[2]	6,000 flight cycles or 30,300 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with GE engines.	≤18,000 total flight cycles[1]	4,800 total flight cycles or 24,100 total flight hours, whichever occurs first.	1,500 flight cycles[2]	5,100 flight cycles or 25,500 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with GE engines.	>18,000 total flight cycles[1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles[2]	5,100 flight cycles or 25,500 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with Pratt & Whitney 4000 engines.	≤18,000 total flight cycles[1]	4,800 total flight cycles or 24,000 total flight hours, whichever occurs first.	1,500 flight cycles[2]	5,200 flight cycles or 26,300 flight hours, whichever occurs first.
A310–300 LR[4] airplanes with Pratt & Whitney 4000 engines.	>18,000 total flight cycles[1]	19,500 total flight cycles or 55,500 total flight hours, whichever occurs first.	250 flight cycles[2]	5,200 flight cycles or 26,300 flight hours, whichever occurs first.

[1] As of April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))).
[2] After April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010; corrected May 4, 2010 (75 FR 23572))).
[3] "SR" applies to airplanes with average flights less than 4 flight hours.
[4] "LR" refers to airplanes with average flights of 4 or more flight hours.

(2) For Model A300 and A300–600 airplanes that have accumulated more than 40,000 total flight hours as of April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))): Within 250 flight cycles after April 15, 2010, do the actions specified in paragraph (g)(1) of this AD.

(3) For Model A310 airplanes that have accumulated more than 55,500 total flight hours as of April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))): Within 250 flight cycles after April 15, 2010, do the actions specified in paragraph (g)(1) of this AD.

(4) For Configuration 01 airplanes, as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: If a crack is found during any inspection required by paragraph (g)(1) of this AD, before further flight, install a doubler, in accordance with paragraph 3.C. of the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(9) of this AD.

(5) For Configuration 02 airplanes, as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: At the applicable time specified in paragraph 1.E.(2) of the applicable service bulletin identified in paragraphs (g)(9)(i) through (g)(9)(iii) of this AD, or within 250 flight cycles after April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))), whichever occurs later, perform a detailed visual inspection of the pylons 1 and 2 side panels (upper section) at rib 8, in accordance with paragraph 3.B. of the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(9) of this AD.

(6) For Configuration 03 airplanes, as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: At the applicable time specified in paragraph 1.E.(2) of the applicable service bulletin identified in paragraphs (g)(9)(i) through (g)(9)(iii) of this AD, or within 250 flight cycles after April 15, 2010 (the effective date of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572))), whichever occurs later, perform a detailed visual inspection, and a high frequency eddy current inspection as applicable, of the pylons 1 and 2 side panels (upper section) at rib 8, in accordance with paragraph 3.B. of the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(9) of this AD.

(7) For Configuration 02 and 03 airplanes, as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: If a crack is found during any inspection required by paragraph (g)(1), (g)(5), or (g)(6) of this AD, before further flight, repair in accordance with paragraph 3.C. of the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(9) of this AD.

(8) For all airplanes, except those in Configuration 01, as identified in the applicable service bulletin identified in paragraph (g)(9) of this AD: Repeat the inspection specified in paragraph (g)(1), (g)(5), or (g)(6) of this AD, as applicable, at the intervals specified in paragraph 1.E.(2) of the applicable service bulletin identified in paragraph (g)(9)(i) through (g)(9)(iii) of this AD.

(9) For the actions specified in paragraph (g) of this AD, use the applicable service bulletin identified in paragraphs (g)(9)(i) through (g)(9)(iii) of this AD, or paragraph (k)(1), (k)(2), or (k)(3) of this AD.

(i) Airbus Mandatory Service Bulletin A300–54–0075, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008 (For Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C airplanes).

(ii) Airbus Mandatory Service Bulletin A300–54–6015, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008 (For Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes).

(iii) Airbus Mandatory Service Bulletin A310–54–2018, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008 (for Model A310 series airplanes).

(h) New Repetitive Inspections and Repair

Except as required by paragraphs (l)(1) and (l)(2) of this AD, at the applicable times specified in paragraph 1.E., "Compliance," of the applicable service bulletin identified in paragraph (k) of this AD: Do a detailed inspection for cracking of the pylons 1 and

2 side panels (upper section) at rib 8, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (k) of this AD. Accomplishing the inspection required by this paragraph terminates the requirements of paragraph (g)(1) through (g)(9) of this AD.

(1) If any cracking is found, before further flight, do a high frequency eddy current (HFEC) inspection to confirm the crack, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (k) of this AD.

(i) If any crack indication is confirmed during the HFEC inspection specified in paragraph (h)(1) of this AD, and the crack is less than 20 mm, before further flight, repair, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (k) of this AD.

(ii) If any crack indication is confirmed during the HFEC inspection specified in paragraph (h)(1) of this AD and the crack is greater than or equal to 20 mm, before further flight, repair 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).

(2) If no cracking is found, or if crack indication is not confirmed during the HFEC inspection required by paragraph (h)(1) of this AD, at the applicable interval specified in paragraph 1.E., ''Compliance,'' of the applicable service bulletin identified in paragraph (k) of this AD, repeat the inspection specified in paragraph (h) of this AD, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (k) of this AD until the modification specified in paragraph (i) is done.

(i) Optional Modification

Modifying by installing a doubler on the left hand (LH) pylon 1 and right hand (RH) pylon 2, on pylon side panels (upper section), at rib 8, in accordance with the Accomplishment Instructions of the service information identified in paragraph (i)(1), (i)(2), or (i)(3) of this AD; as applicable; terminates the repetitive inspections specified in paragraph (h)(2) of this AD.

(1) Airbus Service Bulletin A300–54–0081, dated August 11, 1993.

(2) Airbus Service Bulletin A310–54–2024, dated August 11, 1993.

(3) Airbus Service Bulletin A300–54–6021, Revision 02, dated May 21, 2008.

(j) Post-Modification and Post-Repair Repetitive Inspections and Corrective Actions

For airplanes on which the modification has been done as specified in paragraph (i) of this AD, and airplanes on which the repair has been done as specified in paragraph (h) of this AD: At the applicable compliance time specified in paragraph 1.E., Compliance,'' of the applicable service bulletin identified in paragraph (k) of this AD, do the post-modification and post-repair detailed inspections for cracking, as applicable, of the LH and RH side panels of pylons 1 and 2, in accordance with the applicable service bulletins identified in paragraph (k) of this AD. Repeat the inspections thereafter at the times specified in paragraph 1.E., ''Compliance'' of the applicable service bulletin specified in paragraph (k) of this AD. If any cracking is found, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. This repair is not a terminating action for the repetitive inspections required by this paragraph.

(k) New Service Information

Use the applicable service bulletin identified in paragraphs (k)(1) through (k)(3) of this AD to accomplish the inspections required by paragraphs (g), (h), and (j) of this AD.

(1) Airbus Service Bulletin A300–54–0075, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated March 27, 2013 (for Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C airplanes).

(2) Airbus Service Bulletin A310–54–2018, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013 (for Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes).

(3) Airbus Service Bulletin A300–54–6015, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013 (for Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R airplanes).

(l) Exceptions

(1) Where the compliance time column in the tables in paragraph 1.E., ''Compliance,'' of the applicable service bulletin identified in paragraph (k) of this AD specifies a ''threshold'' in ''FC'' or ''FH,'' and does not specify from repair or service bulletin embodiment, those compliance times are total flight cycles and total flight hours.

(2) Where the tables in paragraph 1.E., ''Compliance,'' of the applicable service bulletin specified in paragraph (k) of this AD specifies ''grace period after the receipt of the service bulletin,'' this AD requires compliance within the corresponding compliance time after the effective date of this AD.

(m) Credit for Previous Actions

(1) This paragraph restates the credit provided by paragraph (f)(9) of AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)) with no changes. This paragraph provides credit for initial inspections required by paragraph (g) of this AD, if those actions were performed prior to April 15, 2010 (the effective date of AD 2010–06–04) using the applicable service bulletins specified in paragraphs (m)(1)(i) through (m)(1)(vi) of this AD, which are not incorporated by reference in this AD.

(i) Airbus Service Bulletin A300–54–0075, dated August 11, 1993.

(ii) Airbus Service Bulletin A300–54–0075, Revision 01, dated November 9, 2007.

(iii) Airbus Service Bulletin A300–54–6015, dated August 11, 1993.

(iv) Airbus Service Bulletin A300–54–6015, Revision 01, dated November 9, 2007.

(v) Airbus Service Bulletin A310–54–2018, dated August 11, 1993.

(vi) Airbus Service Bulletin A310–54–2018, Revision 01, dated November 16, 2007.

(2) This paragraph provides credit for initial inspections required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service bulletins specified in paragraphs (m)(2)(i) through (m)(2)(ix) of this AD.

(i) Airbus Service Bulletin A300–54–0075, dated August 11, 1993, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A300–54–0075, Revision 01, dated November 9, 2007, which is not incorporated by reference in this AD.

(iii) Airbus Service Bulletin A300–54–0075, Revision 02, dated June 26, 2008.

(iv) Airbus Service Bulletin A300–54–6015, dated August 11, 1993, which is not incorporated by reference in this AD.

(v) Airbus Service Bulletin A300–54–6015, Revision 01, dated November 9, 2007, which is not incorporated by reference in this AD.

(vi) Airbus Service Bulletin A300–54–6015, Revision 02, dated June 26, 2008.

(vii) Airbus Service Bulletin A310–54–2018, dated August 11, 1993, which is not incorporated by reference in this AD.

(viii) Airbus Service Bulletin A310–54–2018, Revision 01, dated November 16, 2007, which is not incorporated by reference in this AD.

(ix) Airbus Service Bulletin A310–54–2018, Revision 02, dated June 26, 2008.

(3) This paragraph provides credit for initial inspections required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the applicable service bulletins specified in paragraphs (m)(3)(i) and (m)(3)(ii) of this AD.

(i) Airbus Service Bulletin A300–54–6021, dated August 11, 1993, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A300–54–6021, Revision 01, dated November 16, 2007, which is not incorporated by reference in this AD.

(n) 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; 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 AD 2010–06–04, Amendment 39–16228 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)); are approved as AMOCs for the corresponding provisions 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 EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0136R1, dated July 30, 2013, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0648-0002.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (p)(5) and (p)(6) of this AD.

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on February 2, 2016.

(i) Airbus Service Bulletin A300–54–0075, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated March 27, 2013.

(ii) Airbus Service Bulletin A300–54–0081, dated August 11, 1993.

(iii) Airbus Service Bulletin A300–54–6015, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013.

(iv) Airbus Service Bulletin A300–54–6021, Revision 02, dated May 21, 2008.

(v) Airbus Service Bulletin A310–54–2018, Revision 03, excluding Appendixes 1, 2, 3, and 5; including Appendix 4; dated April 11, 2013.

(vi) Airbus Service Bulletin A310–54–2024, dated August 11, 1993.

(4) The following service information was approved for IBR on April 15, 2010 ((75 FR 11428, March 11, 2010); corrected May 4, 2010 (75 FR 23572)).

(i) Airbus Mandatory Service Bulletin A300–54–0075, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008.

(ii) Airbus Mandatory Service Bulletin A300–54–6015, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008.

(iii) Airbus Mandatory Service Bulletin A310–54–2018, excluding Appendixes 1, 2, and 3, Revision 02, dated June 26, 2008.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) 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.

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

Issued in Renton, Washington, on December 8, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–31603 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0076; Directorate Identifier 2013–NM–246–AD; Amendment 39–18350; AD 2015–26–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. This AD was prompted by a report that, during a production flight test, the ram air turbine (RAT) did not pressurize the green hydraulic system. For certain airplanes, this AD requires identification of the part number, serial number, and standard of the RAT pump, RAT module, RAT actuator, and RAT lower gearbox assembly; replacement of the balance weight screw, modification of the actuator coil spring, modification of the actuator, an inspection of the anti-stall valve for correct installation in the RAT pump housing; and corrective actions if necessary. For certain other airplanes, this AD requires re-identification or replacement of the RAT module. We are issuing this AD to prevent loss of the impeller function and RAT pump pressurization capability, which, if preceded by a total engine flame-out, could result in the loss of control of the airplane.

DATES: This AD becomes effective February 2, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 2, 2016.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0076;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For Airbus service information identified in this final rule, 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.A330A340@airbus.com;* Internet *http://www.airbus.com.* For Hamilton Sundstrand service information identified in this AD, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.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–2015–0076.

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:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. The NPRM

published in the **Federal Register** on January 23, 2015 (80 FR 3513).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0274, dated November 15, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. The MCAI states:

During a production flight test of an A330–300 aeroplane, the Ram Air Turbine (RAT) did not pressurize the green hydraulic system. Investigation revealed that the impeller drive (hex) shaft had a reduced length of engagement with the pump drive shaft. This caused the impeller drive shaft to disengage from the pump and disconnect the impeller. It was determined that the disconnection was the result of internal hex dimensions on the pump impeller shaft, which had been changed in a manufacturing drawing. From the investigation analysis, it was possible to identify a list of affected parts.

This condition, if not detected and corrected, could lead to the loss of impeller function and RAT pump pressurization capability, possibly resulting, in case of total engine flame out, to the loss of control of the aeroplane.

To address this unsafe condition, a new design RAT pump shaft has been developed with a decreased hexagonal shaft housing depth, which increases the hexagonal drive shaft engagement in the impeller shaft to carry the impeller torque. Airbus issued Service Bulletin (SB) A330–29–3122, SB A340–29–4093 and SB A340–29–5021 to provide instructions for in-service replacement of the affected RAT hydraulic pumps, or re-identification of the RAT pump and complete RAT module, as applicable.

For the reasons described above, this [EASA] AD requires identification and replacement [modification] or re-identification of all affected RAT hydraulic pumps on A330 and A340–200/300 aeroplanes, and replacement [modification] of all affected RAT modules on A340–500/-600 aeroplanes.

For affected pumps, the required actions also include concurrent actions, as applicable, including replacement of the balance weight screw, modification of the actuator coil spring, modification of the actuator, an inspection of the anti-stall valve for correct installation in the RAT pump housing and re-installation if necessary. For affected pumps, corrective actions include replacement of the RAT hydraulic pump, and re-identification of the part number of the RAT module. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0076-0003.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (80 FR 3513, January 15, 2015) and the FAA's response to each comment.

One commenter, Joseph P. Evans, supported the NPRM (80 FR 3513, January 15, 2015).

Request To Include Optional Actions in Paragraphs (h) and (j) of the Proposed AD (80 FR 3513, January 15, 2015)

Delta Airlines (DAL) requested that paragraph (h) of the Proposed AD (80 FR 3513, January 15, 2015) be revised to include an option for operators to concurrently do the actions described in Airbus Service Bulletin A330–29–3126, dated June 12, 2014, which refers to Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014, when doing any corrective actions required by paragraph (h) of the proposed AD. Based upon its requested revision to paragraph (h) of the proposed AD, DAL also requested that paragraph (j) of the proposed AD be revised to include a statement that if an operator did the optional concurrent actions specified in Airbus Service Bulletin A330–29–3126, dated June 12, 2014, the RAT module should be re-identified using the instructions in that service information.

We agree with the commenter's request to include an option for the reasons provided by the commenter. The actions described in Airbus Service Bulletin A330–29–3126, dated June 12, 2014, include concurrently doing the actions specified in paragraphs (h) and (j) of this AD. For similar reasons, we have also included options for operators to do the actions in Airbus Service Bulletin A340–29–4097, dated June 12, 2014; and Airbus Service Bulletin A340–29–5025, dated June 16, 2014; as applicable.

We have included a new paragraph (k) in this AD to allow operators the option to do the actions in Airbus Service Bulletin A330–29–3126, dated June 12, 2014; and Airbus Service Bulletin A340–29–4097, dated June 12, 2014, and re-designated the subsequent paragraphs accordingly. Paragraph (l) of this AD has been revised to include the option for operators to do the actions described in Airbus Service Bulletin A340–29–5025, dated June 16, 2014, for the Model A340–541 and A340–642 series airplanes.

If operators do the optional actions, the RAT actuators will be modified to the current standards and the RAT modules re-identified with the current part numbers. The service information for the optional actions specified in paragraph (k) of this AD states that the actions in the service information required by paragraphs (g), (h), and (j) of this AD, as applicable, should be done concurrently, as described below.

- Airbus Service Bulletin A330–29–3126, dated June 12, 2014, specifies that the actions in Airbus Service Bulletin A330–29–3122, dated October 25, 2012, be done concurrently.
- Airbus Service Bulletin A340–29–4097, dated June 12, 2014, specifies that the actions in Airbus Service Bulletin A340–29–4093, dated October 25, 2012, be done concurrently.

The service information for the optional actions specified in paragraph (l) of this AD states that the actions in the service information required by paragraph (l) of this AD should be done concurrently, as described as follows: Airbus Service Bulletin A340–29–5025, dated June 16, 2014, specifies that the actions in Airbus Service Bulletin A340–29–5021, dated October 2, 2012, be done concurrently.

Request To Correct an Error in Referenced Vendor Service Information

Delta requested that the reference to Hamilton Sundstrand Service Bulletin ERPS06M–29–19 in paragraph (i) of the proposed AD (80 FR 3513, January 15, 2015) be changed to Hamilton Sundstrand Service Bulletin ERPS06M–29–13. Delta noted that Airbus Service Bulletin A330–29–3122, dated October 25, 2012, references Hamilton Sundstrand Service Bulletin ERPS06M–29–13.

We agree that the reference to Hamilton Sundstrand Service Bulletin ERPS06M–29–19 in paragraph (i) of the proposed AD (80 FR 3513, January 15, 2015) was incorrect. We inadvertently referred to Hamilton Sundstrand Service Bulletin ERPS06M–29–19, and we should have referred to Hamilton Sundstrand Service Bulletin ERPS06M–29–13. We have revised paragraph (i) of this AD to provide the correct reference, which is Hamilton Sundstrand Service Bulletin ERPS06M–29–13.

In the preamble of Airbus Service Bulletin A330–29–3122, dated October 25, 2012, there are two incorrect references to the Hamilton Sundstrand service information. The references incorrectly specify Hamilton Sundstrand Service Bulletin ''EPRPS06M–29–13.'' The first ''P'' in the citation should have been omitted. The correct reference is ''ERPS06M–29–13.'' As previously stated, we have

revised paragraph (i) of this AD to address this issue.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM (80 FR 3513, January 15, 2015) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 3513, January 15, 2015).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information. This service information describes procedures for identifying the part number, serial number, and standard of the RAT pump, RAT module, RAT actuator, and RAT lower gearbox assembly; replacing the balance weight screw, modifying the actuator coil spring, modifying the actuator, and doing an inspection of the anti-stall valve for correct installation; and re-identifying the part numbers of the RAT hydraulic pump and RAT module.

• Airbus Service Bulletin A330–29–3122, dated October 25, 2012.

• Airbus Service Bulletin A340–29–4093, dated October 25, 2012.

Airbus also issued Service Bulletin A330–29–3126, dated June 12, 2104; and Service Bulletin A340–29–4097, dated June 12, 2104, which describe procedures for identifying the part number and serial number of the RAT actuator; modifying the RAT actuators; and re-identifying the part numbers of the RAT module.

Airbus has also issued Service Bulletin A340–29–5021, dated October 2, 2012; and Service Bulletin A340–29–5025, dated June 16, 2014, which describe procedures for identifying the part number and serial number of the RAT actuator, modifying the RAT actuators; and re-identifying the part numbers of the RAT module.

Hamilton Sundstrand has issued Service Bulletin ERPS06M–29–19, dated August 6, 2012, which identifies the serial numbers of the suspect hydraulic pump.

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.

Costs of Compliance

We estimate that this AD affects 66 airplanes of U.S. registry.

We also estimate that it will take about 14 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $78,540, or $1,190 per product.

In addition, we estimate that any necessary follow-on actions will take about 18 work-hours and require parts costing up to $427,301, for a cost of $428,831 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0076*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the ADDRESSES section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–26–02 Airbus Amendment 39–18350. Docket No. FAA–2015–0076; Directorate Identifier 2013–NM–246–AD.

(a) Effective Date

This AD becomes effective February 2, 2016.

(b) Affected ADs

This AD affects AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012); and AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(c) Applicability

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

(1) Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Reason

This AD was prompted by a report that, during a production flight test, the ram air turbine (RAT) did not pressurize the green hydraulic system. We are issuing this AD to prevent loss of the impeller function and RAT pump pressurization capability, which, if preceded by a total engine flame-out, could result in the loss of control of the airplane.

(f) Compliance

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

(g) Identification of RAT Components

For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes: Except as provided by paragraph (i) of this AD, within 36 months after the effective date of this AD, identify the part number, serial number, and standard (through the mod-dots) of the RAT pump, RAT module, RAT actuator, and RAT lower gearbox assembly, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD. A review of airplane maintenance records is acceptable in lieu of this identification if the part number, serial number, and standard can be conclusively determined from that review.

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Airbus Service Bulletin A330–29–3122, dated October 25, 2012.

(2) For Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus Service Bulletin A340–29–4093, dated October 25, 2012.

(h) Corrective and Concurrent Actions

If the serial number of the RAT hydraulic pump is included in table 7, ''Suspect Hydraulic Pump Serial Numbers,'' of Hamilton Sundstrand Service Bulletin ERPS06M–29–19, dated August 6, 2012: Within 36 months after the effective date of this AD, do all applicable corrective actions, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD. Prior to or concurrently with doing the corrective actions required by this paragraph, do the actions specified in paragraphs (h)(1) through (h)(4) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes); or Airbus Service Bulletin A340–29–4093, dated October 25, 2012 (for Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes).

(1) Replace the balance weight screw.

(2) Modify the actuator coil spring.

(3) Modify the actuator.

(4) Do a general visual inspection of the anti-stall valve for correct installation in the RAT pump housing, and if any incorrect installation is found, before further flight, correctly install the anti-stall valve.

(i) Exception to Service Information Specifications

Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes), refers to Hamilton Sundstrand Service Bulletin ''EPRPS06M–29–13'' as an additional source of guidance for doing certain actions required by paragraph (h) of this AD. The first ''P'' in the citation should have been omitted; the correct reference is to Hamilton Sundstrand Service Bulletin ''ERPS06M–29–13.''

(j) Re-Identification of Part Numbers

If the serial number of the RAT hydraulic pump is not included in table 7, ''Suspect Hydraulic Pump Serial Numbers,'' of Hamilton Sundstrand Service Bulletin ERPS06M–29–19, dated August 6, 2012: Within 36 months after the effective date of this AD, re-identify the part numbers of the RAT hydraulic pump and RAT module, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD.

(k) Service Information for Optional Actions

Accomplishment of the actions required by paragraphs (g), (h), and (j) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014, as applicable, constitutes compliance with the requirements of paragraphs (g), (h), and (j) of this AD.

(l) RAT Module Replacement (Modification)

For Airbus Model A340–541 and –642 airplanes having RAT module part number (P/N) 772722D, 772722E, 772722F, or 772722G: Within 36 months after the effective date of this AD, replace (modify) the RAT module, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5021, dated October 2, 2012. As an option, accomplishment of the RAT module replacement (modification), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014, constitutes compliance with the requirement of this paragraph.

(m) Exception to Paragraphs (g), (h), and (j) of This AD

The actions required by paragraphs (g), (h), and (j) of this AD are not required for airplanes on which Airbus Modification 202537 was embodied in production, provided it can be determined that, since the airplane's first flight, no RAT hydraulic pump or RAT module having a part number identified in paragraph (n) of this AD is installed on that airplane.

(n) Terminating Action for Certain Requirements of Other ADs

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and A340–211, –212, –213, –311, –312, and –313 airplanes: Accomplishment of the actions required by paragraphs (g), (h), and (j) of this AD constitutes compliance with the requirements of paragraphs (g)(1) and (g)(2) of AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012); and paragraphs (g)(1) and (g)(2) of AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(2) For Airbus Model A340–541 and –642 airplanes: Accomplishment of the actions required by paragraph (l) of this AD constitutes compliance with the requirements of paragraphs (h)(1) and (h)(2) of AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(o) Parts Installation Prohibition

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and A340–211, –212, –213, –311, –312, and –313 airplanes: After modification of the RAT module as required by paragraph (h) of this AD, no person may install any complete RAT module having a part number identified in paragraph (o)(1)(i) of this AD, or any RAT hydraulic pump having the part number identified in paragraph (o)(1)(ii) of this AD, on any airplane.

(i) RAT module P/N 766351, 768084, 770379, 770952, 770952A, 770952B, 1702934, 1702934A, or 1702934B.

(ii) RAT hydraulic pump P/N 5909522 (Parker P/N 4207902).

(2) For Airbus Model A340–541 and –642 airplanes: After modification of the RAT module as required by paragraph (l) of this AD, no person may install any complete RAT module having P/N 772722D, 772722E, 772722F, or 772722G, on any airplane.

(p) 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.* 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.

(2) Contacting the Manufacturer: 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.

(q) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0274, dated November 15, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0076-0003.*

(r) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A330–29–3122, dated October 25, 2012.

(ii) Airbus Service Bulletin A330–29–3126, dated June 12, 2014.

(iii) Airbus Service Bulletin A340–29–4093, dated October 25, 2012.

(iv) Airbus Service Bulletin A340–29–4097, dated June 12, 2014.

(v) Airbus Service Bulletin A340–29–5021, dated October 2, 2012.

(vi) Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(vii) Hamilton Sundstrand Service Bulletin ERPS06M–29–19, dated August 6, 2012.

(3) For Airbus 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.A330A340@airbus.com;* Internet *http://www.airbus.com.*

(4) For Hamilton Sundstrand service information identified in this AD, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.com.*

(5) 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.

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

Issued in Renton, Washington, on December 9, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–32078 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[RM16–4–000; Order No. 820]

Delegation of Authority for FERC Form No. 552

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations governing delegations of authority to the Director of the Office of Enforcement. The amendment will provide clarity and consistency regarding the authority delegated to the Office of Enforcement.

DATES: This rule will become effective January 28, 2016.

FOR FURTHER INFORMATION CONTACT: Laura Vallance, Office of Enforcement, 888 First Street NE., Washington, DC 20426, 202–502–8395, *Laura.vallance@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Order No. 820

Final Rule

(Issued December 22, 2015)

1. The Federal Energy Regulatory Commission (Commission) is amending its regulations governing delegations of authority to the Director of the Office of Enforcement.[1] These amendments will provide clarity and consistency regarding the authority delegated to the Office of Enforcement, by expressly delegating that office authority over FERC Form No. 552.[2]

I. Background

2. The Commission has broad statutory authority to perform acts and make rules that are necessary or appropriate to carry out its statutory function.[3] This includes the delegation of its statutory authority to staff members on routine matters, ''which in many cases represent nothing more than a ministerial judgment by the office director concerning procedural matters,'' to allow the Commission to focus on more complex and controversial tasks.[4] The Commission has delegated certain of its authority in a series of orders beginning in 1978.[5]

3. In 2007, the Commission issued Order No. 704, which created FERC Form No. 552. FERC Form No. 552, Annual Report of Natural Gas Transactions, collects transactional information from natural gas market participants. FERC Form No. 552 is codified in section 260.401 of the Commission's regulations.[6]

II. Discussion

4. Part 375, Subpart C, of the Commission's rules and regulations sets our delegations of authority to the various office directors, such as the Director of the Office of Enforcement. Section 375.311 specifically includes delegations of authority to the Director of the Office of Enforcement. Section 375.311(r) includes the authority to deny or grant, in whole or in part, motions of extensions of time to file, or requests for the waiver of the requirements of the Form Nos, 1, 1–F, 2, 2–A and 6, the Form 60, 61, 730 and Electric Quarterly Reports.[7] Section 375.311 (s) includes the authority to provide notification if any of the above filings fails to comply with the applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or, when appropriate, notify a party that a submission is acceptable.[8]

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[1] 18 CFR 375.311 (2015).

[2] *Transparency Provisions of Section 23 of the Natural Gas Act,* Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007), *order on reh'g,* Order No. 704–A, FERC Stats. & Regs. ¶ 31,275, *order dismissing reh'g and clarification,* Order No. 704–B, 125 FERC ¶ 61,302 (2008), *order granting clarification,* Order No. 704–C, 131 FERC ¶ 61,246 (2010).

[3] *See Regulations Delegating Authority,* Order No. 492, FERC Stats. & Regs. ¶ 30,814, at 31,117 & n.2 (1988) (citing 16 U.S.C. 825h (Federal Power Act), 15 U.S.C. 717o (Natural Gas Act), and 15 U.S.C. 3411 (Natural Gas Policy Act of 1978)).

[4] *See J.R. Ferguson and Assoc.,* 20 FERC ¶ 61,132 at p. 61,291 (1982) (footnote omitted).

[5] Existing delegations of authority were promulgated in a series of rulemakings initiated in 1978. *See Delegations to Various Office Directors of Certain Commission Authority,* FERC Stats. & Regs. ¶ 30,016 (1978); C*hief Accountant, et al., Delegation of Authority; Final Regulation,* Order No. 38, FERC Stats. & Regs. ¶ 30,068 (1979), *reh'g denied,* 8 FERC ¶61,299 (1979); *Delegation of the Commission's Authority to the Directors of Office of Electric Power Regulation, Office of the Chief Accountant, and Office of Pipeline and Producer Regulation,* Order No. 147, FERC Stats. & Regs. ¶ 30,259 (1981); *Delegation of Authority,* Order No. 224, FERC Stats. & Regs. ¶ 30,356 (1982); *Regulations Delegating Authority,* Order No. 492, FERC Stats. & Regs. ¶ 30,814 (1988); *Streamlining Commission Procedures for Review of Staff Action,* Order No. 530, FERC Stats. & Regs. ¶ 30,906 (1990), *reh'g denied,* Order No. 530–A, FERC Stats. & Regs. ¶ 30,914 (1991); *Delegation of Authority to the Secretary, the Director of the Office of Electric Power Regulation, and the General Counsel,* Order No. 585, FERC Stats. & Regs. ¶ 31,030 (1995); *Delegation of Authority,* Order No. 613, FERC Stats. & Regs. ¶ 31,087 (1999); *Delegation of Authority,* Order No. 632, FERC Stats. & Regs. ¶ 31,143 (2003); *Chief Accountant Delegations,* Order No. 721, FERC Stats. & Regs. ¶ 31, 287 (2009).

[6] 18 CFR 260.401 (2015).

[7] 18 CFR 375.311(r).

[8] 18 CFR 375.311(s).

5. Order No. 704 created the FERC Form No. 552 filing requirements. However, there is no delegated authority contained in the regulations similar to that found for the other forms administered by the Office of Enforcement. In order to create consistency among the delegations for forms administered by the Office of Enforcement, this rule amends 18 CFR 375.311(r) and (s) to add FERC Form No. 552 to the list of forms included in the delegations to the Director of the Office of Enforcement.

III. Information Collection Statement

6. Review by the Office of Management and Budget, pursuant to section 3507(d) of the Paperwork Reduction Act of 1995, is not required since this final rule does not contain new or modified information collection or recordkeeping requirements.

IV. Environmental Analysis

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment. Part 380 of the Commission's regulations exempts certain actions from the requirement that an Environmental Analysis or Environmental Impact Statement be prepared. Included is an exemption for procedural, ministerial, or internal administrative actions. As this Final Rule falls within that exemption, issuance of the Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act, and, thus, does not require an Environmental Analysis or Environmental Impact Statement.

V. Regulatory Flexibility Act

8. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of Final Rules that will have significant economic impact on a substantial number of small entities. Rules that are exempt from the notice and comment requirements of section 553(b) of the Administrative Procedure Act are exempt from the RFA requirements. This Final Rule concerns matters of internal agency procedure and, therefore, an analysis under the RFA is not required.

VI. Document Availability

9. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

10. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

11. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at 202–502–8371, TTY 202–502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

12. These regulations are effective January 28, 2016. This rule is exempt from the Congressional Review Act [9] under section 804 (3) because it relates to ''agency management or personnel; or (C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.''

List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

Issued: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 375—THE COMMISSION

■ 1. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

■ 2. In § 375.311, paragraphs (r) and (s) are revised to read as follows:

[9] 5 U.S.C. 801–808.

§ 375.311 Delegations to the Director of the Office of Enforcement.

* * * * *

(r) Deny or grant, in whole or in part, motions for extension of time to file, or requests for waiver of the requirements of the following forms, data collections, and reports: Annual Reports (Form Nos. 1, 1–F, 2, 2–A, and 6); Quarterly Reports (Form Nos. 3–Q and 6–Q); Annual Report of Centralized Service Companies (Form No. 60); Narrative Description of Service Company Functions (FERC–61); Annual Report of Natural Gas Transactions (Form No. 552); Report of Transmission Investment Activity (FERC–730); and Electric Quarterly Reports, as well as, where required, the electronic filing of such information (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

(s) Provide notification if a submitted Annual Report (Form Nos. 1, 1–F, 2, 2–A, and 6), Quarterly Report (Form Nos. 3–Q and 6–Q), Annual Report of Centralized Service Companies (Form No. 60), Narrative Description of Service Company Functions (FERC–61), Annual Report of Natural Gas Transactions (Form No. 552), Report of Transmission Investment Activity (FERC–730), or Electric Quarterly Report fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or, when appropriate, notify a party that a submission is acceptable.

* * * * *

[FR Doc. 2015–32690 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0358]

RIN 1625–AA09

Drawbridge Operation Regulation; Missouri River, Atchison, KS

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Atchison Railroad Drawbridge, Mile 422.5, across the Missouri River at Atchison, KS. Under this rule the drawbridge will open on signal if at least a two-hour notification is given. This rule change allows the bridge to operate under the customary schedule

that has been adopted by the waterway users.

DATES: This rule is effective on January 28, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2014–0358 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Eric Washburn, Bridge Administrator, Western Rivers, Bridge Branch, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

II. Background Information and Regulatory History

On April 10, 2015, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation; Missouri River, Atchison, KS'' in the **Federal Register** (80 FR 19252). We received no comments on the proposed rule. No public meeting was requested, and none was held.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Atchison Railroad Drawbridge crosses the Missouri River at mile 422.5 in Atchison, Kansas and operates in accordance with 33 CFR 117.411 and 117.687 which apply to all drawbridges over the Missouri River. The vertical clearance of the bridge in the closed position is 37.5 feet above zero on this gage. Due to very limited drawspan openings and to codify the operating schedule that has been adopted by the waterway usersc, the Union Pacific Railroad requested a two-hour advance notice of opening the bridge's drawspan during the commercial navigation season.

The Union Pacific Railroad has documented the limited number of vessel openings per year at this bridge. This information is available at the Coast Guard Western Rivers, Bridge Branch; see the aforementioned contact information.

Upon this request and further review by the Coast Guard, it was concluded that a two-hour advance notice on drawspan openings of the Atchison Railroad Drawbridge would not create a consistency issue with other bridges on the Missouri River nor adversely affect navigation.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period in which no comments were received.

This rule adds special operating requirements codifying the customary advance notice for openings of the Atchison Railroad Bridge under 33 CFR part 117, subpart B as required under 33 CFR 117.8. The proposed change will add a paragraph (b) to 33 CFR 117.411, a reference to this paragraph in 33 CFR 117.687, and allow for bridge drawspan openings to take place provided at least a two-hour advance notice is given.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This proposed rule is not a significant regulatory action and does not require a full assessment. As a matter of custom in the area, commercial mariners already provide advance notice; therefore this rule has little, if any, impact on current navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule is neutral to all business entities operating on the waterway and simply requires a two-hour advance notice to open the bridge. As stated above, it is custom in the area to provide advance notice for a requested opening. This rule simply codifies such notice already given as a customary practice. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism

principles and preemption requirements described in E.O. 13132.

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.411 to read as follows:

§ 117.411 Missouri River.

(a) The draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and the date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draw need not open unless at least 24 hours advance notice is given.

(b) The draw of the Atchison Railroad Bridge, Mile 422.5, Missouri River need not open unless a two-hour advance notice is given during the commercial navigation season.

■ 3. Revise § 117.687 to read as follows:

§ 117.687 Missouri River.

The draws of the bridges, except for the Atchison Railroad Bridge, Mile 422.5, see § 117.411(b) for further details, across the Missouri River shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24-hours advance notice is given.

Dated: December 11, 2015.

D.R. Callahan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2015–32735 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0814]

RIN 1625–AA09

Drawbridge Operation Regulation; Lake Pontchartrain, Slidell, LA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is modifying the method of operation for the Norfolk Southern Railroad (Norfolk Southern or NSRR) Bascule Bridge across Lake Pontchartrain, mile 4.80, near Slidell, St. Tammany Parish, Louisiana. The bridge owner, Norfolk Southern, requested in writing to operate the draw of the bridge remotely. This interim rule codifies the change in method of operation and increases the efficiency of railroad operations, allowing for the operation of the draw from another location, while allowing for comments regarding remote operations during the interim period.

DATES: This interim rule is effective December 29, 2015.

Comments and related material must reach the Coast Guard on or before February 29, 2016.

ADDRESSES: You may submit comments or view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type [USCG–2015–0814]. in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

See the ''Public Participation and Request for Comments'' portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or email Ms. Geri Robinson; Bridge Administration Branch, Eighth Coast Guard District; telephone 504–671–2128, email *geri.a.robinson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
U.S.C. United States Code
NSRR Norfolk Southern Railroad

II. Background Information and Regulatory History

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because there will be no change to the operating schedule of

the bridge. The modification for the bridge owner to open the draw by remote operation does not change the existing operating schedule. This rule will impose no new restrictions or requirements on the mariner. Thus, publishing an NPRM is impracticable as mariners are not expected to experience any changes in the operation of the draw for the purposes of vessel passage. Delaying this rule to provide for the notice and comment period would also unnecessarily delay the bridge owner in transitioning to the more efficient remote operation method. We are requesting comments to this interim rule to ensure participation in the rulemaking based on real-time experience while the draw operates under the new remote operation method.

We are issuing this rule and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. Delaying this rule to provide 30-day notice is unnecessary as mariners will experience no changes in transiting through the bridge site. Making this rule effective without providing 30-day notice imposes no impact on the mariner but allows for the bridge owner to transition to the more efficient remote operation method without unnecessary delay.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 499. The Norfolk Southern Railroad Bascule Bridge across Lake Pontchartrain at mile 4.80, near Slidell, St. Tammany Parish, Louisiana, has a horizontal clearance of 151 feet between fenders and a vertical clearance of 4.0 feet above Mean High Water, elevation 2.0 feet Mean Sea Level in the closed-to-navigation position. The vertical clearance of the bascule bridge in the open-to-navigation position is 68 feet for the full 151-foot horizontal clearance and unlimited from the tip of the bascule to the north fender system, a distance of 106 feet. Currently, the bridge opens on signal under 33 CFR 117.5.

In accordance with 33 CFR 117.42, the District Commander may authorize a drawbridge to operate under an automated system or from a remote location. The purpose of this rule is to allow the draw of this bridge to operate from a remote location. The draw will continue to open on signal for the passage of vessels, and mariners should not experience any changes in the level of service.

IV. Discussion of the Rule

The Coast Guard, at the request of Norfolk Southern, is changing the method of operation for the Norfolk Southern Railroad Bascule Bridge across Lake Pontchartrain, mile 4.80, near Slidell, St. Tammany Parish, Louisiana. Due to the need for increased efficiency in railroad operations, Norfolk Southern requested a change to the method of operating the draw from on-site to a drawtender operating the bridge remotely.

Presently, the draw is maintained in the open-to-navigation position and closed only for the passage of trains or maintenance. The bridge owner would like to operate the draw remotely using a drawtender at another drawbridge in Decatur, Alabama, rather than maintaining the current on-site operation and drawtender. The implementation of this rule, in effect, removes the requirement that a drawtender be present on site at all times.

Under the new remote operation procedure, the draw will continue to be maintained in the open-to-navigation position and lowered only for the passage of trains or for maintenance. There will be no modifications to the operation of the bridge as it relates to the passage of vessels. Instead, this change will allow the bridge owner to increase efficiency of bridge operations and vessel transit by including this bridge in its current remote operation procedures located in Decatur, AL.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This interim rule is not a significant regulatory action because the draw will be maintained in the open-to-navigation position and when closed to pass trains it will continue to open on signal as scheduled. Therefore, mariners will experience no changes in transiting through the bridge site. No new restrictions on or actions from the mariner are required by this rule.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, because the draw will be maintained in the open-to-navigation position and when closed to pass trains it will continue to open on signal as scheduled, no new restrictions or responsibilities are imposed on the mariner. Therefore, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.467, redesignate paragraph (b) as paragraph (c); and add new paragraph (b) to read as follows:

§ 117.467 Lake Pontchartrain.

* * * * *

(b) The draw of the Norfolk Southern Railroad Bridge across Lake Pontchartrain, mile 4.80 near Slidell, St. Tammany Parish, Louisiana shall be maintained as follows:

(1) The draw shall be maintained in the fully open-to-navigation position for vessels at all times, except during periods when it is closed for the passage of rail traffic or to perform periodic maintenance authorized in accordance with subpart A of this part.

(2) The draw shall be remotely operated by the drawtender at Norfolk Southern's drawbridge in Decatur, Alabama. The estimated duration that the bridge will remain closed for the passage of rail traffic is 10 to 15 minutes per operation.

(3) When a train approaches the bridge, the drawtender will initiate the bridge closing warning signal, consisting of radio calls via VHF–FM-channels 13 and 16 and activation of flashing red warning lights at each end of the span. The radio calls will be broadcast at five (5) minutes prior to bridge closing and at two (2) minutes prior to bridge closing. Photoelectric (infrared) boat detectors will monitor the waterway beneath the bridge for the presence of vessels.

(4) The drawtender will continuously monitor waterway traffic in the area using closed-circuit cameras mounted on the bridge. The draw will only be closed if the drawtender's visual inspection indicates that the channel is clear and there are no vessels transiting in the area. The drawtender will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists. Additionally, the draw will not be closed if the S11 bascule bridge that is located immediately west of the railroad bridge is in the open-to-navigation position. If two or more closed-circuit cameras are inoperable or if there is inclement weather, the draw will only be operated by a drawtender located on site at the bridge.

(5) At the end of the two-minute warning period, if no vessels have been detected by the drawtender, the draw closing sequence will automatically proceed.

(6) Upon passage of the train, the draw will be returned to the fully open-to-navigation position to allow marine

traffic to pass. The warning lights will continue to flash red until the draw has returned to the fully open-to-navigation position at which time they will deactivate.

(7) After the passage of each train, the draw must be returned to its fully open-to-navigation position.

(8) To request openings of the draw when the bascule span is in the closed-to-navigation position, mariners may contact Norfolk Southern Railway via VHF–FM channel 13 or by telephone at the number displayed on the signs posted at the bridge.

(9) The draw will be operated locally if:

(i) Communication is lost between the drawbridge and the drawtender in Decatur, Alabama;

(ii) More than two closed-circuit cameras are not working;

(iii) The marine radio is inoperable;

(iv) Weather conditions warrant; or

(v) Ordered by the Coast Guard.

* * * * *

Dated: December 11, 2015.

D.R. Callahan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2015–32736 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0285]

RIN 1625–AA09

Drawbridge Operation Regulation; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the South Park Highway Bridge, on the Duwamish Waterway, mile 3.8, at Seattle, WA. This modification revises closure hours for the South Park Highway Bridge. This action improves movement of rush hour highway traffic while having minimal impact to maritime waterway traffic.

DATES: This rule is effective January 28, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0285 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206–220–7282; email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
SNPRM Supplementary notice of proposed rulemaking
§ Section
WSDOT Washington State Department of Transportation

II. Background Information and Regulatory History

On May 14, 2015, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operations: Duwamish Waterway, Seattle, WA'' in the **Federal Register** (80 FR 27619). We received one comment on the rule. No public meeting was requested, and none was held.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C 499. The South Park Highway Bridge is a double bascule leaf drawbridge, and provides 34.8 feet of vertical clearance at center span while in the closed position, 30 feet of vertical clearance at the extreme east and west ends of the navigable channel, and unlimited vertical clearance in the fully open position. Vertical clearances are referenced to mean high-water elevation (MHW). Horizontal clearance is 128 feet. The South Park Highway Bridge is subject to tidal influence, and has at least 15 feet of water depth at the bridge site at mean lower low water.

The drawbridge operating regulations at 33 CFR 117.1041(a) (2) currently states that the South Park Highway Bridge need not be opened for the passage of vessels from 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5 p.m., Monday through Friday, except Federal holidays.

The current drawbridge operating regulation was written to accommodate commuter patterns associated with morning and afternoon highway traffic associated with Boeing Plant number 2 shift changes. As of 2011, this plant is no longer operational and therefore highway traffic densities have changed. King County owns and operates the South Park Highway Bridge, and requested a permanent change to the existing operating regulation. The rule modification will update drawbridge closure times to better meet current highway traffic demands. Modifying the existing drawbridge regulation will better meet the needs of current highway users, and current commuter traffic patterns, while meeting reasonable needs to maritime navigation. This modification improves movement of rush hour highway traffic while having minimal impact to maritime waterway traffic.

Vessel traffic on the Duwamish waterway consists of vessels ranging from small pleasure craft, sailboats, small tribal fishing boats, and commercial tug and tow, and mega yachts.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard received one comment on the proposed operating schedule change from Delta Marine Industries. The rule change to the existing South Park Highway Bridge operating regulation would represent a restriction on navigation related to Delta Marine Industries' business. Currently, the closure hours of the 1st Avenue South Bridge (6:00–9:00 a.m. and 3:00–6:00 p.m., the same hours as now proposed for the South Park Highway Bridge) are the limiting factor for access of large vessels between Delta Marine Industries and Elliott Bay. With the change to the closure hours for the South Park Highway Bridge, vessels arriving and departing Delta Marine Industries would be delayed/impacted based on a half hour transit time between South Park Highway Bridge and 1st Avenue South Bridge.

Delta Marine Industries agrees with the concept of modifying the closure hours for the South Park Highway Bridge in a way that reflects current usage. However, Delta Marine Industries believes that matching the closure hours for the South Park Highway Bridge to those of the 1st Avenue South Bridge does not accommodate the needs of maritime users. Delta Marine Industries proposed revising the closure hours for the South Park Highway Bridge to 6:30–8:30 a.m. and 3:30–5:30 p.m., Monday through Friday except Federal holidays. King County agreed with Delta Marine Industries' proposal.

Therefore, the Coast Guard is modifying the drawbridge operating regulations at 33 CFR 117.1041(a) (2). The Coast Guard amends the opening schedule such that the bridge need not be opened for the passage of vessels from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays other

than Columbus Day. This amendment will increase efficiency for current highway traffic demands in light of changed traffic patterns and ensure minimal impact to maritime waterway traffic. All other requirements regarding the South Park Bridge under 33 CFR 117.1041 will remain the same.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s. and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the fact that the change will add thirty minutes to each closure period for the drawbridge, minimally impacting vessels transiting the waterway. The change does not otherwise significantly alter the duration and time frame of the current closure schedule.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities because this rule will be in effect twice a day for a total of four hours when vehicle traffic is high. Vessels that can safely transit under the bridge may do so at any time.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32) (e), of the Instruction.

Under figure 2–1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.1041(a)(2) to read as follows:

§ 117.1041 Drawbridge Operation Regulation; Duwamish River; Seattle WA

(a) * * *

(2) The draw of the South Park Bridge, mile 3.8, need not be opened for the

passage of vessels from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m., Monday through Friday except, Federal holidays, other than Columbus Day.

* * * * *

Dated: December 14, 2015.

R.T. Gromlich,

Rear Admiral, U. S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 2015–32737 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0849]

RIN 1625–AA11

Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System Located Within the Ninth Coast Guard District; Expiration of Stay (Suspension) and Administrative Changes

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; request for comments.

SUMMARY: Through this interim rule, the Coast Guard is providing administrative changes to the existing reporting requirements under the Regulated Navigation Area (RNA) applicable to barges loaded with certain dangerous cargoes on the Illinois Waterway System in the Ninth District area of responsibility. The current stay of reporting requirements under the RNA is scheduled to expire on December 31, 2015. This interim rule limits the reporting requirements in that rule for an interim period while also requesting comments before proposing or finalizing any long term or permanent revisions to the existing reporting requirements.

DATES: This interim rule is effective beginning January 1, 2016. Comments and related material must be received by the Coast Guard on or before June 27, 2016. See **SUPPLEMENTARY INFORMATION** for details on enforcement and compliance.

ADDRESSES: The docket for this interim rule and request for comments, [USCG–2013–0849], is available at *http://www.regulations.gov.* You may submit comments identified by docket number USCG–2013–0849 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email CDR Dan Somma at *dan.t.somma@uscg.mil* or CDR Anthony Maffia at *anthony.j.maffia@uscg.mil,* or call the Coast Guard at 216–902–6064.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CDC Certain Dangerous Cargo
CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
IRVMC Inland River Vessel Movement Center
NPRM Notice of proposed rulemaking
Pub. L. Public Law
RNA Regulated navigation area
U.S.C. United States Code

II. Background Information and Regulatory History

The reporting requirements under 33 CFR 165.921 ''Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Illinois Waterway System located within the Ninth Coast Guard District'' were initially suspended (''stayed'') in January 2011 due to the expiration of the contract for the Inland River Vessel Movement Center (IRVMC). The IRVMC was the Coast Guard office responsible for collecting the information required by the regulated navigation area (RNA) at § 165.921. Upon expiration of the contract for the IRVMC, the Coast Guard was not able to receive and process reports. Therefore, the suspension of reporting requirements was published in the **Federal Register** on January 10, 2011 and was due to expire on January 15, 2013 (76 FR 2829). On January 3, 2013, the Coast Guard extended the suspension through September 30, 2013 (78 FR 4788) and on October 1, 2013, the Coast Guard extended the suspension once again through December 31, 2015 (78 FR 61183).

In January 2015 the Coast Guard published a final rule, titled Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System (80 FR 5282). This rule implemented new and updated Notices of Arrival reporting requirements under 33 CFR 160 Subpart C by providing an exemption, at 33 CFR 160.204(a)(3) for any vessel required to report movements, its cargo, or the cargo in barges it is towing under 33 CFR 165.921 after December 31, 2015. This rule, which was initially proposed in 2008 before the RNA reporting requirements were suspended, relied on the existing reporting requirements at 33 CFR 165.921 to support the exemption. Starting on January 1, 2016, a vessel would only be eligible for the exemption if it is required to report its movements or cargo as specified in § 160.204(a)(3). This rule makes changes to limit the suspended reporting requirements, which would otherwise come into effect in full on January 1, 2016.

Also relevant to this interim rule and request for comments is the portion of 80 FR 5282 requiring that all vessels engaged in the movement of Certain Dangerous Cargos (CDC) have Class A Automatic Information System beginning in March 2016, pending Office of Management and Budget (OMB) approval of a collection of information associated with that regulatory requirement. These AIS requirements provided under 33 CFR 164.46, if enforced, may provide an alternative method of reporting that could potentially satisfy the requirements under 33 CFR 165.921 and qualify these vessels for the 33 CFR 160.204(a)(3) exemption. As indicated in the **Federal Register** publications establishing and extending the RNA suspension, during the suspension periods, the Coast Guard assessed whether to modify the reporting required under the RNA and potential suitable alternative Coast Guard offices and programs to receive and disseminate the reported information. The new Automatic Information System requirement, once in full effect, will still be assessed as a potential alternative reporting method. At this time, the Coast Guard has determined that using already-established Coast Guard offices and units centralized at the Ninth District level to receive required reports is the appropriate interim solution to resume the reporting requirements necessary for both maritime domain awareness and to satisfy the exemption in 33 CFR 160.204(a)(3). This interim rule provides the necessary administrative changes to the existing reporting requirements, requiring reporting in a limited form while also requesting comments to better assess a potential permanent reporting system.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this interim rule to limit the RNA reporting requirements that will come into effect after December 31 when the stay of § 165.921 expires. This rule is necessary to stay compliance with certain provisions of the existing rule, and to make administrative changes replacing the references to IRVMC, which is no

longer operational. The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231, the same authority providing for the initial establishment of the RNA.

The Coast Guard is issuing this interim rule without prior opportunity to comment, pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule for several reasons. It is unnecessary to publish an NPRM because this interim rule makes only administrative changes to the existing RNA regulation under 33 CFR 165.921, and does not propose or establish new restrictions or requirements. This interim rule merely stays compliance with portions of an existing requirement, allowing select existing provisions to resume upon expiration of a stay in effect through December 31, 2015, and makes the administrative changes necessary to redirect reporting from the IRVMC to the District. Additionally, publishing an NPRM was impracticable because of the relatively short time between the publication of the Notices of Arrival final rule and the expiration of the stay, as well as the uncertain enforcement date of certain provisions of the Automatic Information System portion of that rule. These circumstances did not allow adequate time to develop an NPRM, solicit and consider public comment, and develop and publish a final rule before the expiration of the stay. Instead, the Coast Guard is soliciting public comment with this interim rule while it is in effect and while the AIS requirement will be in effect, if that information collection is approved by OMB, so that the public's experience with this interim rule and the AIS requirement can be reflected in public comments.

This interim rule is effective January 1, 2016. We are making this rule effective in less than 30 days from the date of publication under the authority of 5 U.S.C. 553(d)(1) to the extent it relieves the reporting obligations that would otherwise come into effect upon the December 31, 2015 expiration of the stay, and under 5 U.S.C. 553(d)(3) because the Coast Guard finds that the imminent expiration of the stay constitutes good cause for forgoing the 30-day delay of effective date. Delaying the effective date of this interim rule to provide a 30 day notice would be impracticable and contrary to public interest because a January 1, 2016, effective date is necessary to avoid submission of reports to the IRVMC which is no longer in operation.

IV. Discussion of the Interim Rule

The Coast Guard's suspension of reporting requirements under 33 CFR 165.921 will expire as scheduled, in part, on December 31, 2015. On January 1, 2016, reporting requirements under 33 CFR 165.921 will become effective in a limited form. The Coast Guard is not reinstating reporting, 24 hours per day, 365 days per year, at 90-plus reporting points under the existing RNA currently published in the CFR. Under revisions made by this interim rule, reporting requirements will be enforced only when directed by the District Commander or a designated representative. This rule does not change the type of information to be reported.

This interim rule makes administrative changes that remove or revise references to the IRVMC, as it is no longer operational, and replace them with the new Coast Guard office, the Ninth District CDC Reporting Unit (D9 CDCRU), which when activated will be responsible for collecting reported information. The entities required to report, and the information required, remain the same. However, reporting is required only as directed by the District Commander or a designated representative, based on assessment of prevailing safety and security conditions to ensure and enhance maritime domain awareness. In effect, the Coast Guard is allowing existing paragraphs (d)(1)(ix), (d)(2)(iv), (f)(9), and (g)(4) to come into effect, with administrative changes to accommodate the closure of IRVMC. We will continue to use the reporting points listed in paragraph (e) to describe where reporting is required. This rule ''stays'' (suspends) compliance with the other existing reporting requirements.

The District Commander or designated representative will inform vessel operators and fleeting facilities when and where reporting is required, by using established coordination and communication mechanisms already in place and which are used to alert these same vessel operators and fleeting facilities of an increase in Maritime Security level. These notice mechanisms include, but are not limited to, coordination with industry trade organizations, Notices of Enforcement, Marine Safety Information Bulletins, and email notifications.

Reports required under this RNA may be provided via email at *d09-smb-cdcru@uscg.mil.* Alternative reporting contact methods, including telephone and fax numbers, will be provided in the notification from the District Commander or designated representative. Additionally, paragraph (h) allows for alternative methods to be submitted for approval by the District Commander. These are the same type of reporting methods listed in the current RNA at 33 CFR 165.921(d)(4), however there will not be a dedicated web link. The information required to be reported is not changed by this interim rule.

The Coast Guard chose to suspend, rather than remove, several paragraphs of the existing rule in order to evaluate their necessity and to retain the ability to reinstate them (using appropriate administrative processes) if necessary. All public comments are welcome, but we specifically solicit comment on the following: The appropriate type and frequency of reporting related to CDC barges in D9; the potential to use AIS to satisfy reporting goals; and the extent to which complying with the AIS rule would render this rule unnecessary.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

No new requirements are established or imposed by this rule. This interim rule suspends compliance with certain provisions of an existing regulation that will come into effect when the current stay expires on December 31, 2015 thereby continuing to relieve a reporting obligation while the Coast Guard solicits public comment regarding appropriate reporting. As a result, the currently-stayed requirement will resume only in a limited form. The rule also makes administrative changes affecting which Coast Guard entity directs and receives

reporting. None of these changes will have a significant impact on regulated entities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the RNA may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The existing collection is approved by the Office of Management and Budget under OMB control number 1625–0105.

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves administrative changes to resuming reporting requirements in a limited form under an established RNA. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. This interim rule limits the existing, suspended, 24 hours a day, 7 days a week, 365 days a year reporting requirement throughout the entire RNA to require reporting only when and where directed by the District Commander, reducing the time frame and area that the reporting requirements are enforced. An environmental analysis checklist and categorical exclusion determination are not required. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential, and will consider all comments and material received during the comment period. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this interim rule as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or additional publications or supplemental information is provided.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.921:

■ a. Revise paragraph (b);

■ b. In paragraph (c), remove the words ''*Inland River Vessel Movement Center or (IRVMC)''* and add in their place the words ''*Ninth District CDC Reporting Unit or (D9 CDCRU)'';*

■ c. In paragraph (d) introductory text, remove the words ''Inland River Vessel Movement Center (IRVMC)'' and add in their place the words ''Ninth District CDC Reporting Unit Eighth District (D9 CDCRU)'';

■ d. In paragraph (d)(1) introductory text and in paragraph (d)(1)(ii), remove the text ''IRVMC'' and add, in its place, the text ''D9 CDCRU'';

■ e. In paragraph (d)(1)(ix), remove the text ''IRVMC'' and add in its place the text ''District Commander or designated representative'';

■ f. In paragraph (d)(2) introductory text, remove the text ''IRVMC'' and add in its place the text ''D9 CDCRU'';

■ g. In paragraph (d)(2)(iv), remove the text ''IRVMC'' and add in its place the text ''District Commander or designated representative'';

■ h. Revise paragraph (d)(4).

■ i. In the introductory text to paragraph (e), remove the text ''the Inland River Vessel Movement Center'' and add in its place the text ''D9 CDCRU'';

■ j. In paragraph (e), the introductory text to paragraphs (f) and (g), and the headings of Tables 165.921(f) and (g), remove the text ''IRVMC'' and add in its place the text ''D9 CDCRU'';

■ k. In paragraphs (f)(9) and (g)(4), remove the text ''IRVMC'' and add in its place the text ''District Commander or designated representative'';

■ l. In paragraph (i), remove the text ''the IRVMC'' and add in its place the text ''designated representative''.

The revisions read as follows:

§ 165.921 Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Illinois Waterway System located within the Ninth Coast Guard District.

* * * * *

(b) *Enforcement and applicability.* (1) Beginning January 1, 2016, reporting requirements under this RNA will be enforced only when directed by the District Commander or designated representative under paragraphs (d)(1)(ix), (d)(2)(iv), (f)(9), and (g)(4) of this section. Reporting points as listed in paragraph (e) of this section may be used to determine and inform where reporting is required. Compliance under other parts of this section is stayed until a future date published in the **Federal Register**, if determined necessary.

(2) This section applies to towing vessel operators and fleeting area managers responsible for CDC barges in the RNA. This section does not apply to:

(i) Towing vessel operators responsible for barges not carrying CDCs barges, or

(ii) Fleet tow boats moving one or more CDC barges within a fleeting area.

* * * * *

(d) * * *

(4) When required, reports under this section must be made either by email at *d09-smb-cdcru@uscg.mil* or via phone or fax as provided in the notification as directed by the District Commander or designated representative through the D9 CDCRU. Notification of when and where reporting is required may be made through Marine Safety Information Bulletins, Notices of Enforcement, email and/or through industry outreach. At all other times, reporting under this section is not required and communications should be directed to the Captain of the Port.

* * * * *

Dated: December 22, 2015.

J.E. Ryan,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2015–32616 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–1083]

RIN 1625–AA00

Safety Zone; Closure of Morro Bay Harbor Bar Entrance; Morro Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the navigable waters of the Morro Bay Harbor Entrance. This temporary safety zone is being established to reduce significant hazards subject to the vessels, the harbor, and the public during periods of poor weather conditions. This proposed rulemaking would prohibit persons and vessels from being in this temporary safety zone unless specifically authorized by the Captain of the Port, Los Angeles—Long Beach, or her designated representative.

DATES: This rule is effective without actual notice from December 29, 2015 February 29, 2016 11:59 p.m. For the purposes of enforcement, actual notice will be used from 12:01 a.m. December 9, 2015, until December 29, 2015. The safety zone will only be enforced when the COTP or her designated representative deems it necessary because of hazardous, breaking, or rough bar conditions.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–1803 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Jevon James, Waterways Management, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 521–3860, email *Jevon.L.James2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard proposes to issue this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C.

553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule.

The bar located in Morro Bay, California, is unique to the Southern California coastline. Throughout the year, the bar produces extremely hazardous navigation conditions for all types of maritime traffic within a small waterway. It is predicted that the Southern California coast will be impacted by a strong El Niño, in which abnormally large waves will be observed. On December 7, 2015, a 53′ commercial fishing vessel requested to transit the bar during extremely hazardous conditions, to include seas exceeding 20′. The COTP issued a COTP Order to restrict the fishing vessel from crossing the bar until the weather subsided, to prevent a potentially hazardous transit. Thus, waiting for the publishing of the NPRM would be impracticable because immediate action is needed to minimize potential danger to all vessels transiting across the bar. For these reasons, the Coast Guard finds that good cause exists for implementing this rule less than thirty days before the effective date.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 1231. The Captain of the Port Los Angeles—Long Beach has determined that a potential hazard exists during certain weather conditions for all recreational and commercial vessels operating in the vicinity of the Morro Bay Harbor Entrance. This temporary safety zone is necessary to ensure the safety of, and reduce the risk to, the persons and vessels that operate on and in the vicinity of the Morro Bay Harbor Entrance.

IV. Discussion of the Rule

The U.S. Coast Guard has established a temporary safety zone encompassing all navigable waters near the inside and outside of the mouth of the Morro Bay Harbor entrance, from December 9, 2015, to February 29, 2016. When the Safety Zone is being enforced, the Coast Guard will turn on the Morro Bay Rough Bar Warning Light (LLNR 3877; 35°22.256′ N., 120°51.526 ′ W.). This indicates that rough bar conditions are taking place at the entrance. In addition, a Broadcast Notice to Mariner will be used to inform mariners of the enforcement of the safety zone. No vessel or person will be permitted to operate in the safety zone without obtaining permission from the Captain of the Port (COTP) or the COTP's designated representative. Sector Los Angeles—Long Beach may be contacted on VHF–FM Channel 16 or 310–521–3801.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The implementation of this temporary safety zone is necessary for the protection of all waterway users. The size of the zone is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. Any hardships experienced by persons or vessels are considered minimal compared to the interest in protecting the public.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor within the designated area during the designated enforcement times. This temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This zone will support the safety of vessel traffic through the area, (ii) this zone is limited in scope and duration, (iii) the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 while the safety zone is enforced.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–750 to read as follows:

§ 165.T11–750 Safety Zone; Morro Bay Breaking Bar; Morro Bay Harbor Entrance; Morro Bay, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Morro Bay Harbor Entrance in approximate coordinates: from a point on the shoreline at 35°22.181′ N. 120°52.207′ W., thence westward to 35°22.181′ N. 120°52.538′ W., thence southward to 35°21.367′ N. 120°52.538′ W., thence eastward to a point on the shoreline at 35°21.366′ N. 120°51.717′ W., thence northward along the shoreline to a point inside the Morro Bay Harbor to 35°22.153′ N. 120°51.698′ W., thence northwestward to a point on land at 35°22.233′ N. 120°51.847′ W., thence southward along the shoreline to the beginning. These coordinates are based on North American Datum of 1983.

(b) *Definitions.* For the purposes of this section:

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

Rough Bar means any swell, breaking surf, or wind conditions that create safety hazards. This includes but is not limited to, breaking surf 8 feet of greater or extreme steep or confused swell in the main channel or in the judgment of the COTP or the COTP's designated representative rough conditions exist.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, hail Coast Guard Station Morro Bay on VHF–FM Channel 16 or call at (805) 772–2167. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule is effective from 12:01 a.m. December 9, 2015 until February 29, 2016 11:59 p.m. The safety zone will only be enforced when the COTP or her designated representative deems it necessary because of the rough bar conditions, and enforcement will cease immediately upon conditions returning to safe levels.

Dated: December 6, 2015.

J.F. Williams,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2015–32734 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900–AP28

Removal of Requirement To File Direct-Pay Fee Agreements With the Office of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations concerning the payment of fees for representation by agents and attorneys in proceedings before VA. Specifically, this rule removes the requirement that an agent or attorney file a direct-pay fee agreement with both the VA Office of the General Counsel and the agency of original jurisdiction. The intended effect of this final rule is to require that direct-pay fee agreements be submitted only to the agency of original jurisdiction, thereby eliminating duplicate filings by agents and attorneys.

DATES: *Effective Date:* This rule is effective December 29, 2015.

Applicability Date: The provisions of this final rule shall apply to all fee agreements transmitted to VA on or after December 29, 2015.

FOR FURTHER INFORMATION CONTACT: Dana Raffaelli, Staff Attorney, Office of the General Counsel (022O), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7699. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: This rule amends 38 CFR part 14 to remove the requirement that agents and attorneys file direct-pay fee agreements with the VA Office of the General Counsel in Washington, DC. Current provisions in 38 CFR 14.636(g) and (h) require agents and attorneys to file direct-pay fee agreements with both the Office of the General Counsel and the agency of original jurisdiction. Removal of this requirement will eliminate administrative burdens associated with these direct-pay fee agreements. Agents and attorneys will be relieved from filing direct-pay fee agreements with the Office of the General Counsel, and the

Office of the General Counsel will no longer be required to process and maintain those fee agreements. In cases where it is necessary for the Office of the General Counsel to review fee agreements for reasonableness, such agreements may be called to our attention and copies of the agreements may be provided to the Office of the General Counsel by claimants or the agencies of original jurisdiction.

Current 38 CFR 14.636(g)(2) and (g)(3) requires agents and attorneys to file all fee agreements with the Office of the General Counsel in Washington, DC, and to clearly specify in the agreement whether VA is to directly pay the agent or attorney fees out of an award of past-due benefits. Current 38 CFR 14.636(h)(4) requires agents and attorneys to notify the agency of original jurisdiction, within 30 days of the date of execution of the agreement, of the existence of a direct-pay fee agreement and also provide the agency of original jurisdiction with a copy of the agreement.

The requirement that all fee agreements be filed with the Office of the General Counsel was established in 2008. *See* 73 FR 29852, May 22, 2008. Prior to June 20, 2007, agents and attorneys were required to file all fee agreements with the Board of Veterans' Appeals (Board) because agents and attorneys could not charge fees for services provided to VA claimants until after the Board had first made a final decision in the case. *See* 38 U.S.C. 5904(c)(1), (c)(2) (2002); *see also* 38 CFR 20.609(g) (2007). However, on December 22, 2006, Congress enacted Public Law 109–461, which allowed agents and attorneys to charge fees after the filing of a notice of disagreement in a case and required them to file any fee agreements ''with the Secretary pursuant to regulations prescribed by the Secretary'' rather than with the Board. Public Law 109–461, § 101(d); *see* 38 U.S.C. 5904(c)(1), (c)(2); *see also* Public Law 109–461, § 101(h) (2006) (amendments to statutory fee requirements effective June 20, 2007).

On May 22, 2008, VA implemented the statutory amendments regarding fees in § 14.636 (formerly § 20.609 (2007)), one of which directs attorneys and agents to file all fee agreements with the Office of the General Counsel in Washington, DC. *See* 73 FR 29852; 38 CFR 14.636(g)(3). However, in addition to filing all fee agreements with the Office of the General Counsel, § 14.636(h)(4) requires that direct-pay fee agreements also be filed with the agency of original jurisdiction, so that the agency of original jurisdiction could make an initial determination regarding an agent or attorney's eligibility for fees following an award of past-due benefits and withhold fees from the award when an agent or attorney is found eligible for fees.

The revisions to § 14.636(g)(3) and (h)(4) eliminate the requirement for agents and attorneys to file a direct-pay fee agreement with the Office of the General Counsel. Any fee agreement calling for the direct payment of fees out of any past-due benefits now must be filed only with the agency of original jurisdiction. The agency of original jurisdiction is the most appropriate location for such filings as that entity must determine when direct payment of fees is called for and authorize the correct payment. The agency of original jurisdiction will file the fee agreement in the claimant's electronic claims file contained in Veterans Benefits Administration's electronic database, the Veterans Benefits Management System (VBMS), and associate the attorney or agent's Power of Attorney (POA) code—meaning the three digit code that was assigned to the attorney or agent at the time of his or her VA accreditation—with the claimant's claim file. *See* M21–1, pt. III, ch.3 sec. C.5. The association of attorneys' and agents' POA codes with the claimants' files will allow VA to retrieve, from VBMS, a list of the claims for which an attorney or agent has entered his or her appearance, by filing a VA Form 21–22a, Appointment of Individual as Claimant's Representative, with VA. An attorney or agent may look up their POA code through the search feature on the accreditation Web page's Web site at: *http://www.va.gov/ogc/apps/accreditation/index.asp*—with the claimant's file.

Fee agreements that do not provide for the direct payment of fees must still be filed with the Office of the General Counsel.

The Office of the General Counsel retains authority to review all fee agreements for reasonableness in light of the services that the attorney or agent provided on a claim and the authority to review any fee agreement for eligibility that has not undergone review by another agency of original jurisdiction. *See* 38 CFR 14.636(i). In a reasonableness-review case involving a direct-pay fee agreement, the Office of the General Counsel will obtain a copy of the direct-pay fee agreement from the agency of original jurisdiction at which the agreement was filed. This will generally be accomplished by retrieving the document from VBMS.

VA also makes an additional conforming amendment to 38 CFR 14.637(b) to reference fee agreements filed with either the Office of the General Counsel or the agency of original jurisdiction under § 14.636.

Administrative Procedure Act

This final rule is a procedural rule that does not impose new rights, duties, or obligations on affected individuals but, rather, eliminates duplicate filings under the statutory requirement that agents and attorneys file a copy of a fee agreement ''with the Secretary.'' *See* 38 U.S.C. 5904(c)(2). Therefore, it is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553. *See* 5 U.S.C. 553(b)(A) and (d)(3). This rule merely removes the prior requirement for attorneys and agents to file copies of any direct-pay fee agreement with both the Office of the General Counsel and the agency of original jurisdiction. Attorneys and agents must now file a copy of any direct-pay fee agreement with the agency of original jurisdiction and all other fee agreements with the Office of the General Counsel.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. *See also* 5 CFR 1320.8(b)(3)(vi).

Section 14.636 of title 38 of the Code of Federal Regulations contains collections of information under the Paperwork Reduction Act of 1995, which OMB approved under control number 2900–0605. This final rule will amend § 14.636(g)(3) and (h)(4) to remove the requirement that an agent or attorney file a direct-pay fee agreement with both the Office of the General Counsel and the agency of original jurisdiction, *i.e.,* the VA regional office. The intended effect of this amendment is to require that direct-pay fee agreements be submitted only to the agency of original jurisdiction, thereby eliminating duplicate filings by agents and attorneys. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA submitted this amended information collection to OMB for its review. OMB approved the amended information collection requirements under existing OMB control number 2900–0605.

We also note that, in 2008, VA did not amend § 14.636 to reflect the OMB control number. Therefore, we are also

amending § 14.636 to reflect that the correct OMB control number is 2900–0605.

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. At a minimum, this rule will affect only the attorneys and agents who file fee agreements with the Office of the General Counsel. However, it will not have a significant economic impact on these individuals, as it will result in modest savings for affected attorneys and agents who will avoid the expense of duplicate filings. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by OMB, unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for VA Regulations Published From FY 2004 to FYTD.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There are no Federal Domestic Assistance programs associated with this final rule.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on December 22, 2015, for publication.

List of Subjects in 38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

Dated: December 23, 2015.

William F. Russo

Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 14 as follows:

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5901–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

■ 2. Amend § 14.636 by:
■ a. Revising paragraph (g)(3).
■ b. Revising paragraph (h)(4).
■ c. Revising the parenthetical at the end of the section.

The revisions read as follows:

§ 14.636 Payment of fees for representation by agents and attorneys in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.

* * * * *

(g) * * *

(3) A copy of a direct-pay fee agreement, as defined in paragraph (g)(2) of this section, must be filed with the agency of original jurisdiction within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Only fee agreements that do not provide for the direct payment of fees, documents related to review of fees under paragraph (i) of this section, and documents related to review of expenses under § 14.637, may be filed with the Office of the General Counsel. All documents relating to the adjudication of a claim for VA benefits, including any correspondence, evidence, or argument, must be filed with the agency of original jurisdiction, Board of Veterans' Appeals, or other VA office as appropriate.

(h) * * *

(4) As required by paragraph (g)(3) of this section, the agent or attorney must file with the agency of original jurisdiction within 30 days of the date of execution a copy of the agreement providing for the direct payment of fees out of any benefits subsequently determined to be past due.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0605.)

§ 14.637 [Amended]

■ 3. Amend § 14.637, paragraph (b), by removing ''under § 14.636'' and adding, in its place, ''or the agency of original jurisdiction under § 14.636''.

[FR Doc. 2015–32687 Filed 12–28–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 200

[Docket No. 150227193–5999–02]

RIN 0648–BE92

Establish a Single Small Business Size Standard for Commercial Fishing Businesses

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to establish a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411), for Regulatory Flexibility Act (RFA) compliance purposes only. For the purposes of this final rule, a ''commercial fishing business'' is a business primarily engaged in commercial fishing, the ''commercial fishing industry'' is composed of all such businesses, and the $11 million standard only applies to this industry. This standard does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry. The $11 million standard will be used in RFA analyses in place of the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry, respectively. Establishing a single size standard of $11 million for the commercial fishing industry will simplify the RFA analyses done in support of NMFS' rules, better meet the RFA's intent by more accurately representing expected disproportionate effects of NMFS' rules between small and large commercial fishing businesses, create a standard that more accurately reflects the size distribution of all businesses in the commercial fishing industry, and allow NMFS to determine when changes to the standard are necessary and appropriate.

DATES: This final rule is effective July 1, 2016.

ADDRESSES: Copies of the Regulatory Impact Review (RIR), proposed rule and associated comments are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2015–0061.

FOR FURTHER INFORMATION CONTACT: Mike Travis, Industry Economist, at (727) 209–5982, or email: *mike.travis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

For the purposes of this final rule, a ''commercial fishing business'' is a business primarily engaged in commercial fishing and the ''commercial fishing industry'' (NAICS 11411) is composed of all such businesses. Prior to 2013, SBA had established a single small business size standard for all businesses in the commercial fishing industry. Since 2005, this standard had been $4 million in annual gross receipts (revenues). Effective July 22, 2013, SBA established significantly different and higher size standards for the three separate sectors of the industry (78 FR 37398, June 20, 2013): $19 million for commercial finfish fishing businesses (NAICS 114111), $5.0 million for commercial shellfish fishing businesses (NAICS 114112), and $7.0 million for other commercial marine fishing businesses (NAICS 114119). These standards were subsequently adjusted for inflation to $20.5 million, $5.5 million, and $7.5 million, respectively, via an interim final rule, effective July 14, 2014 (79 FR 33647, June 12, 2014). The Small Business Jobs Act of 2010 requires SBA to review all size standards every five years to account for changes in industry structure and market conditions. SBA is also required to assess the impact of inflation on its monetary-based size standards at least once every five years (13 CFR 121.102). However, as reflected by the timing of the two recent rulemakings adjusting the size standards, SBA is not required to conduct the reviews for these two purposes simultaneously. Thus, these size standards are likely to change on a regular basis.

Under the RFA, an agency must prepare an initial and final regulatory flexibility analysis (IRFA/FRFA) for each proposed and final rule, respectively, unless it certifies that a rule will not have a significant economic impact on a substantial number of small entities. Agencies generally rely on the SBA size standards to identify small entities for RFA purposes. For NMFS, rulemaking activities that have been impacted by changes to the size standards for defining ''small'' businesses include, but are not limited to, regulatory actions and analyses undertaken pursuant to the Magnuson-Stevens Act (MSA), Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and National Environmental Policy Act (NEPA). Between 2012 and 2014, NMFS published an average of 285 final rules per year, more than 40 percent of which required an RFA analysis, and a majority of those directly regulated commercial fishing businesses. Thus, NMFS' costs of complying with the RFA are significant even when the small business size standards are stable, and those costs increase substantially when the standards are changing on a recurring basis.

NMFS and the Regional Fishery Management Councils (Councils) have encountered significant difficulties implementing and adjusting to the new standards because: (1) The change was from a single size standard for all commercial fishing businesses to three very different standards, (2) many commercial fishing businesses participate in both finfish and shellfish fishing activities, making it unclear which standard to apply in the RFA analyses, and (3) a number of rules simultaneously implement regulations under fishery management plans for both finfish and shellfish species (for *e.g.,* 76 FR 82044, December 29, 2011; 76 FR 82414, December 30, 2011; 77 FR 15916, March 26, 2012; and 80 FR 41472, July 15, 2015), again making it unclear which standard to apply in the RFA analyses.

Furthermore, one of the RFA's primary purposes is to determine if proposed regulations are expected to have disproportionate economic impacts on small businesses relative to large businesses and, if so, to consider alternatives that would minimize any significant adverse economic impacts on small businesses. Under SBA's current standards for commercial fishing businesses, practically all commercial fishing businesses, and particularly commercial finfish fishing businesses, would likely be determined to be small. Thus, in their RFA analyses, NMFS and the Councils would not be able to discern, consider, or address any disproportionate economic impacts that various regulatory alternatives might have on businesses NMFS and the Councils think are ''small'' in the commercial fishing industry. Such an

outcome effectively precludes NMFS from fulfilling one of the RFA's primary purposes and thus is not desirable.

Section 601(3) of the RFA provides that an agency, after consultation with SBA's Office of Advocacy (Advocacy) and after an opportunity for public comment, may establish one or more definitions of ''small business'' which are appropriate to the activities of the agency and publish such definition(s) in the **Federal Register**. Further, 13 CFR 121.903(c) provides that where the agency head is developing a size standard for the sole purpose of performing a Regulatory Flexibility Analysis pursuant to section 601(3) of the Regulatory Flexibility Act, the department or agency may, after consultation with the SBA Office of Advocacy, establish a size standard different from SBA's which is more appropriate for such analysis.

SBA has expressed support for the idea of creating a single size standard in instances where industries are closely related, as is the case for the finfish and shellfish sectors of the commercial fishing industry. In the preamble to its proposed rule to change the size standard for businesses in manufacturing industries (79 FR 54146, Sept. 10, 2014), SBA stated: ''To simplify size standards and for other reasons, SBA may propose a common size standard for closely related industries. Although the size standard analysis may support a separate size standard for each industry, SBA believes that establishing different size standards for closely related industries may not always be appropriate. For example, in cases where many of the same businesses operate in the same multiple industries, a common size standard for those industries might better reflect the Federal marketplace. This might also make size standards among related industries more consistent than separate size standards for each of those industries.'' (79 FR 54146, 54150, Sept. 10, 2014).

NMFS has determined that the data used by SBA to develop the new standards are incomplete and, as a result, not representative of all commercial fishing businesses. Specifically, the data used by Size Standards only account for commercial fishing businesses that have employees (*i.e.,* employer firms), and thus do not include commercial fishing businesses that do not have employees (*i.e.,* non-employer firms). Non-employer commercial fishing businesses typically pay their self-employed crew a percentage of the gross or net revenue on each commercial fishing trip rather than a standard wage or salary, and thus self-employed crew are not considered employees. Commercial fishing businesses with employees represent only about 3 percent of all commercial fishing businesses, while the other 97 percent are non-employer firms.

Further, according to SBA, annual gross revenues for finfish and shellfish commercial fishing businesses with employees average $1.6 and $0.6 million, respectively. Conversely, NMFS determined the annual gross revenues for commercial fishing businesses without employees are only about $44,000 on average. Thus, NMFS concluded that the exclusion of commercial fishing businesses without employees is primarily responsible for the magnitude of the size standard increases, particularly for finfish fishing businesses, and the standards would have been very different if SBA had used data for all commercial fishing businesses. Because the size standards apply to all commercial fishing businesses, not just those with employees, when used to analyze the economic impacts of management actions on directly regulated entities under the RFA, NMFS thinks it is more appropriate to have size standards for RFA purposes that are based on all commercial fishing businesses.

In conjunction with its recent review of size standards, SBA developed a ''Size Standards Methodology'' for establishing, reviewing, and modifying size standards, where necessary. SBA included it as a supporting document (at *www.regulations.gov*) of the September 11, 2012, proposed rule (77 FR 55755) to change the size standards for the three sectors of the commercial fishing industry. Application of this new methodology resulted in the significantly different size standards for the three separate sectors of the industry. NMFS referenced this document in developing the size standard in this final rule. Consistent with that methodology, SBA used the following industry factors to establish the current size standards for NAICS Sector 11 (Agriculture, Forestry, Fishing, and Hunting): Average firm size, as measured by simple average receipts and weighted average receipts; average assets size; the four-firm concentration ratio (*i.e.,* the percentage of receipts accounted for by the four largest firms in the industry); and the Gini coefficient, which measures the degree of inequality in the distribution of firms by receipts size class under SBA's approach.

SBA's primary source of industry data used in the rule to establish the new size standards for the three sectors of the commercial fishing industry was a special tabulation of the 2007 County Business Patterns data from the U.S. Bureau of Census (Census Bureau). This special tabulation provided SBA with data on the number of employer firms, number of establishments, number of employees, annual payroll, and annual receipts of companies by U.S. industry (6-digit NAICS code). These data were arrayed by various classes of firms' size based on the overall number of employees and gross receipts of the entire enterprise (all establishments and affiliated firms) from all industries. These data allowed SBA to estimate average firm size, the four-firm concentration ratio, and the Gini coefficient.

SBA provided these data upon request to NMFS. NMFS subsequently requested and received from the Census Bureau comparable data for non-employer businesses. NMFS aggregated data to the industry level (*i.e.,* NAICS 11411) for employer and non-employer businesses and then combined these data. Although data confidentiality was not an issue with the non-employer data, prior to aggregation NMFS had to estimate total gross receipts in certain receipts classes for employer firms where the Census Bureau determined the data were confidential and thus could not be released. The combined data provide a complete accounting of the distribution of businesses and receipts by receipt size class category for all commercial fishing businesses. NMFS used these data to generate estimates of certain industry factors needed to establish a single size standard for the commercial fishing businesses, consistent with SBA's methodology to the extent practicable.

Specifically, NMFS used the data it received from SBA and the Census Bureau to generate estimates of simple average receipts, weighted average receipts, and the Gini coefficient. For simple average receipts, each firm's share of the industry's total receipts is weighted equally, whereas the shares of larger firms receive larger weights in estimating weighted average receipts. Weighted average receipts and the Gini coefficient were estimated using the equations provided in SBA's Size Standards Methodology document. NMFS generated the following estimates for the commercial fishing industry: $77,178 for simple average receipts, $12,322,365 for weighted average receipts, and 0.755 for the Gini coefficient. Based on the information in Table 2 of SBA's proposed rule to change the size standards for the finfish, shellfish, and other marine fishing sectors of the commercial fishing industry (77 FR 55755), these estimates

support size standards of $5 million, $5 million, and $19 million, respectively.

SBA also considers the average assets size of firms to be an important factor in establishing a size standard. NMFS does not possess and was not able to procure assets size data for non-employer businesses. SBA has such data for employer firms in the finfish and shellfish sectors, though not for employer firms in the other marine fishing sector because of the very small number of firms in that sector. The number of firms in the other marine fishing sector is very small because it includes firms primarily involved in the harvest of corals, sponges, reef associated plants (*e.g.,* algae), and aquarium trade species, whose allowable harvest levels are very small. However, SBA had to purchase the assets size data for employer firms in the finfish and shellfish sectors from a private source and thus could not share the data with NMFS due to their proprietary nature. Therefore, NMFS created an estimate based on data that SBA published in its proposed rule, using the following approach.

According to SBA's proposed rule, the average assets sizes for the finfish and shellfish commercial fishing sectors are $1.4 million and $0.4 million, respectively. Finfish fishing firms and shellfish fishing firms represent approximately 54 percent and 46 percent, respectively, of the 2,039 employer firms in those two sectors combined. Based on these percentages, the weighted average assets size of the combined finfish and shellfish commercial fishing sectors is approximately $0.94 million. Based on Table 2 in SBA's proposed rule, this estimate supports a $7 million size standard.

SBA does not consider the average receipts of the four largest firms to be an important factor in establishing a size standard for industries where the four-firm concentration ratio is below 40 percent (*i.e.,* receipts of the 4 largest firms account for less than 40 percent of the total receipts). According to the data SBA provided to NMFS, the four largest firms in the commercial fishing industry are commercial finfish fishing businesses. Within the finfish sector, these firms only account for 29 percent of total receipts. Therefore, within the larger commercial fishing industry as a whole, the percentage of receipts they account for must be less than 29 percent. Because the four largest firms account for less than 40 percent of the total receipts for the commercial fishing industry, consistent with SBA's methodology, NMFS did not use the four-firm concentration ratio in establishing a single size standard for the commercial fishing industry.

According to SBA's methodology, all factors should be weighted equally. Therefore, NMFS averaged the standards supported by the simple average receipts ($5 million), weighted average receipts ($5 million), Gini coefficient ($19 million), and average assets size ($7 million) estimates, which results in a size standard of $9 million. However, SBA only allowed for eight size standards in its final rule (79 FR 54146, September 10, 2014): $5 million, $7 million, $10 million, $14 million, $19 million, $25.5 million, $30 million, and $35.5 million. When the estimated size standard is not equivalent to one of these eight standards, SBA rounds up to the next highest size standard. For NMFS' estimated $9 million size standard, the next highest size standard would be $10 million. If the average assets size factor is not included, because it is based on aggregated employer data only rather than a combination of employer and non-employer data, the average of the other 3 factors is $9.67 million. Thus, the next highest size standard would still be $10 million.

NMFS is aware the Census Bureau has recently released the 2012 County Business Patterns data for employer firms. However, 2012 data for non-employer firms has not yet been released. As previously discussed, NMFS does not think it is prudent to establish a size standard based only on employer data because 97 percent of the commercial fishing businesses are non-employers. Further, even if the 2012 non-employer data is released and NMFS generates new estimates of the various industry factors, NMFS would still not be able to determine what standards are implied by the new estimates until SBA generates an updated version of Table 2 in its proposed rule to change the size standards for the finfish, shellfish, and other marine fishing sectors of the commercial fishing industry (77 FR 55755) using 2012 rather than 2007 data.

As previously stated, SBA recently implemented a final rule to adjust all of its receipts based size standards for inflation using the chain-type price index for the U.S. Gross Domestic Product (GDP price index) (79 FR 33647, June 12, 2014). According to that final rule, for all industries with a non-inflation-adjusted size standard of $10 million, the new inflation-adjusted size standard is $11 million.

Thus, this final rule establishes a small business size standard of $11 million for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes only. The $11 million standard only applies to the commercial fishing industry and thus does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry. This single size standard for commercial fishing businesses would be used in all RFA analyses conducted in support of NMFS' regulatory actions. Establishing this single size standard would simplify the RFA analyses done in support of NMFS' rules, better meet the RFA's intent by more accurately representing expected disproportionate effects of NMFS' rules between small and large commercial fishing businesses, create a standard that more accurately reflects the size distribution of all businesses in the commercial fishing industry, and allow NMFS to determine when changes to the standard are necessary and appropriate.

NMFS and the Councils have numerous regulatory actions at various stages of the rulemaking process at any point in time, and thus RFA analyses at various stages in development. As a result, NMFS has chosen to delay the effective date of this rule until July 1, 2016, to allow sufficient time for the Councils and NMFS to transition to the $11 million size standard. The delayed effective date will allow regulatory actions that are relatively far along in the rulemaking process and which used SBA's current standards for commercial fishing businesses in their RFA analyses to be in compliance and thus proceed on their current timeline. However, RFA analyses conducted in association with all proposed and final rules published after July 1, 2016, should use the $11 million size standard for commercial fishing businesses.

Consistent with SBA's review requirements under the Small Business Jobs Act of 2010 and 13 CFR 121.102, NMFS will review this standard at least once every 5 years to determine if a change is warranted. A change may be warranted because of changes in industry structure, market conditions, inflation, or other relevant factors. The reviews for these potential reasons will be conducted simultaneously in order to minimize the frequency of changes to the standard and additional rulemakings.

On September 18, 2015, NMFS published a proposed rule to establish a single small business size standard of $11 million in annual gross receipts for the commercial fishing industry, for RFA compliance purposes only, and

requested public comments (80 FR 56432).

Comments and Responses

NMFS received five public comment letters in response to the proposed rule. These letters were mostly from businesses which participate in commercial fishing activities but are primarily engaged in seafood processing or organizations representing such businesses. No change has been made to the proposed size standard or regulations as a result of these comments.

Comment 1: The proposed size standard of $11 million in annual gross receipts should not be applied to businesses primarily engaged in seafood processing (NAICS 311170).

Response: NMFS agrees with this comment, as it is not NMFS' intent that the proposed size standard be applied to such businesses. Per the commenters' requests, NMFS has clarified the size standard established by this rule only applies to businesses primarily engaged in commercial fishing (NACIS 11411) and thus does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry.

Comment 2: The proposed size standard of $11 million in annual gross receipts should not be applied to any businesses that engage in both commercial fishing and seafood processing activities.

Response: NMFS does not agree with this comment. Consistent with statements by other commenters, the determination of which NAICS code and thus which standard will be applied to each business for RFA analysis purposes is an empirical question that cannot be known until an analysis is conducted for a particular NMFS rulemaking. If a business is determined to be primarily engaged in commercial fishing when an RFA analysis is conducted for a NMFS rulemaking, the $11 million size standard will apply.

Comment 3: NMFS' rule should include a broader discussion of all size standards and how they are applied.

Response: NMFS does not agree with this comment as the background information provided is adequate and appropriate for the scope of this rule. As the commenter acknowledges, SBA has established small business size standards for all industries with a NAICS code. NMFS' rulemakings directly regulate businesses in only a small percentage of the industries for which SBA establishes size standards. Information regarding SBA's size standards can be found in the recent rules SBA has published and which are referenced in this rule as well as on SBA's Web site. With respect to how size standards are applied in practice, that is also beyond the scope of this rule, both with respect to how size standards are applied in general and how NMFS typically applies them in the RFA analyses for its rulemakings. NMFS does not know and thus cannot address how all of SBA's size standards are applied in practice by other agencies. Further, this rule only establishes NMFS' small business size standard for the commercial fishing industry for RFA purposes; it does not change how NMFS determines the industry in which a business is primarily engaged and thus how NMFS applies size standards in its RFA analyses.

Comment 4: NMFS should not consider individual members of a fishery cooperative to be affiliated under SBA's principles of affiliation and thereby treated as a single entity in NMFS' RFA analyses.

Response: This comment is beyond the scope of this rule. This rule will not change how NMFS applies SBA's principles of affiliation to businesses directly regulated by NMFS' rulemakings.

Comment 5: NMFS did not provide sufficient opportunity for public comment on the proposed size standard or adequately inform or involve the Fishery Management Councils or the fishing industry in the rulemaking process and thus violated the Administrative Procedure Act (APA).

Response: NMFS does not agree with this comment. Consistent with the requirements of the APA, NMFS properly published the proposed rule in the **Federal Register** and provided the public, including the Fishery Management Councils, entities involved in commercial fisheries, and any other interested parties, with the appropriate 30 days to provide comments. Thus, NMFS has met the APA's requirements. Further, as stated in the preamble to the proposed rule, the Fishery Management Councils do not support SBA's disparate size standards for the three sectors of the commercial fishing industry, but rather, support having a single size standard. NMFS' single size standard was determined using SBA's methodology for establishing size standards, to the extent practicable given available data.

Comment 6: NMFS did not adequately consult Advocacy when proposing, for RFA purposes only, the $11 million size standard for the commercial fishing industry.

Response: NMFS does not agree with this comment. As explained in the proposed rule, NMFS and the Department of Commerce General Counsel's Office had preliminary discussions with Advocacy. Advocacy was supportive of NMFS publishing for notice and comment an alternative size standard pursuant to RFA section 601(3) and 13 CFR 121.903(c) in order to establish its own size standard for the commercial fishing industry for purposes of RFA analyses only. Thereafter, NMFS formally consulted Advocacy on the $11 million size standard and the proposed rule prior to its publication. Advocacy provided comments on the proposed rule and NMFS addressed those comments prior to its publication. NMFS also formally consulted Advocacy on this final rule prior to its publication. Advocacy provided comments on a draft of this rule and NMFS addressed those comments prior to its publication. Thus, NMFS has adequately consulted with Advocacy, consistent with RFA section 601(3) and 13 CFR 121.903(c).

Classification

Pursuant to section 601(3) of the RFA, the NMFS Assistant Administrator has determined that this final rule is consistent with the RFA and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the SBA during the proposed rule stage that this action, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is repeated below.

The purposes of the rule are to establish a single small business size standard of $11 million in annual gross receipts for the commercial fishing industry (NAICS 11411), for RFA compliance purposes only, and a requirement for NMFS to assess at least once every 5 years whether this size standard should be changed. The objectives of the rule are to simplify the RFA analyses done in support of NMFS' rules, better meet the RFA's intent by more accurately representing expected disproportionate effects of NMFS' rules between small and large businesses, create a standard that more accurately reflects the size distribution of all businesses in the commercial fishing industry, and allow NMFS to determine when changes to the standard are

necessary and appropriate. The RFA and 13 CFR 121.903(c) serve as the legal basis for the rule.

The actions in this rule are administrative in nature and thus would only potentially generate indirect economic effects on commercial fishing businesses. Specifically, the $11 million size standard would only affect how NMFS and the Councils determine whether commercial fishing businesses directly regulated by future regulatory actions are small or large, whether and to what extent those actions have disproportionate economic impacts on those two classes of businesses, and when it is appropriate for NMFS to change the standard in the future. This rule would not impose any new requirements on commercial fishing businesses. Therefore, no small entities would be directly regulated by this rule. This rule would not be expected to affect the behavior or operations of commercial fishing businesses. As such, this rule is not expected to generate any direct economic effects on commercial fishing businesses.

Based on the information above, a reduction in profits for a substantial number of small entities is not expected. The Chief Counsel for Regulation of the Department of Commerce hereby certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because this rule, if implemented, is not expected to have a significant economic impact on a substantial number of small entities and no comments were received on this certification, a final regulatory flexibility analysis is not required and none was prepared.

No duplicative, overlapping, or conflicting Federal rules have been identified. This rule would not establish any new reporting or record-keeping requirements.

List of Subjects in 50 CFR Part 200

Commercial fishing, Small businesses.

Dated: December 18, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 5 U.S.C. 601 *et seq.,* NMFS amends 50 CFR chapter II as follows:

PARTS 200 THROUGH 215—[REMOVED]

■ 1. Remove reserved parts 200 through 215 from subchapter C.

■ 2. Add subchapter A, consisting of part 200, to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

PART 200—SMALL BUSINESS SIZE STANDARDS ESTABLISHED BY NMFS FOR REGULATORY FLEXIBILITY ACT COMPLIANCE PURPOSES ONLY

Sec.
200.1 Purpose and scope.
200.2 Small business size standards and frequency of review.

Authority: 5 U.S.C. 601 *et seq.*

§ 200.1 Purpose and scope.

(a) This part sets forth the National Marine Fisheries Service (NMFS) small business size standards for NMFS to use in conducting Regulatory Flexibility Act (RFA) analyses for NMFS actions subject to the RFA. This part also sets forth the timeframe for NMFS to review its small business size standards.

(b) NMFS has established the alternative size standards in this part, for RFA compliance purposes only, in order to simplify the RFA analyses done in support of NMFS' rules, better meet the RFA's intent by more accurately representing expected disproportionate effects of NMFS' rules between small and large businesses, create a standard that more accurately reflects the size distribution of all businesses in the industry, and allow NMFS to determine when changes to the standard are necessary and appropriate.

§ 200.2 Small business size standards and frequency of review.

(a) NMFS' small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing is $11 million in annual gross receipts. This standard applies to all businesses classified under North American Industry Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses.

(b) NMFS will review each of the small business size standards in paragraph (a) of this section at least once every 5 years to determine if a change is warranted. A change may be warranted because of changes in industry structure, market conditions, inflation, or other relevant factors.

[FR Doc. 2015–32564 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 249

Tuesday, December 29, 2015

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

DEPARTMENT OF ENERGY

10 CFR Part 429

[Docket No. EERE–2015–BT–CE–0019]

RIN 1990–AA44

Energy Conservation Program: Certification and Enforcement—Import Data Collection

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) is proposing a requirement that a person importing into the United States any covered product or equipment subject to an applicable energy conservation standard provide, prior to importation, a certification of admissibility to the DOE for the covered product or equipment. The certification would be submitted to DOE through the U.S. Customs and Border Protection's Automated Commercial Environment (ACE).

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than February 12, 2016. See section V, ''Public Participation,'' of this NOPR for details.

ADDRESSES: Any comments submitted must identify the NOPR for Import Data Collection, and provide docket number EERE–2015–BT–CE–0019 and/or regulatory information number (RIN) number 1990–AA44. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: ImportData2015CE0019@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2015-BT-CE-0019.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through regulations.gov.

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

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–6590. Email: *ashley.armstrong@ee.doe.gov;* or Mr. Steven Goering, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–32, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–286–5691. Email: *steven.goering@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Authority and Background

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (*codified at* 42 U.S.C. 6291–6317) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] Part C [3] of title III (42 U.S.C. 6311–6317) establishes an energy conservation program for certain industrial and commercial equipment. The Act provides DOE authority to enforce certain prohibited acts listed in section 6302(a), including EPCA's prohibition on the importation of covered products and equipment that do not conform to applicable energy conservation standards. (42 U.S.C. 6302(a)(5), 6303, 6316(a),(b)) [4]

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[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (Apr. 30, 2015).

[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[4] Section 6302(a)(5) states that it is unlawful for any ''manufacturer'' to ''distribute in commerce'' products that do not conform to applicable energy

Continued

EPCA further provides that any covered product or equipment ''offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury,'' except under certain terms and conditions authorized under those rules. (42 U.S.C. 6301) Under the regulations issued by the Department of Treasury and the U.S. Customs and Border Protection (CBP), if the DOE or the Federal Trade Commission ''notifies CBP that a covered import does not comply with an applicable energy conservation or energy labeling standard, CBP will refuse admission to the covered import, or pursuant to paragraph (d) of this section, CBP may allow conditional release of the covered import so that it may be brought into compliance.'' (19 CFR 12.50(b))

In addition, EPCA authorizes DOE to require importers of covered products and equipment ''to submit information or reports'' with respect to energy efficiency, energy use, or water use of covered products and equipment ''as the Secretary determines may be necessary . . . to insure compliance with the requirements of this part.'' (42 U.S.C. 6296(d))

In its current form, 10 CFR 429.5 requires that persons importing covered products or covered equipment comply with the provisions of 10 CFR parts 429, 430, and 431. Part 429 requires, among other things, that importers of covered products or covered equipment subject to an applicable energy conservation standard [5] submit a certification report to DOE prior to distributing their products in U.S. commerce. The certification report must provide specific information for each basic model, including the product or equipment type, the brand name, and the basic model number, as well as specific energy use information. (10 CFR 429.12(b)). Importers are currently required to submit certifications on product-specific templates to DOE's Compliance and Certification Management System (CCMS), which assigns each certification submission a unique attachment identification number. (10 CFR 429.12(h)).

In prior rulemakings, the DOE has received comments from a number of interested parties urging DOE to work with CBP to enforce EPCA and its implementing regulations. For example, in 1996, the National Electrical Manufacturers Association (NEMA) called on the DOE to ''provide sufficient guidelines to Customs Officers in order to facilitate enforcement of requirements similar to those placed on U.S. manufacturers.'' (Docket No. EE–RM–96–400, NEMA, No. 38 at p. 15). More recently, in April 2011, in response to a DOE Request for Information concerning ''Increased Scope of Coverage for Electric Motors,'' NEMA and the Appliance Standards Awareness Project (ASAP), addressed this issue in joint comments supported by the American Council for an Energy-Efficient Economy, the Alliance to Save Energy, Natural Resources Defense Council, Northeast Energy Efficiency Partnerships, Northwest Energy Efficiency Alliance and the Northwest Power and Conservation Council. The commenters estimated that more effective enforcement of standards vis-à-vis imported electric motors could produce as much as one billion kilowatt-hours in incremental savings each year, and further noted that ''manufacturers who comply are placed at a competitive disadvantage. . . . Therefore, we strongly urge DOE to work with Customs to expedite efforts for improved monitoring and enforcement with respect to imported motors. Without improved enforcement, the benefits of both existing standards and future standards are jeopardized.'' (Docket No. EERE–2010–BT–STD–0027, ASAP, NEMA, No. 20 at p. 5).

On February 19, 2014, the President issued Executive Order 13659, Streamlining the Export/Import Process for America's Businesses (EO 13659), which requires certain federal agencies to significantly enhance their use of technology to modernize and simplify the trade processing infrastructure. Specifically, EO 13659 requires applicable government agencies to use CBP's International Trade Data System (ITDS), and its supporting systems, such as the Automated Commercial Environment (ACE), to create a ''single window'' through which businesses will electronically submit import-related data for clearance. EO 13659 envisions and is working toward a simpler, more efficient portal for trade use, to the benefit of both the trade and those government agencies with related authorities and responsibilities.

Based upon its specific authority to require the submission of information by importers and its broader authority to regulate the importation of covered products and equipment, DOE seeks in this proposed rule to require importers to provide a certification of admissibility to DOE prior to importation of products or equipment subject to DOE regulations. Importers would be required to submit the certification to DOE through ACE, which currently is being deployed to support electronic data filing through its Automated Broker Interface (ABI).

II. Summary of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to require that importers of covered products or equipment subject to an applicable energy conservation standard set forth in 10 CFR part 430 or 431 [6] and falling under specified classifications of the Harmonized Tariff Schedule of the United States [7] provide a certification of admissibility for each shipment of such products or equipment before their arrival at a U.S. port of entry. Importers of such covered products or equipment are currently required to submit annual certifications to DOE that the products or equipment they intend to import are compliant with all applicable energy conservation standards, using CCMS. DOE proposes that, if an importer has already submitted its required certification report to DOE, the importer would provide a certification of admissibility with only the information necessary to tie the shipment back to its most recent CCMS submission. Any importer that has not already filed its required annual certification would be required to provide more detailed information regarding the covered product or equipment contained in the shipment.

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conservations standards. Section 6291 defines the term ''manufacturers'' so as to include importers, and states that ''to distribute in commerce'' means, among other things, ''to import.'' (42 U.S.C. 6291(10), (12), (16)).

[5] Under DOE regulations, ''energy conservation standard'' is defined as any standard ''meeting the definitions of that term in 42 U.S.C. 6291(6) and 42 U.S.C. 6311(18) as well as any other water conservation standards and design requirements found'' in 10 CFR parts 429, 430, or 431. (10 CFR 429.2(b))

[6] 10 CFR parts 430 and 431 do not apply to covered products or equipment imported for export from the United States, provided that such products or equipment ''or any container in which it is enclosed, when distributed in commerce, bears a stamp or label stating 'NOT FOR SALE FOR USE IN THE UNITED STATES' '' and ''such product is, in fact, not distributed in commerce for use in the United States.'' (10 CFR 429.6). *See also* CBP Ruling No. HQ W231173 (''equipment subject to the standards set by the Department of Energy under 10 CFR 430.32 that are not in compliance with those standards, may be imported into the United States for the purpose of exportation, and placed in either a foreign trade zone or customs bonded warehouse pursuant to that purpose''), available at *http://rulings.cbp.gov/index.asp?ru=w231173&qu=CBP+Ruling+HQ+W231173&vw=detail.*

[7] *http://www.usitc.gov/tata/hts/index.htm.*

III. Discussion

A. Relevant Harmonized Tariff Schedule Codes

All importers must provide the appropriate code for the products or equipment they are importing as explained in the Harmonized Tariff Schedule of the United States, Annotated for Statistical Reporting Purposes, (HTS) which is published by the U.S. International Trade Commission pursuant to section 1207 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418; 19 U.S.C. 3007) (Trade Act). The HTS code is meant in part to allow CBP to make classification distinctions of U.S. interest. Consistent with this practice, DOE would require importers of shipments containing covered products and equipment falling under specified classifications of the HTS to file a certification of admissibility with DOE. The relevant HTS codes that would require a certification filing to DOE are presented in Table III.1.[8]

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY

HTS Code (2014)	HTS Product description (2014)
3922	Baths, shower baths, sinks, washbasins, bidets, lavatory pans, seats and covers, flushing cisterns and similar sanitary ware, of plastics.
6910	Ceramic sinks, washbasins, washbasin pedestals, baths, bidets, water closet bowls, flush tanks, urinals and similar sanitary fixtures.
7011.10	Glass envelopes (including bulbs and tubes), open, and glass parts thereof, without fittings, for electric lamps, cathode-ray tubes or the like: For electric lighting.
7321	Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating), barbecues, braziers, gas rings, plate warmers and similar nonelectric domestic appliances, and parts thereof, of iron or steel.
7322.90.0015	Air heaters, not electrically heated, incorporating a motor-driven fan or blower.
7322.90.0030	Hot air distributors, not electrically heated, incorporating a motor-driven fan or blower.
7322.90.0045	Parts of air heaters and hot air distributors.
8402	Steam or other vapor generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers; parts thereof.
8403	Central heating boilers (other than those of heading 8402) and parts thereof.
8413	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof.
8414	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; parts thereof.
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated; parts thereof.
8416	Furnace burners for liquid fuel, for pulverized solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances; parts thereof.
8417	Industrial or laboratory furnaces and ovens, including incinerators, nonelectric, and parts thereof.
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps, other than the air conditioning machines of heading 8415; parts thereof.
8419.11.00	Instantaneous gas water heaters.
8419.19.0020	Instantaneous water heaters, non-electric.
8419.81.50	Cooking stoves, ranges and ovens.
8421.12.0000	Clothes-dryers (centrifugal).
8422.11.00	Dishwashing machines, of the household type.
8422.19.00	Dishwashing machines, other.
8422.90	Parts of dishwashing machines.
8427.10	Self-propelled trucks powered by an electric motor.
8428	Other lifting, handling, loading or unloading machinery (for example, elevators, escalators, conveyors, teleferics).
8429	Self-propelled bulldozers, angledozers, graders, levelers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers:.
8430	Other moving, grading, leveling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snowplows and snowblowers.
8431	Parts suitable for use solely or principally with the machinery of headings 8425 to 8430.
8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports ground rollers; parts thereof.
8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437; parts thereof.
8434	Milking machines and dairy machinery, and parts thereof.
8435	Presses, crushers and similar machinery, used in the manufacture of wine, cider, fruit juices or similar beverages; parts thereof.
8436	Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders; parts thereof.

[8] The HTS codes that would require a certification to DOE would be updated to reflect the then-current version of the HTS.

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY—Continued

HTS Code (2014)	HTS Product description (2014)
8437	Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables, and parts thereof; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm type machinery; parts thereof.
8438	Machinery, not specified or included elsewhere in this chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils; parts thereof.
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard (other than the machinery of heading 8419); parts thereof.
8440	Bookbinding machinery, including book-sewing machines, and parts thereof.
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds, and parts thereof.
8442	Machinery, apparatus and equipment (other than the machine tools of headings 8456 to 8465), for preparing or making plates, cylinders or other printing components; plates, cylinders and other printing components; plates, cylinders and lithographic stones.
8443	Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof.
8444	Machines for extruding, drawing, texturing or cutting man-made textile materials.
8445	Machines for preparing textile fibers; spinning, doubling or twisting machines and other machinery for producing textile yarns; textile reeling or winding (including weft winding) machines and machines for preparing textile yarns for use on the machines.
8446	Weaving machines (looms).
8447	Knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace, embroidery, trimmings, braid or net and machines for tufting.
8448	Auxiliary machinery for use with machines of heading 8444, 8445, 8446 or 8447 (for example, dobbies, Jacquards, automatic stop motions and shuttle changing mechanisms); parts and accessories suitable for use solely or principally with the machines of this heading or of heading 8444, 8445, 8446 or 8447 (for example, spindles and spindle flyers, card clothing, combs, extruding nipples, shuttles, healds and heald-frames, hosiery needles).
8449	Machinery for the manufacture or finishing of felt or nonwovens in the piece or in shapes, including machinery for making felt hats; blocks for making hats; parts thereof.
8450	Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof.
8451	Machinery (other than machines of heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics; parts thereof.
8452	Sewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof.
8453	Machinery for preparing, tanning or working hides, skins or leather or for making or repairing footwear or other articles of hides, skins or leather, other than sewing machines; parts thereof.
8454	Converters, ladles, ingot molds and casting machines, of a kind used in metallurgy or in metal foundries, and parts thereof.
8455	Metal-rolling mills and rolls therefor; parts thereof.
8456	Machine tools for working any material by removal of material, by laser or other light or photon beam, ultrasonic, electro-discharge, electro-chemical, electron-beam, ionic-beam or plasma arc processes; water-jet cutting machines.
8457	Machining centers, unit construction machines (single station) and multistation transfer machines, for working metal.
8458	Lathes (including turning centers) for removing metal.
8459	Machine tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centers) of heading 8458.
8460	Machine tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal or cermets by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines [listed in prior subheadings].
8461	Machine tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine tools working by removing metal or cermets, not elsewhere specified or included.
8462	Machine tools (including presses) for working metal by forging, hammering or die-stamping; machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal.
8463	Other machine tools for working metal or cermets, without removing material.
8464	Machine tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass.

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY—Continued

HTS Code (2014)	HTS Product description (2014)
8465	Machine tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials.
8466	Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8465, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine tools; tool holders for any type of tool for working in the hand.
8467.21.00, 8467.22.00, 8467.29.00, 8467.81.0000, 8467.89.	Tools for working in the hand (with self-contained electric motor).
8469	Typewriters other than printers of heading 8443; word processing machines.
8470	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers.
8471	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included.
8472	Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, automatic banknote dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil-sharpening machines, perforating or stapling machines).
8473	Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 8469 to 8472.
8474	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or molding solid mineral fuels.
8475	Machines for assembling electric or electronic lamps, tubes or flashbulbs, in glass envelopes; machines for manufacturing or hot working glass or glassware; parts thereof.
8476	Automatic goods-vending machines (for example, postage stamp, cigarette, food or beverage machines), including money-changing machines; parts thereof.
8477	Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof.
8478	Machinery for preparing or making up tobacco, not specified or included elsewhere in this chapter; parts thereof.
8479	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof.
8481.80.1020	Bath and shower faucets (of copper).
8481.80.1030	Sink and lavatory faucets (of copper).
8481.80.30	Other taps, cocks, valves and similar appliances (of iron or steel).
8481.80.5060	Bath, shower, sink and lavatory faucets (of other materials).
8486	Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; machines and apparatus specified in Note 9 (C) to this chapter; parts and accessories.
8501	Electric motors and generators (excluding generating sets).
8502.40.0000	Electric rotary converters.
8504	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof.
8508.11, 8508.19, 8508.70	Vacuum cleaners; parts thereof: With self-contained electric motor.
8509	Electromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof.
8510	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof.
8511.40.0000	Starter motors and dual purpose starter-generators.
8511.90.60	Other parts of electrical ignition or starting equipment.
8512	Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof.
8514	Industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss); other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss; parts thereof.
8515	Electric (including electrically heated gas), laser or other light or photon beam, ultrasonic, electron beam, magnetic pulse or plasma arc soldering, brazing or welding machines and apparatus, whether or not capable of cutting; electric machines and apparatus for hot spraying of metals or cermets; parts thereof.
8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers.
8517	Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network.

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY—Continued

HTS Code (2014)	HTS Product description (2014)
8518	Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets; parts thereof.
8519	Sound recording or reproducing apparatus.
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner.
8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders.
8527	Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock.
8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus.
8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528.
8530	Electrical signaling, safety or traffic control equipment for railways, streetcar lines, subways, roads, inland waterways, parking facilities, port installations or airfields (other than those of heading 8608); parts thereof.
8539	Electrical filament or discharge lamps, including sealed beam lamp units and ultraviolet or infrared lamps; arc lamps; parts thereof.
8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof.
8549	Other electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter.
8601	Rail locomotives powered from an external source of electricity or by electric accumulators (batteries).
8602	Other rail locomotives; locomotive tenders.
8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604.
8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles).
8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604).
8607	Parts of railway or tramway locomotives or rolling stock: Truck assemblies, axles and wheels, and parts thereof.
8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signaling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing.
8701	Tractors (other than tractors of heading 8709).
8702	Motor vehicles for the transport of ten or more persons, including the driver.
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars.
8704	Motor vehicles for the transport of goods.
8705	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, wreckers, mobile cranes, fire fighting vehicles, concrete mixers, road sweepers, spraying vehicles, mobile workshops, mobile radiological units).
8707	Bodies (including cabs), for the motor vehicles of headings 8701 to 8705.
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705.
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles.
8710	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles.
8713	Carriages for disabled persons, whether or not motorized or otherwise mechanically propelled.
8714	Parts and accessories of vehicles of headings 8711 to 8713.
8802	Other aircraft (for example, helicopters, airplanes); spacecraft (including satellites) and suborbital and spacecraft launch vehicles.
8803	Parts of goods of heading 8801 or 8802.
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles.
8901	Cruise ships, excursion boats, ferry boats, cargo ships, barges and similar vessels for the transport of persons or goods.
8902	Fishing vessels; factory ships and other vessels for processing or preserving fishery products.
8904	Tugs and pusher craft.
8905	Light-vessels, fire-floats, dredgers, floating cranes, and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms.

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY—Continued

HTS Code (2014)	HTS Product description (2014)
8906	Other vessels, including warships and lifeboats other than row boats.
8905	Binoculars, monoculars, other optical telescopes, and mountings therefor; other astronomical instruments and mountings therefor, but not including instruments for radio-astronomy; parts and accessories thereof.
9006	Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps of heading 8539; parts and accessories thereof.
9007	Cinematographic cameras and projectors, whether or not incorporating sound recording or reproducing apparatus; parts and accessories thereof.
9008	Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers; parts and accessories thereof.
9010	Apparatus and equipment for photographic (including cinematographic) laboratories, not specified or included elsewhere in this chapter; negatoscopes; projection screens; parts and accessories thereof.
9014	Direction finding compasses; other navigational instruments and appliances; parts and accessories thereof.
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof.
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof.
9019	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof.
9022	Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like; parts and accessories thereof.
9023	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses, and parts and accessories thereof.
9024	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics), and parts and accessories thereof.
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes; parts and accessories thereof.
9030	Oscilloscopes, spectrum analyzers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionizing radiations; parts and accessories thereof.
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors; parts and accessories thereof.
9033	Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of chapter 90.
9105.11	Alarm clocks (electrically operated).
9105.19	Other clocks.
9207	Musical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions).
9209	Parts (for example, mechanisms for music boxes) and accessories (for example, cards, discs and rolls for mechanical instruments) of musical instruments; metronomes, tuning forks and pitch pipes of all kinds.
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof.
9402	Medical, surgical, dental or veterinary furniture (for example, operating tables, examination tables, hospital beds with mechanical fittings, dentists' chairs); barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements; parts of the foregoing articles.
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included.
9406	Illuminated signs, illuminated nameplates and the like.
9504	Video game consoles and machines, articles for arcade, table or parlor games, including pinball machines, bagatelle, billiards and special tables for casino games; automatic bowling alley equipment; parts and accessories thereof.

TABLE III.1—HTS CODES OF PRODUCTS AND EQUIPMENT REQUIRING CERTIFICATION OF ADMISSIBILITY—Continued

HTS Code (2014)	HTS Product description (2014)
9506	Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof.
9508	Merry-go-rounds, boat-swings, shooting galleries and other fairground amusements; traveling circuses and traveling menageries; traveling theaters; parts and accessories thereof.
9518	Tailors' dummies and other mannequins; automatons and other animated displays used for shopwindow dressing.

DOE requests comment on the requirement that importers importing covered products or equipment subject to DOE energy conservation standards that are within the above listed HTS codes provide a certification of admissibility to DOE. Further, DOE requests comment as to whether covered products or equipment subject to or being considered for energy conservation standards are currently imported using other HTS codes.

B. Applicability of Provision

The requirement for a certification of admissibility would apply to all covered products and equipment subject to a DOE energy conservation standard set forth in 10 CFR part 430 or 431. The requirement would apply to all such products and equipment contained in the shipment, either as a final product or a component part of a final product. For example, an importer would need to submit an electronic record for all covered electric motors as defined in 10 CFR 431.12, provided that the electric motor is subject to a standard, regardless of whether the electric motor will be imported as a stand-alone product or as a component part of another product not subject to DOE regulations (a treadmill, for example). Similarly, an importer of a laptop computer that is bundled with an external power supply would be required to submit a certification of admissibility for the external power supply.

If the shipment contains any such covered products or equipment, the importer would be required to state whether the product or equipment has been certified to DOE as compliant with all applicable energy conservation standards and, if so, the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified. As discussed above, EPCA authorizes the Secretary of Energy to require importers of covered products and equipment "to submit information or reports to the Secretary" with respect to energy efficiency, energy use, or water use of covered products and equipment. (42 U.S.C. 6296(d)(1)) 10 CFR part 429 requires, among other things, that importers submit a certification report to DOE prior to distributing their products in U.S. commerce, and the failure to properly certify covered products and covered equipment subject to DOE energy conservation standards is a prohibited act under those regulations. 10 CFR 429.12, 429.102(a)(1). Part of the certification report is a statement whereby the manufacturer (including an importer) certifies that the basic models listed in the certification report comply with the applicable energy conservation standard and have been tested according to the applicable test requirements. 10 CFR 429.12. DOE requests comment on its proposal to require, for a shipment that contains covered products or equipment subject to a DOE energy conservation standard, that the importer state whether the product or equipment has been certified to DOE as compliant with all applicable energy conservation standards and, if so, provide the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified.

If any covered product or equipment contained in the shipment has not been certified to DOE through CCMS, the importer would be required to include in its certification of admissibility; (1) the type of product or equipment; (2) the brand name of the covered product or equipment; (3) the individual model number of the covered product or equipment; (4) the original equipment manufacturer (OEM) of the covered product or equipment; and (5) a contact name and email address for the importer of record.

Currently, 10 CFR part 429 uses the terms "individual model number," "manufacturer's individual model number," and "manufacturer's model number" interchangeably and, of the three terms, only defines the term "manufacturer's model number." For clarity, DOE proposes to replace the term "manufacturer's model number" with the term "individual model number" in the definitions at 10 CFR 429.2.[9]

DOE initially considered requiring importers to provide all of the product-specific information specified above for all covered products and equipment subject to energy conservation standards. However, importers are already required to provide this information to DOE, prior to importation, when certifying that basic models of covered product and equipment meet applicable energy conservation standards. (10 CFR 429.12(a)) DOE proposes, therefore, to collect this additional information only regarding imported covered products and equipment subject to energy conservation standards that the importer has not certified to DOE as meeting applicable energy conservation standards. DOE believes this would be less burdensome to importers who have certified the basic models of covered products and equipment being imported, and therefore have already provided this information to DOE. DOE requests comment on its proposal to collect this additional information only regarding imported covered products and equipment subject to energy conservation standards that the importer has not certified to DOE as meeting applicable energy conservation standards.

Currently, importers are not required, in certifying a covered product or equipment that is a component product of a final product, to provide the brand name and individual model number of the final product. Thus, an importer may certify a basic model once in CCMS but import that basic model as a component of a variety of different final products. In order to facilitate, as necessary, identification of covered products or equipment being imported

[9] DOE anticipates that it would subsequently amend any relevant product-specific sections as necessary to harmonize with these proposed definitional changes.

as a component of a final product, DOE proposes that, if a certified covered product or equipment is a component product of a final product being imported, the certification of admissibility must include the brand name and individual model number of the imported final product. DOE requests comment on this proposal. This information would be required regarding any covered product or equipment being imported as a component of another product, whether or not the covered product or equipment has been certified to DOE as meeting applicable energy conservation standards. DOE expects that it would be less of a reporting burden to provide the final product information during the importation process rather than as part of a complete certification through CCMS.

As an alternative to this proposal, DOE would consider requiring this information from all manufacturers, including importers, as part of the process of certifying covered products or equipment. That requirement would not be adopted in this rulemaking, but rather in a separate rulemaking that DOE is preparing to revise its certification, compliance, and enforcement regulations applicable to consumer products and commercial and industrial equipment. *See* RIN: 1904–AD26. DOE requests comment regarding whether the reporting burden on importers would be less to provide this information as part of the certification of admissibility or as part of a compliance certification report submitted through CCMS.

As in the case of products or equipment that are not ''covered,'' importers of products or equipment that are ''covered'' but not subject to standards (either DOE has not set standards or compliance with standards is not yet required) would not be required to provide a certification of admissibility. For example, although EPCA defines ''covered equipment'' to include ''electric motors'' (42 U.S.C. 6311(1)(A)), a small electric motor that is a component of a covered product or covered equipment is not subject to DOE energy conservation standards. (42 U.S.C. 6317(b)(3)). In addition, certain electric motors, such as NEMA Design C and IEC Design H, are not *currently* subject to the energy conservation standards for electric motors. 10 CFR 431.25.

The regulations issued by the Department of Treasury and CBP pursuant to EPCA, discussed herein, provide that, ''[u]pon a determination that a covered import is not in compliance with applicable energy conservation or labeling standards, DOE . . ., will provide CBP with a written or electronic notice that identifies the importer and contains a description of the noncompliant covered import that is sufficient to enable CBP to identify the subject merchandise and refuse admission thereof into the customs territory of the United States.'' (19 CFR 12.50(c)) The requirement for a certification of admissibility would ensure that DOE is aware of all shipments containing covered products and equipment subject to energy conservation standards prior to importation into the United States. This information will allow DOE to notify CBP if an importer is attempting to import a covered product or equipment that DOE has determined fails to meet the applicable energy conservation standard. Requiring importers to state whether the covered product or equipment being imported has been certified to DOE would allow DOE to identify importers that have not complied with these requirements, including potentially the failure to test; ensure that the product or equipment does, in fact, meet the applicable standards; and, if not, take appropriate enforcement action.

DOE requests comment on the proposed requirement that importers submit a certification of admissibility to DOE for all covered products and equipment subject to energy conservation standards contained in the shipment, either as a final product or a component part of a final product.

C. Information to be Collected Regarding Products not Previously Certified to DOE as Compliant With Applicable Energy Conservation Standards

If the product or equipment is covered and subject to a DOE energy conservation standard, and the basic model of the product or equipment has not been certified to DOE as compliant with all applicable energy conservation standards, then the certification of admissibility must include: (1) the type of product or equipment; (2) the brand name of the covered product or equipment; (3) the individual model number of the covered product or equipment; (4) whether the covered product or equipment is a final product or a component part of a final product and, if the covered product or equipment is a component, the brand name and individual model number of the final product; (5) the original equipment manufacturer (OEM) of the covered product or equipment, and in the case of electric motors, the Compliance Certification number;[10] and (6) a contact name and email address for the importer of record. In the interest of the Single Window Initiative that is part of the *Beyond the Border Action Plan on Perimeter Security and Economic Competiveness* between the Canada Border Services Agency and CBP, the requested information is similar to that collected by Canada under Part VI, section 13, of their Energy Efficiency Regulations. (Regulations Amending the Energy Efficiency Regulations (1996), SOR/2011–182)[11]

1. Type of Product or Equipment

The specific products and equipment covered by DOE regulations found in 10 CFR parts 430 and 431 are divided into various types. DOE regulations refer to these types by the headers found in the applicable sections of 10 CFR part 429, subpart B. For example, to identify the type of product or equipment being imported, an importer would provide one of the following three-digit codes[12] presented in Table III.2.

TABLE III.2—THREE-DIGIT PRODUCT TYPE CODES

Product type	Three-digit code
Refrigerators, refrigerator-freezers and freezers	014
Room air conditioners	015
Central air conditioners and heat pumps	016
Water heaters	017
Furnaces	018
Dishwashers	019
Clothes washers	020
Clothes dryers	021
Direct heating equipment	022
Kitchen ranges and ovens	023
Pool heaters	024
Television sets	025

[10] Under current regulations, DOE provides manufacturers of covered electric motors with a unique ''Compliance Certification number.'' 10 CFR 431.36(f). DOE anticipates issuing a rule regarding compliance certification of electric motors in the near future. DOE may make conforming changes to a final rule in this rulemaking as appropriate based on any regulatory changes made in that rulemaking. *See* RIN:1904–AD25.

[11] Available at *http://laws-lois.justice.gc.ca/eng/regulations/SOR–94–651/page-2.html#h-3.* Canada collects the following five pieces of information: (1) The name of the product using one of the names set forth in their regulations; (2) the model number or unique motor identifier of the product, as the case may be; (3) the brand, if any, of the product; (4) the address of the dealer; and (5) whether the product is being imported for sale or lease in Canada without modification, sale or lease in Canada after being modified to comply with the applicable energy efficiency standard, or use as a component for incorporation into any other product that is to be exported from Canada.

[12] This table is illustrative only. For example, the table does not reflect product types for which standards are being considered, but have not yet been adopted.

TABLE III.2—THREE-DIGIT PRODUCT TYPE CODES—Continued

Product type	Three-digit code
Fluorescent lamp ballasts	026
General service fluorescent lamps	027
Faucets	028
Showerheads	029
Water closets	030
Urinals	031
Ceiling fans	032
Ceiling fan light kits	033
Torchieres	034
Compact fluorescent lamps	035
Dehumidifiers	036
External power supplies	037
Battery chargers	038
Electric motors	039
Commercial warm air furnaces	041
Commercial refrigerators, freezers, and refrigerator-freezers	042
Commercial heating, ventilating, air conditioning (HVAC) equipment	043
Commercial water heating equipment	044
Automatic commercial ice makers	045
Commercial clothes washers	046
Distribution transformers	047
Illuminated exit signs	048
Traffic signal modules and pedestrian modules	049
Commercial unit heaters	050
Commercial pre-rinse spray valves	051
Refrigerated bottled or canned beverage vending machines	052
Walk-in coolers and walk-in freezers	053
Metal halide lamp ballasts and fixtures	054
Light emitting diodes	056
Furnace fans	058
Pumps	059
Commercial packaged boilers	060
Portable air conditioners	062

For example, an importer of a consumer refrigerator would provide the code ''014,'' while an importer of a laptop bundled with an external power supply would provide code ''037.'' Collecting this information is essential to DOE's ability to identify possibly noncompliant products or equipment before they are imported into the United States. Once the type of product is identified, DOE can then focus its search of the relevant DOE databases to determine the compliance of the specific product or equipment being imported. DOE requests comment on requiring importers to identify the type of product or equipment being imported using a product-specific code in the certification of admissibility to DOE.[13]

2. Brand

The certification of compliance information DOE collects pursuant to 10 CFR 429.12 is brand-specific. A manufacturer provides the relevant information demonstrating compliance of their product or equipment specific to each brand under which a basic model may be labeled. Collecting information in the certification of admissibility regarding the brand of the covered product or equipment being imported would facilitate the DOE's determination of compliance of the product or equipment with applicable energy conservation standards and certification requirements. Moreover, collecting information as to the brand of the covered product or equipment is essential for DOE to provide CBP a description sufficient for CBP to identify the covered product and equipment and take appropriate action based upon the non-compliance of the product or equipment. DOE requests comment on requiring importers to provide the brand of the covered product or equipment being imported in their certification of admissibility to DOE.

3. Individual Model Number

The certification of compliance information DOE collects pursuant to 10 CFR 429.12 also includes the individual model number(s) within each basic model. By requiring importers to provide the individual model number of the covered product or equipment, DOE will be better able to determine if the product or equipment has, in fact, been certified as compliant or has been found noncompliant. Moreover, collecting information as to the individual model number of the covered product or equipment is essential for DOE, when required, to provide CBP a description sufficient for CBP to identify the product or equipment and take appropriate action based upon the non-compliance of the product or equipment. DOE requests comment on requiring importers to provide the individual model number of the covered product or equipment subject to DOE energy conservation standards in their certification of admissibility to DOE.

[13] DOE anticipates issuing a Notice of Proposed Rulemaking to revise Part 429. That rulemaking would likely change the regulatory structure to provide a three-digit numbering system.

4. Identification of Covered Product or Equipment Subject to DOE Energy Conservation Standards as a Product or Component

As a practical matter, a description of covered product or equipment subject to DOE energy conservation standards that is a component of a final product must include information (*e.g.,* brand and model number) regarding the final product sufficient to allow CBP to identify the final product and take appropriate action based upon the non-compliance of the component contained therein or packaged with the final product. It is therefore essential that the importer identify in its certification of admissibility whether the covered product or equipment subject to DOE energy conservation standards is a final product or a component of a final product and, if a component, the brand and individual model number of the final product. DOE requests comment on requiring importers to indicate in their certification of admissibility to DOE whether the covered product or equipment subject to DOE energy conservation standards being imported is a final product or a component of a final product and, if a component, the brand and individual model number of the final product.

5. Original Equipment Manufacturer

DOE routinely identifies noncompliant products by the original producer or assembler of the product (OEM). Collecting the OEM's name is therefore essential to DOE's ability to identify noncompliant products or equipment before they are imported into the United States. Once the OEM is identified, DOE can use that information to compare to the lists of products certified as compliant by that same OEM or, conversely, found to be noncompliant from the OEM. Identifying the OEM of the product will further help avoid confusion between similar products in the case where one OEM produces a compliant product while another does not. DOE requests comment on requiring importers to provide the name of the OEM for covered products and equipment subject to DOE energy conservation standards they are importing and, in the case of electric motors, the Compliance Certification number on the electric motor nameplate.

6. Contact Name and Email Address for Importer of Record

In cases where a certification of admissibility raises questions of possible noncompliance with energy conservation standards, DOE will

follow-up with the importer of record regarding the covered products or equipment certified. Requiring importers to provide a contact name and email address would facilitate DOE's efforts in this regard and would serve the interest of the importer in expeditiously resolving any issues raised. DOE requests comment on requiring importers to provide a contact name and email address in their certification of admissibility to DOE.

D. Method of Collection

All importers would be required to submit their certifications of admissibility to DOE via CBP's ACE system. Importers are encouraged by CBP to use ACE as it allows them to file manifests electronically; make periodic payments on an interest-free monthly basis; file and process formal consumption entries and informal entries, including ABI Census Warning Overrides; view and respond to certain CBP forms through the ACE Portal; and file and process AD/CVD entries (also known as type 03 entries) and track the lifecycle of their AD/CVD cases. Participating in ACE also supports the U.S. Department of Homeland Security's dual mission to facilitate legitimate trade and secure the nation's borders. Importers will be able to provide required information to multiple federal agencies through ACE, thereby simplifying the paperwork submission process for importers. DOE requests comment on requiring importers to file the certification of admissibility to DOE through the ACE system.

E. Effective Date and Compliance Date

If adopted, the effective date for this rule would be 30 days after publication of the final rule in the **Federal Register**. The compliance date for the rule, on or after which importers must submit certifications of admissibility in accordance with the rule, would be 2 years after the date of publication of the final rule in the **Federal Register**.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that today's regulatory action is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990 DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

DOE has prepared an IRFA for this rulemaking. As presented and discussed below, the IRFA describes potential impacts on importers of covered products or equipment subject to DOE energy conservation standards and the associated compliance costs.

A statement of the objectives of, and reasons and legal basis for, the proposed rule are set forth elsewhere in the preamble and not repeated here.

1. Description and Estimated Number of Small Entities Regulated

For companies classified in different NAICS codes, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. The size standards are listed by North American Industry Classification System (NAICS) code and industry description available at: *http://www.sba.gov/content/table-small-business-size-standards* and vary by NAICS code. Because the small business sizes vary by industry and the proposed rule affects companies in a range of NAICS codes, DOE used the most common threshold of 500 employees or less for an entity to be considered as a small business for this category.

No comprehensive list of importers of covered products or equipment subject to DOE energy conservation standards exists. DOE evaluated many information sources to assess the availability of data needed to estimate the number of companies that could be both importers of products covered by this rulemaking *and* United States small businesses. DOE's research involved information from the Department of Commerce, the United States Census, the American Association of Exporters and Importers, the National Small Business Association, the Small Business Exporters Association, and the United States Customs and Border Protection Office. Ultimately, DOE's analysis relied most heavily on information from the Department of Commerce and the United States Census to estimate the number of affected small business importers.

After assessing the data available, DOE relied on a three-step process for estimating the number of small business importers: (1) Determine the potentially affected industries; (2) Find the number of small businesses in each industry; (3) Estimate the number of those small businesses that import covered products or equipment subject to DOE energy conservation standards.

Determination of potentially affected industries. To calculate the number of small businesses potentially impacted by this rule, DOE first screened out the sectors listed in Table IV.1 (using two-digit NAICS code) from consideration based on the nature of their business (*i.e.,* businesses operating in these sectors are unlikely to be an importer of covered products or equipment subject to DOE energy conservation standards or products that contain such covered products or equipment):

TABLE IV.1—NAICS SECTORS SCREENED OUT FROM CONSIDERATION AS POTENTIALLY IMPACTED BY RULE

NAICS	Description
11	Agriculture.
21	Mining, Quarrying, and Oil and Gas Extraction Quarrying.
22	Utilities.
23	Construction.
48–49	Transportation and Warehousing.
51	Information.
52	Finance and Insurance.
53	Real Estate.
54	Professional, Scientific and Technical Services.
55	Management of Companies and Enterprises.
56	Administrative and Support and Waste Management and Remediation Services.
61	Educational Services.
62	Health Care and Social Assistance.
71	Arts, Entertainment, and Recreation.
72	Accommodation and Food Services.

TABLE IV.1—NAICS SECTORS SCREENED OUT FROM CONSIDERATION AS POTENTIALLY IMPACTED BY RULE—Continued

NAICS	Description
81	Other Services, except Public Administration.
99	Unclassified.

The industries that passed the screening are shown in Table IV.2.

TABLE IV.2—NAICS SECTORS (TWO-DIGIT CODE LEVEL) POTENTIALLY IMPACTED BY RULE

NAICS	Description
31–33	Manufacturing.
42	Wholesale Trade.
44–45	Retail Trade.

Next, DOE evaluated each of the two-digit sectors that passed the first screening at the most granular five-digit NAICS code level.[14] Table IV.3 shows the final industry NAICS codes DOE assumed *could* be affected by this rule based on the description of the industry.

TABLE IV.3—NAICS SECTORS (FIVE-DIGIT CODE LEVEL) POTENTIALLY IMPACTED BY RULE

NAICS	Description
33241	Power Boiler and Heat Exchanger Manufacturing.
33331	Commercial and Service Industry Machinery Manufacturing.
33341	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing.
33361	Engine, Turbine, and Power Transmission Equipment Manufacturing.
33391	Pump and Compressor Manufacturing.
33399	All Other General Purpose Machinery Manufacturing.
33411	Computer and Peripheral Equipment Manufacturing.
33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.
33431	Audio and Video Equipment Manufacturing.
33511	Electric Lamp Bulb and Part Manufacturing.
33512	Lighting Fixture Manufacturing.
33521	Small Electrical Appliance Manufacturing.
33522	Major Appliance Manufacturing.
33531	Electrical Equipment Manufacturing.
33591	Battery Manufacturing.
33599	All Other Electrical Equipment and Component Manufacturing.
33611	Automobile and Light Duty Motor Vehicle Manufacturing.
33612	Heavy Duty Truck Manufacturing.
42342	Office Equipment Merchant Wholesalers.
42343	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers.
42344	Other Commercial Equipment Merchant Wholesalers.
42361	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers.
42362	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers.
42369	Other Electronic Parts and Equipment Merchant Wholesalers.
42372	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers.
42373	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers.
42374	Refrigeration Equipment and Supplies Merchant Wholesalers.
42383	Industrial Machinery and Equipment Merchant Wholesalers.
42386	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers.
44229	Other Home Furnishings Stores.
44314	Electronics and Appliance Stores.
45411	Electronic Shopping and Mail-Order Houses.

[14] NAICS codes can be disaggregated into discrete non-overlapping subsets of firms based on their primary business activity.

Calculation of small businesses in affected industries. Second, DOE used firm-size data from the United States Census to determine the number of small businesses in each five-digit NAICS code sector that passed the screening. DOE used 2012 data because it was the most recently available data and, as mentioned above, DOE used the 500-employee threshold as the small business cut off.

Calculation of the number of small business importers. Step 3 provides the total number of small businesses in the industries that may be affected by this rulemaking. DOE is not aware of data on the share of these small businesses that act as importers. To estimate this share, DOE divided the total number of importers—Department of Commerce data from 2011 shows that there were 183,960 U.S. businesses importing to the United States—by the total number of businesses in those sectors that might be engaged in importing (1,318,818)[15] to calculate the percentage of total businesses that are importers. In this way, DOE estimated that approximately 14 percent of businesses in the remaining sectors are engaged in importing activities. Lacking more specific importer data by industry, DOE assumed this percentage represented, on average, the share of total firms in each relevant industry that were importers. DOE then multiplied this share by the number of the small businesses in each covered NAICS sector (from Step 2) to yield the number of small business importers by each of those NAICS codes, as shown in Table IV.4.

[15] This value was determined by subtracting the number of businesses in NAICS sectors not engaged in importing from the total number of businesses according to the Census. This was necessary because the data on the total number of importers could not be disaggregated in meaningful detail, but clearly some industries (such as services) are much less likely to have a significant presence in importing when compared to wholesale, manufacturing, and retail.

TABLE IV.4—NUMBER OF SMALL BUSINESS POTENTIALLY IMPACTED BY RULE

NAICS	Description	Small business importers
33241	Power Boiler and Heat Exchanger Manufacturing	33
33331	Commercial and Service Industry Machinery Manufacturing	249
33341	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	204
33361	Engine, Turbine, and Power Transmission Equipment Manufacturing	105
33391	Pump and Compressor Manufacturing	90
33399	All Other General Purpose Machinery Manufacturing	443
33411	Computer and Peripheral Equipment Manufacturing	137
33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	96
33431	Audio and Video Equipment Manufacturing	63
33511	Electric Lamp Bulb and Part Manufacturing	7
33512	Lighting Fixture Manufacturing	131
33521	Small Electrical Appliance Manufacturing	15
33522	Major Appliance Manufacturing	18
33531	Electrical Equipment Manufacturing	253
33591	Battery Manufacturing	17
33599	All Other Electrical Equipment and Component Manufacturing	122
33611	Automobile and Light Duty Motor Vehicle Manufacturing	27
33612	Heavy Duty Truck Manufacturing	7
42342	Office Equipment Merchant Wholesalers	349
42343	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	982
42344	Other Commercial Equipment Merchant Wholesalers	508
42361	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	1,196
42362	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers	291
42369	Other Electronic Parts and Equipment Merchant Wholesalers	1,284
42372	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	398
42373	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	290
42374	Refrigeration Equipment and Supplies Merchant Wholesalers	97
42383	Industrial Machinery and Equipment Merchant Wholesalers	3,213
42386	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers	293
44229	Other Home Furnishings Stores	1,408
44314	Electronics and Appliance Stores	3,626
45411	Electronic Shopping and Mail-Order Houses	3,989
	Total	19,941

This represents a conservative upper-bound estimate because there are companies contained in some NAICS sectors (*e.g.,* heat exchanger manufacturers in NAICS 33241) that could be importers of non-covered products or equipment, but are included here because DOE lacks the data necessary to cull those out. The estimate of 19,941 importers includes both importers of covered products or equipment subject to DOE energy conservation standards and other end-use products meant for distribution in commerce that contain such covered products as components (*e.g.,* any end-use product bundled with a covered external power supply or a non-covered end-use product with a covered motor.)

2. Description and Estimate of Compliance Requirements

DOE assumes small businesses that import covered products or equipment will have already complied with their legal obligation to certify to DOE, through CCMS, all basic models of such products or equipment, and therefore would be required to report only the following information regarding the most recent certification of the basic model of covered products or equipment subject to DOE energy conservation standards they import:

1. The CCMS ticket number;
2. The CCMS attachment identification number assigned to the certification submission;
3. The line number in the submission corresponding to the basic model certified; and
4. If the covered product or equipment is a component of a final product, the brand name and individual model number of the final product.

The role of customs brokers. In assessing the burden of any new reporting requirements on importers, it is important to understand the process by which the typical importer complies with existing customs requirements. The vast majority of importers use customs brokers for a bundle of import-related services, including notification of regulatory requirements and aid in completing and submitting the required paperwork. For importers, who typically operate on tight schedules, delays at port can cause missed deliveries and result in heavy financial and reputational penalty. For these reasons, the job of negotiating the regulatory terrain of the import business is usually entrusted to third-party customs brokers who specialize in importation reporting requirements (among other services). Customs brokers are familiar with the necessary regulatory filings and procedures required to ensure that a shipment clears customs in a timely manner. Typically, an importer will contract with a broker who will file all necessary paperwork including the commercial invoice and any supplemental information required by various regulatory bodies. Additionally, brokers already have bond coverage to cover any duties associated with the importation and can save importers from having to post a separate bond for each shipment.

Because this proposed rule entails only an electronic reporting requirement through ACE, DOE does not anticipate any significant incremental investment in product or capital conversion costs to comply. Currently, more than 96 percent of all entries filed with CBP are already being filed through the ABI. By the end of 2016, ACE will become the Single Window—the primary system through which the trade community will report imports and exports and the

government will determine admissibility, with the ABI as the method through which entries and entry summaries are transmitted to ACE.[16]

While the ABI interface helps to facilitate the process, there are new data elements proposed as reporting requirements in this NOPR. Those fall into two categories: (1) data fields that are already typically collected during the importation process and (2) those that are not.

Data Already Collected: Based on interviews with customs brokers, DOE believes that the brand name of the final product being imported, which would be required in the instances where the covered product or equipment is a component of the final product, is on the commercial invoice that is already filed with the customs broker as part of the importation process. When required, this data can be keyed in during the electronic filing process that brokers and importers already go through and thus should have minimal impact on both the importer and customs broker.

Data Not Currently Collected: The individual model number, required in the instances where the covered product or equipment is a component of the final product, the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified are the only data fields proposed as a new reporting requirement that are not typically on any of the invoices. Depending on the product, the individual model numbers may be included on the invoice. In any case, customs brokers indicated they would most likely go to their client (the importer) to ask them for any missing information, which the importer would have as part of the process of certifying compliance to DOE.

Furthermore, brokers maintain databases of their customers and associated products, and one of their service offerings is to be proactive with their clients in notifying them of new regulations. In interviews, brokers indicated they would likely review their customer databases to determine which companies are subject to new requirements and alert them to the additional data requirements discussed above. By contacting customers prior to the regulations going into effect, brokers can minimize the likelihood of any delays due to new DOE reporting requirements and also give customers time to prepare for the new requirements, particularly given the proposed two-year lead time.

[16] *http://www.cbp.gov/trade/automated.*

Therefore, DOE estimates a one-time burden of approximately twenty hours per small business importer to learn the reporting requirements and set up a system of information flow internally. DOE notes that all information should be readily available, as importers of covered products or equipment subject to energy conservation standards are already required to certify compliance.

Because importers are currently required to submit certifications of compliance annually through CCMS, the information that would be submitted in a certification of admissibility prior to each importation of a basic model covered product or equipment (the most recent CCMS ticket number, attachment number, and line number) would need to be obtained and keyed in only once per year, for the first shipment of the covered product or equipment following the annual CCMS filing. Because this information would be readily available to the importer, DOE estimates annual burden of 0.03 hours per basic model of covered product or equipment imported by the small business importer to obtain and enter the data required for a certification of admissibility. For all subsequent certifications of admissibility submitted over the course of the year, the importer would only be required to electronically resubmit the same data, and the burden imposed by these subsequent electronic submissions would be negligible.

Based upon information in the CCMS database, DOE estimates that, on average, each small business importer submits compliance certification reports for 157 basic models of covered product or equipment annually. Therefore, DOE estimates that the requirement of submission of certifications of admissibility proposed in this rule would result in an annual burden of approximately 4.71 hours per small business importer.

3. Request for Comments

DOE seeks comments on the following topics regarding this IRFA:

(1) The five-digit NAICS codes believed to include importers of covered products or equipment subject to DOE energy conservation standards or such products or equipment with covered components.

(2) The availability of data on the number of small business importers in sectors covered by DOE regulations.

(3) The estimated burden associated with the reporting of individual model numbers for both importers and customs brokers.

(4) How brokers will react to the necessary reporting requirements and if there will be any increase in costs.

4. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being proposed.

5. Significant Alternatives to the Rule

This section considers alternatives to the proposals for the submission of certifications of admissibility in this rulemaking. As noted in Section III.B, DOE initially considered requiring importers to provide, in their certifications of admissibility, detailed product-specific information for all covered products and equipment subject to energy conservation standards. However, in order reduce the potential burden on importers, DOE proposes to collect this additional information only where the importer has not already certified to DOE the compliance of the product or equipment through CCMS.

DOE could further mitigate the potential impacts on small business importers by not requiring a certification of admissibility prior to the importation of any covered consumer product or commercial and industrial equipment subject to an applicable energy conservation standard. However, DOE strongly believes the proposals in this rulemaking are essential to a sustainable and consistent enforcement program vis-à-vis imports of covered products and covered equipment. While the alternative may mitigate the potential economic impacts on small entities compared to the proposed provisions, the ability for DOE to enforce its energy conservation regulations far exceeds any potential burdens. Furthermore, small businesses may benefit from stronger enforcement against noncompliant imports. Thus, DOE rejected this alternative and is adopting the provisions set forth in this rulemaking for all importers of covered products and covered equipment. DOE continues to seek input from businesses that would be affected by this rulemaking and will consider comments received in the development of any final rule.

C. Review Under the Paperwork Reduction Act

1. Description of the Requirements

DOE is proposing to require persons importing into the United States any covered consumer product or industrial equipment subject to an applicable energy conservation standard to provide a certification of admissibility to the DOE. DOE assumes that importers will have already complied with their legal obligation to certify to DOE, through CCMS, all basic models of products or

equipment subject to DOE energy conservation standards, such that the importer would only need to identify in its certification of admissibility the most recent CCMS ticket number, attachment number, and line number for the basic model of the covered product or equipment contained in the shipment. This information would enable DOE to identify, prior to arrival at a U.S. port of entry, shipments that contain covered products or equipment that have been found to be non-compliant, allowing DOE to take appropriate proactive enforcement action. Such action could include providing notice to CBP sufficient to allow CBP to refuse admission of the non-compliant covered product or equipment into the U.S.

2. Method of Collection

The certification of admissibility would be required to be submitted to DOE through CPB's ACE system.

3. Data

The following are DOE estimates of the total annual reporting burden imposed on persons importing into the United States any covered product or equipment subject to an applicable energy conservation standard. These estimates take into account the time necessary to obtain and enter the required electronic information to be submitted to ACE. As explained in Section IV.B.3, for each basic model of covered product and equipment, the data required for a certification of admissibility would need to be obtained and entered only once per year. Subsequent certifications during the same year would only require electronic resubmission of the same data previously submitted, and the burden of each resubmission would be negligible.

OMB Control Number: New.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Persons importing into the United States any covered consumer product or industrial equipment subject to an applicable energy conservation standard.

Estimated Number of Respondents: 20,336

Estimated Number of New Responses per Respondent Annually: 313

Estimated Time per New Response: 0.03 hours.

Estimated Total Annual Burden Hours: 109,955.

Estimated Total Annual Cost to the Importers: $4,336,589 in reporting costs.

4. Comments

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of DOE, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and by email to *Chad_S_Whiteman@omb.eop.gov.*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act

DOE anticipates that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule amends an existing rule without changing its environmental effect and, therefore, DOE expects that it would be covered by the Categorical Exclusion in 10 CFR part 1021, subpart D, paragraph A5. Accordingly, DOE is not preparing an environmental assessment or an environmental impact statement.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a

proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.gc.doe.gov.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that today's proposal contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposal would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that today's proposed regulatory action, which sets forth a proposed requirement for the submission of a certification of admissibility to DOE by importers of products or equipment subject to energy conservation standards, is not a significant energy action because the requirement is not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

V. Public Participation

A. Submission of Comments

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

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

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

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

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

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter.

Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a compact disk (CD), if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

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

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

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

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

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

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comment on the requirement that importers importing covered products or equipment subject to DOE energy conservation standards that are within the listed HTS codes provide a certification of admissibility to DOE. Further, DOE requests comment as to whether covered products or equipment subject to or are being considered for DOE energy conservation standards are currently imported using other HTS codes.

2. DOE requests comment on its proposal to require, for a shipment that contains covered products or equipment subject to a DOE energy conservation standard, that the importer state whether the product or equipment has been certified to DOE as compliant with all applicable energy conservation standards and, if so, provide the CCMS ticket number, the CCMS attachment identification number, and line number associated with the specific basic model.

3. DOE requests comment on the requirement that importers submit a certification of admissibility to DOE for all covered products and equipment subject to an energy conservation standard that is contained in the shipment, either as a final product or a component part of a final product.

4. DOE requests comment on requiring importers to indicate in the import declaration to DOE whether the covered product or equipment being imported and subject to DOE energy conservation standards is a final product or a component of a final product and, if the covered product or equipment is a component, the brand name and individual model number of the final product. DOE also requests comment regarding whether the reporting burden on importers would be less to provide this information as part of the certification of admissibility or as part of a compliance certification report submitted through CCMS.

5. DOE requests comment on its proposal to collect additional product-specific information only (*e.g.,* brand, individual model number) regarding imported covered products and equipment subject to energy conservation standards that the importer has not certified to DOE as meeting applicable energy conservation standards, and whether, as DOE anticipates, this would result in less burden to those required to file certifications of admissibility.

6. DOE requests comment on requiring importers to file the certification of admissibility through ACE.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 429

Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 18, 2015.

Kathleen B. Hogan,

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

Steven P. Croley,

General Counsel.

For the reasons stated in the preamble, DOE is proposing to amend part 429 of chapter II, subchapter D of title 10, Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317

■ 2. Section 429.2 is amended by removing the definition of ''manufacturer's model number'' and adding in alphabetical order the definitions of ''individual model number'' and ''original equipment manufacturer'' to read as follows:

§ 429.2 Definitions.

* * * * *

Individual model number means the identifier used by a manufacturer to uniquely identify the group of identical or essentially identical covered products or covered equipment to which a particular unit belongs. The individual model number typically appears on the product nameplates, in product

catalogs, and in other product advertising literature.

Original equipment manufacturer or OEM means any person who produces or assembles a unit of a covered product or covered equipment. Only one OEM is responsible for the manufacture (production or assembly) of a particular unit.

■ 3. Section 429.5 is amended by adding paragraph (c) to read as follows:

§ 429.5 Imported products.

* * * * *

(c) Any person importing a unit of a covered product or covered equipment subject to an applicable energy conservation standard set forth in parts 430 or 431 of this chapter for entry into the United States on or after [2 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER], whether the unit is a component part of another product or a final product, must provide a certification of admissibility to the Secretary in accordance with § 429.500.

■ 4. Section 429.7 is amended by revising paragraph (b) to read as follows:

§ 429.7 Confidentiality.

* * * * *

(b) An individual model number is public information unless:

(1) The individual model number is a unique model number of a commercial packaged boiler, commercial water heating equipment, commercial HVAC equipment or commercial refrigeration equipment that was developed for an individual customer,

(2) The individual model number is not displayed on product literature, and

(3) Disclosure of the individual model number would reveal confidential business information as described at § 1004.11 of this title—in which case, under these limited circumstances, a manufacturer may identify the individual model number as a private model number on a certification report submitted pursuant to § 429.12(b)(6).

* * * * *

■ 5. Section 429.12 is amended by revising paragraph (b)(6) to read as follows:

§ 429.12. General requirements applicable to certification reports.

* * * * *

(b) * * *

(6) For each brand, the basic model number and the individual model number(s) in that basic model with the following exceptions: For walk-in coolers, the basic model number for each brand must be submitted. For distribution transformers, the basic model number or kVA grouping model number (depending on the certification method) for each brand must be submitted. For commercial HVAC, WH, and refrigeration equipment, an individual model number may be identified as a ''private model number'' if it meets the requirements of § 429.7(b).

* * * * *

■ 6. Section 429.500 is added to read as follows:

§ 429.500. Certification of admissibility.

(a) A certification of admissibility submitted pursuant to § 429.5(c) must meet the provisions of this section.

(b) The certification must be submitted through the Automated Commercial Environment (ACE) of the U.S. Customs and Border Protection (CBP) before the entry of the unit(s) at the port of arrival.

(c) The certification must include whether the basic model of the product or equipment being imported has been certified to DOE as compliant with all applicable energy conservation standards;

(d) If the importer has not submitted a certification report for the basic model of the product or equipment being imported pursuant to § 429.12, the certification of admissibility must include:

(1) The type of product or equipment (using a three-digit code corresponding to the applicable section in 10 CFR part 429, subpart B);

(2) The brand name of the covered product or equipment;

(3) The individual model number of the covered product or equipment;

(4) Whether the covered product or equipment being imported is a final product or a component of a final product and, if the covered product or equipment is a component, the brand name and individual model number of the final product;

(5) The original equipment manufacturer (OEM) of the covered product or equipment being imported as defined in § 429.2 and, in the case of electric motors, the Compliance Certification number; and

(6) A contact name and email address of the importer of record.

(e) If the importer has submitted a certification report for the basic model of the product or equipment being imported pursuant to § 429.12, the certification of admissibility must include:

(1)The CCMS ticket number of the most recent certification submission;

(2)The CCMS attachment identification number assigned to the certification submission;

(3) The line number in the submission corresponding to the basic model certified; and

(4) If the covered product or equipment is a component of a final product, the brand name and individual model number of the final product.

[FR Doc. 2015–32796 Filed 12–28–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7533; Directorate Identifier 2015–NM–080–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus 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 Airbus Model A330–200 and –300 series airplanes, Model A330–200 Freighter series airplanes, and Airbus Model A340–541 and A340–642 airplanes. This proposed AD was prompted by a report of an under-torqued forward engine mount bolt. This proposed AD would require a one-time torque check of the forward and aft engine mount bolts, and corrective actions if necessary. We are proposing this AD to detect and correct improperly torqued engine mount bolts, which could lead to detachment of the engine from the airplane during flight; and consequent damage to the airplane and injury to persons on the ground.

DATES: We must receive comments on this proposed AD by February 12, 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:* 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;* 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–2015–7533; 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–2015–7533; Directorate Identifier 2015–NM–080–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

The European Aviation Safety Agency, which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0082, dated May 11, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Airbus Model A330–200 and –300 series airplanes, Model A330–200 Freighter series airplanes, and Airbus Model A340–541 and A340–642 airplanes. The MCAI states:

> In 2013, during a pre-delivery test on an A330 aeroplane fitted with Pratt & Whitney (PW) PW4170 engines, an issue with N1 vibrations level on [engine] ENG1 was identified. While performing an engine removal, one forward engine mount bolt was found improperly torqued. The investigation concluded this was due to a production line engine installation quality issue. Further analysis showed that some aeroplanes, delivered between June 2006 and January 2014, may have had the rear (AFT) and forward (FWD) engine mount bolts improperly torqued.
>
> This condition, if not detected and corrected, could ultimately lead to an in-flight detachment of the engine from the aeroplane, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.
>
> Prompted by these findings, Airbus issued four Alert Operators Transmissions (AOT) A71L004–14 (for A330 aeroplanes fitted Pratt & Whitney (PW) engines), AOT A71L006–14 (for A330 aeroplanes fitted with General Electric (GE) engines), AOT A71L005–14 (for A330 aeroplanes fitted with Rolls Royce (RR) Trent 700 engines) and AOT A71L008–14 (for A340 aeroplanes fitted with RR Trent 500 engines) to provide torque check instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time torque check of the FWD and AFT engine mount bolts and, depending on findings, [corrective actions] re-torque of the affected bolt(s) and/or replacement of all four bolts and associated nuts.

Findings (or discrepancies) include one bolt that is loose or able to rotate, two or more bolts that are loose or able to rotate, or one or more pylon bolts that are fully broken. Corrective actions include re-torqueing the affected bolt(s), and replacing all bolts and associated nuts with new bolts and nuts on the engine where the loose or fully broken bolt(s) were detected. This proposed AD specifies reporting of all findings (including no discrepancies). The corrective actions include re-torqueing loose bolts before further flight. The compliance times for replacing loose or fully broken bolts ranges, depend on airplane configuration, and range from before further flight if more than one bolt rotates or is fully broken to no later than 2,350 flight cycles or 24,320 flight hours since first flight of the airplane, if only one bolt rotates. 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–2015–7533.

Related Service Information Under 1 CFR Part 51

We have reviewed the following service information.

- Airbus AOT A71L004–14, Revision 01, dated April 7, 2014. The service information describes procedures for doing a one-time torque check to determine if there are any loose or fully broken engine mount pylon bolts at four positions at the forward engine pylon 1 and pylon 2 of Airbus Model A330 series airplanes having Pratt and Whitney engines, doing corrective actions, and reporting all findings.
- Airbus AOT A71L005–14, Revision 01, dated December 11, 2014. The service information describes procedures for doing a one-time torque check to determine if there are any loose or fully broken engine mount pylon bolts at four positions at the forward engine pylon 1 and pylon 2 of Airbus Model A330 series airplanes having Trent 700 engines, doing corrective actions, and reporting all findings.
- Airbus AOT A71L006–14, dated July 22, 2014. The service information describes procedures for doing a one-time torque check to determine if there are any loose or fully broken engine mount pylon bolts at five FWD and four AFT positions at the forward engine pylon 1 and pylon 2 of Airbus Model A330 series airplanes having GE engines, doing corrective actions, and reporting all findings.
- Airbus AOT A71L008–14, Revision 01, dated December 18, 2014. The service information describes procedures for doing a one-time torque check to determine if there are any loose or fully broken engine mount pylon bolts at four positions at the forward engine pylon 1 and pylon 2 of Airbus Model A340 series airplanes having Trent 500 engines, doing corrective actions, and reporting all findings.

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.

Other Related Rulemaking

On June 21, 2013, we issued AD 2013–14–04, Amendment 39–17509 (78 FR 68352, November 14, 2013). AD 2013–14–04 requires a torque check of forward engine mount bolts, and replacement if necessary on all Airbus Model A330–223F, –223, –321, –322, and –323 airplanes. AD 2013–14–04 was

prompted by a fatigue load analysis that determined that the inspection interval for certain pylon bolts must be reduced. We issued AD 2013–04–04 to detect and correct loose or broken bolts, which could lead to engine detachment in-flight, and damage to the airplane.

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 these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 55 airplanes of U.S. registry.

We also estimate that it would take about 12 work-hours per product to comply with the basic requirements of this proposed AD, and 1 work-hour per product to report torque check findings. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $60,755, or $1,105 per product.

In addition, we estimate that any necessary follow-on actions would take about 20 work-hours and require parts costing $90,200 for a cost of $91,900 per product. We have no way of determining the number of aircraft that might need these actions.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

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):

Airbus: Docket No. FAA–2015–7533; Directorate Identifier 2015–NM–080–AD.

(a) Comments Due Date

We must receive comments by February 12, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes specified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category, from manufacturer serial number (MSN) 0715 through MSN 1507 inclusive, and MSN 1509, except airplanes on which all engines have been removed and/or replaced since the date of the first flight of the airplane.

(1) Airbus Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Airbus Model A330–223F and –243F airplanes.

(3) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Airbus Model A340–541 airplanes.

(5) Airbus Model A340–642 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report of an under-torqued forward engine mount bolt. We are issuing this AD to detect and correct improperly torqued engine mount bolts, which could lead to detachment of the engine from the airplane during flight; and consequent damage to the airplane and injury to persons on the ground.

(f) Compliance

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

(g) Definition of Affected Engine

For the purpose of this AD, an affected engine is an engine that has never been removed and/or replaced since first flight of the airplane.

(h) Action for Airbus Model A330 Airplanes Equipped With Pratt and Whitney (PW) Engines

(1) For Model A330–200, –200 Freighter, and –300 series airplanes equipped with PW engines: At the earlier of the times specified in paragraph (h)(1)(i) and (h)(1)(ii) of this AD, accomplish a one-time torque check of the forward (FWD) and rear (AFT) engine mount bolts on each affected engine, at the locations

specified in, and in accordance with the instructions of Section 4.2.2, ''Inspection Requirements,'' of Airbus Alert Operators Transmission (AOT) A71L004–14, Revision 01, dated April 7, 2014.

(i) Within 2,000 flight hours after the effective date of this AD.

(ii) During the accomplishment of Airbus Service Bulletin A330–71–3028, Revision 01, dated February 20, 2012, if done after the effective date of this AD.

(2) If, during the torque check required by paragraph (h)(1) of this AD, only one FWD bolt is found that rotates: Do the actions specified in paragraph (h)(2)(i), (h)(2)(ii), (h)(2)(iii), or (h)(2)(iv) of this AD, as applicable.

(i) For Model A330–200 and –300 series airplanes with an average flight time of greater than 132 minutes and having accumulated less than 2,350 flight cycles and less than 24,320 flight hours since first flight of the airplane: Before further flight, re-torque the affected bolt, and, within 2,350 flight cycles or 24,320 flight hours since first flight of the airplane, whichever occurs first, replace the 4 bolts and associated nuts, in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(ii) For Model A330–200 and –300 series airplanes with an average flight time of 132 minutes or lower and having accumulated less than 1,950 flight cycles and less than 20,210 flight hours since first flight of the airplane: Before further flight, re-torque the affected bolt, and within 2,350 flight cycles or 24,320 flight hours since first flight of the airplane, whichever occurs first, replace the 4 bolts and associated nuts, in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(iii) For Model A330–200 Freighter series airplanes having accumulated less than 2,140 flight cycles and less than 6,600 flight hours since first flight of the airplane: Before further flight, re-torque the affected bolt and within 2,140 flight cycles or 6,600 flight hours since first flight of the airplane, whichever occurs first, replace the 4 bolts and associated nuts, in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(iv) For airplanes identified in paragraphs (h)(2)(iv)(A), (h)(2)(iv)(B), and (h)(2)(iv)(C) of this AD: Before further flight, replace the 4 bolts and associated nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of AOT A71L004–14, Revision 01, dated April 7, 2014.

(A) Model A330–200 and –300 series airplanes with an average flight time of greater than 132 minutes and having accumulated 2,350 flight cycles or more or 24,320 flight hours or more since first flight of the airplane.

(B) Model A330–200 and –300 series airplanes with an average flight time of 132 minutes or lower and having accumulated 1,950 flight cycles or more or 20,210 flight hours or more since first flight of the airplane.

(C) Model A330–200 Freighter series airplanes having accumulated 2,140 flight cycles or more or 6,600 flight hours or more since first flight of the airplane:

(3) If, during the torque check required by paragraph (h)(1) of this AD, two or more FWD bolts are found that rotate: Before further flight, replace the 4 bolts and associated nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(4) If, during the torque check required by paragraph (h)(1) of this AD, one or more FWD pylon bolts are found fully broken: Before further flight, replace the 4 bolts and associated nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014, except as required by paragraph (m)(2) of this AD.

(5) If, during the torque check required by paragraph (h)(1) of this AD, only one AFT bolt is found that rotates: Before further flight, re-torque the affected bolt, and replace the 4 bolts and associated nuts at the next engine removal, in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(6) If, during the torque check required by paragraph (h)(1) of this AD, two or more AFT bolts are found that rotate: Before further flight, replace the 4 bolts and associated nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014.

(7) If, during the torque check required by paragraph (h)(1) of this AD, one or more AFT pylon bolts are found fully broken: Before further flight, replace the 4 bolts and associated nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L004–14, Revision 01, dated April 7, 2014, except as required by paragraph (m)(2) of this AD.

(i) Concurrent Actions

AD 2013–14–04, Amendment 39–17509 (78 FR 68352, November 14, 2013), requires a torque check of forward engine mount bolts using Airbus Service Bulletin A330–71–3028, Revision 01, dated February 20, 2012. If accomplishing the torque check of FWD engine mount bolts within the compliance times specified in paragraph (g) of the FAA AD 2013–14–04 using Airbus Service Bulletin A330–71–3028, Revision 01, dated February 20, 2012, perform the torque check of the AFT engine mount bolts at the same time.

(j) Action for Airbus Model A330 Airplanes Equipped With General Electric (GE) Engines

(1) For Airbus Model A330–200, –200 Freighter, and –300 series airplanes equipped with GE engines: Within 2,000 flight hours after the effective date of this AD, accomplish a one-time torque check of the FWD and AFT engine mount bolts on each affected engine, at the locations specified in, and in accordance with the instructions of Section 4.2.2, ''Inspection Requirements,'' of Airbus AOT A71L006–14, dated July 22, 2014.

(2) If, during the torque check required by paragraph (j)(1) of this AD, only one FWD bolt is found that rotates: Do the actions specified in paragraphs (j)(2)(i) and (j)(2)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 4,000 flight cycles and less than 30,800 flight hours since first flight of the airplane: Before further flight, re-torque affected FWD engine mount bolt(s), in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014, and, within 4,000 flight cycles or 30,800 flight hours since first flight of the airplane, whichever is first, replace the 5 bolts, as applicable, and their associated nuts with new bolts and nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014.

(ii) For airplanes that have accumulated 4,000 flight cycles or more or 30,800 flight hours or more since first flight of the airplane: Before further flight, replace the 5 FWD engine mount bolts, as applicable, and their associated nuts with new bolts and nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014.

(3) If, during the torque check required by paragraph (j)(1) of this AD, two or more FWD bolts are found that rotate: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (p)(1) of this AD.

(4) If, during the torque check required by paragraph (j)(1) of this AD, one or more FWD pylon bolts are found fully broken: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (p)(1) of this AD.

(5) If, during the torque check required by paragraph (j)(1) of this AD, only one AFT bolt is found that rotates: Before further flight, re-torque the affected AFT engine mount bolt(s) in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014, and, at the next engine removal, replace the 4 bolts and associated nuts with new bolts and nuts in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014.

(6) If, during the torque check required by paragraph (j)(1) of this AD, two or more AFT bolts are found that rotate: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (p)(1) of this AD.

(7) If, during the torque check required by paragraph (j)(1) of this AD, one or more AFT pylon bolts are found fully broken: before further flight, do all applicable corrective actions in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L006–14, dated July 22, 2014, except as required by paragraph (m)(2) of this AD.

(k) Action for Airbus Model A330 Airplanes Equipped With Rolls-Royce (RR) Trent 700 Engines

(1) For Airbus Model A330–200, –200 Freighter, and –300 series airplanes equipped with RR Trent 700 Engines: Within 2,000 flight hours after the effective date of this AD, accomplish a one-time torque check of the FWD and AFT engine mount bolts on each affected engine, at the locations specified in,

and in accordance with the instructions of Section 4.2.2, ''Inspection Requirements,'' of Airbus AOT A71L005–14, Revision 01, dated December 11, 2014.

(2) If, during the torque check required by paragraph (k)(1) of this AD, any discrepancy is detected (one bolt rotates, two or more bolts rotate, or one or more bolts are fully broken): Within the compliance time specified in Airbus AOT A71L005–14, Revision 01, dated December 11, 2014, accomplish all applicable corrective actions in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L005–14, Revision 01, dated December 11, 2014, except as required by paragraphs (m)(1) and (m)(2) of this AD.

(l) Action for Airbus Model A340–541 and –642 Airplanes Equipped With Rolls-Royce Trent 500 Engines

(1) For Airbus Model A340–541 and –642 airplanes equipped with Rolls-Royce Trent 500 Engines: Within 2,000 flight hours after the effective date of this AD, accomplish a one-time torque check of FWD and AFT engine mount bolts on each affected engine, at the locations specified in, and in accordance with the instructions of Section 4.2.2, ''Inspection requirements,'' of Airbus AOT A71L008–14, Revision 01, dated December 18, 2014.

(2) If, during the torque check required by paragraph (l)(1) of this AD, any discrepancy is detected (one bolt rotates, two or more bolts rotate, or one or more bolts are fully broken): Within the compliance time specified in Airbus AOT A71L008–14, Revision 01, dated December 18, 2014, accomplish all applicable corrective actions, in accordance with the instructions of Section 4.2.3, ''Findings,'' of Airbus AOT A71L008–14, Revision 01, dated December 18, 2014, except as required by paragraphs (m)(1) and (m)(2) of this AD.

(m) Service Information Exceptions

(1) Where Airbus AOTs A71L005–14, Revision 01, dated December 11, 2014; A71L006–14, dated July 22, 2014; and A71L008–14, dated September 29, 2014, specify to contact Airbus for further actions, before further flight, repair 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).

(2) Where Airbus AOT A71L004–14, Revision 01, dated April 7, 2014; AOT A71L005–14, Revision 01, dated December 11, 2014; AOT A71L006–14, dated July 22, 2014; and AOT A71L008–14, Revision 01, dated December 18, 2014, specify actions ''if one pylon bolt fully broken,'' this AD requires that those actions be done if one or more pylon bolt is found fully broken during any torque check required by paragraph (h)(1), (j)(1), (k)(1) or (l)(1) of this AD.

(n) Reporting

At the applicable time specified in paragraphs (n)(1) and (n)(2) of this AD: After accomplishment of any torque check required by paragraphs (h), (j), (k), and (l) of this AD, report all inspection results to Airbus, including no findings, in accordance with the ''Reporting'' section of the applicable service information specified in paragraphs (h), (j), (k), and (l) of this AD.

(1) If the torque check was done on or after the effective date of this AD: Submit the report within 30 days after the torque check.

(2) If the torque check was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(o) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus AOT A71L004–14, dated April 1, 2014 (for Airbus Model A330 Airplanes Equipped with Pratt and Whitney Engines), which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (k) of this AD, if those actions were performed before the effective date of this AD using Airbus AOT A71L005–14, dated September 29, 2014 (for Airbus Model A330 Airplanes Equipped with Rolls-Royce Trent 700 Engines), which is not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Airbus AOT A71L008–14, dated September 29, 2014 (for Airbus Model A340 Airplanes Equipped with Rolls-Royce Trent 500 Engines), which is not incorporated by reference in this AD.

(p) 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.* 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.

(2) Contacting the Manufacturer: 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) Reporting Requirements: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0082, dated May 11, 2015, 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–2015–7533.

(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;* 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 18, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–32547 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7531; Directorate Identifier 2015–NM–052–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 airplanes. This proposed AD was

prompted by reports of electrical shorts of the motor stator wiring burning a hole through the housing of the motor of the cabin air compressor (CAC). This proposed AD would require installing modified inboard and outboard CAC modules on the left side and right side cabin air conditioning and temperature control system (CACTCS) packs. We are proposing this AD to prevent an electrical short from burning through the housing of the motor of the CAC, which could result in a fire in the pack bay, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by February 12, 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 Boeing 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, 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–2015–7531; 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: Eric Brown, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6476; fax: 425–917–6590; email: *eric.m.brown@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–2015–7531; Directorate Identifier 2015–NM–052–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 reports of electrical shorts of the motor stator wiring burning a hole through the housing of the motor of the CAC. The pack bay is classified as a flammable fluid leakage zone and the burn-through would be classified as an ignition source. This condition, if not corrected, could result in a fire in the pack bay, and consequent reduced controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB210055–00, Issue 001, dated March 12, 2015. This service information describes procedures for installing modified inboard and outboard CAC modules on the left side and right side CACTCS packs. 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. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7531.

Explanation of Required for Compliance (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 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 22 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
Modification, installation, and installation test.	Up to 30 work-hours × $85 per hour = $2,550	$0	Up to $2,550	Up to $56,100.

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):

The Boeing Company: Docket No. FAA–2015–7531; Directorate Identifier 2015–NM–052–AD.

(a) Comments Due Date

We must receive comments by February 12, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB210055–00, Issue 001, dated March 12, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Unsafe Condition

This AD was prompted by reports of electrical shorts of the motor stator wiring burning a hole through the housing of the motor of the cabin air compressor (CAC). We are issuing this AD to prevent an electrical short from burning through the housing of the motor of the CAC, which could result in a fire in the pack bay and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Replacement of CAC Modules

Within 5 years after the effective date of this AD, install modified inboard and outboard CAC modules on the left side and right side cabin air conditioning and temperature control system (CACTCS) packs, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB210055–00, Issue 001, dated March 12, 2015.

(h) 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 (i)(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. For a repair method 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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (h)(4)(i) and (h)(4)(ii) of this AD 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.

(i) Related Information

(1) For more information about this AD, contact Eric Brown, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6476; fax: 425–917–6590; email: *eric.m.brown@faa.gov.*

(2) For Boeing 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, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 18, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–32548 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2014–N–1210]

Neurological Devices; Reclassification of Electroconvulsive Therapy Devices Intended for Use in Treating Severe Major Depressive Episode in Patients 18 Years of Age and Older Who Are Treatment Resistant or Require a Rapid Response; Effective Date of Requirement for Premarket Approval for Electroconvulsive Therapy for Certain Specified Intended Uses

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed order.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed administrative order to reclassify the electroconvulsive therapy (ECT) device for use in treating severe major depressive episode (MDE) associated with major depressive disorder (MDD) or bipolar disorder (BPD) in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition, which is a preamendments class III device, into class II (special controls) based on new information. FDA is also proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for ECT devices for other intended uses specified in this proposed order. The Agency is also summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the statute's approval requirements for other intended uses specified in this proposed order. In addition, FDA is announcing the opportunity for interested persons to request that the Agency change the classification of any of the devices mentioned in this document based on new information. This action implements certain statutory requirements.

DATES: Submit either electronic or written comments on this proposed order by March 28, 2016. See section XVII of this document for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. 2014–N–1210 for ''Neurological Devices; Reclassification of Electroconvulsive Therapy Devices Intended for Use in Treating Severe Major Depressive Episode in Patients 18 Years of Age and Older Who Are Treatment-Resistant or Require a Rapid Response; Effective Date of Requirement for Premarket Approval for Electroconvulsive Therapy Devices for Certain Specified Intended Uses''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael J. Ryan, Center for Devices and

Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1615, Silver Spring, MD 20993, 301–796–6283, *michael.ryan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629), Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). One type of general control provided by the FD&C Act is a restriction on the sale, distribution, or use of a device under section 520(e) of the FD&C Act (21 U.S.C. 360j(e)). A restriction under section 520(e) of the FD&C Act must be implemented through rulemaking procedures, unlike the administrative order procedures that apply to this proposed reclassification under section 513(e) of the FD&C Act, as amended by FDASIA.

Under section 513(d) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type may be marketed without submission of a PMA until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval or until the device is subsequently reclassified into class I or class II.

Although, under the FD&C Act, the manufacturer of a class III preamendments device may respond to the call for PMAs by filing a PMA or a notice of completion of a PDP, in practice, the option of filing a notice of completion of a PDP has not been used. For simplicity, although corresponding requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for the filing and receiving approval of a PMA.

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act, changing the process for reclassifying a device from rulemaking to an administrative order. Section 608(b) of FDASIA amended section 515(b) of the FD&C Act changing the process for requiring premarket approval for a preamendments class III device from rulemaking to an administrative order.

A. Reclassification

FDA is publishing this document to propose the reclassification of ECT devices for use in treating severe MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition from class III to class II.

Section 513(e) of the FD&C Act governs reclassification of classified preamendments devices. This section provides that FDA may, by administrative order, reclassify a device based upon ''new information.'' FDA can initiate a reclassification under section 513(e) of the FD&C Act or an interested person may petition FDA to reclassify a preamendments device. The term ''new information,'' as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, *e.g., Holland Rantos Co.* v. *United States Department of Health, Education, and Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch,* 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard,* 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell,* 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–391 (D.D.C. 1991)) or in light of changes in ''medical science'' (see *Upjohn,* 422 F.2d at 951). Whether data before the Agency are old or new data, the ''new information'' to support reclassification under section 513(e) must be ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, *e.g., General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Mfrs. Assoc.* v. *FDA,* 766 F.2d 592 (D.C. Cir. 1985), cert. denied, 474 U.S. 1062 (1986).)

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA. (See section 520(c) of the FD&C Act .) Section 520(h)(4) of the FD&C Act, added by FDAMA, provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order for reclassifying a device. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket. FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to ECT devices, and therefore, has met this requirement under section 515(b)(1) of the FD&C Act.

FDAMA added a section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

B. Requirement for Premarket Approval Application

FDA is proposing to require PMAs for ECT devices for the intended uses listed in section IX of this proposed order. For the purposes of this proposed order, the term, ''Certain Specified Intended Uses,'' refers to the listing of the intended uses in section IX of this proposed order and includes the following: schizophrenia, bipolar manic states, schizoaffective disorder, schizophreniform disorder, and catatonia.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order requiring PMAs. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers. FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to ECT devices, and therefore, has met this requirement under section 515(b)(1) of the FD&C Act.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) The proposed order, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed order and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

Under section 501(f) of the FD&C Act (21 U.S.C. 351(f)), a preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order (or a final rule issued under section 515(b) of the FD&C Act prior to the enactment of FDASIA) requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. For ECT devices, the preamendments class III devices that are the subject of this proposal, the later of these two time periods is the 90-day period. Since these devices were classified in 1979, the 30-month period has expired (44 FR 51776, September 4, 1979). Therefore, if the proposal to require premarket approval for ECT devices for Certain Specified Intended Uses is finalized, section 501(f)(2)(B) of the FD&C Act requires that a PMA for such device be filed within 90 days of the date of issuance of the final order. If a PMA is not filed for such device within 90 days after the issuance of a final order, the device would be deemed adulterated under section 501(f) of the FD&C Act.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334) if its distribution continues. Other enforcement actions include, but are not limited to, the following: Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III devices that are the subject of this proposed order, if finalized.

In accordance with section 515(b)(2)(D) of the FD&C Act, interested persons are being offered the opportunity to request reclassification of ECT devices for Certain Specified Intended Uses.

II. Regulatory History of the Device

In the preamble to the proposed rule (43 FR 55729, November 28, 1978), FDA described the recommendation of the Neurological Device Classification Panel (the Panel) that ECT be classified into class II because: ''Although the use of this device involves a substantial risk to the patient, the Panel believes that the benefit of the treatment outweighs the risks involved if the patients are selected carefully and the devices are designed and used properly. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.'' However, in 1979 (44 FR 51776, September 4, 1979), FDA classified ECT into class III after receiving several comments on the proposed rule, and reconvening the Panel to discuss these comments (May 29, 1979). The Panel discussed whether there was sufficient evidence to establish a performance standard for ECT. Several panel members expressed doubt that such information was available, and the Panel voted to recommend that ECT be classified into class III. FDA agreed with the Panel stating that FDA did not believe that the characteristics of ECT devices had been

identified precisely enough such that special controls could be established that would provide reasonable assurance of the safety and effectiveness of the device.

On August 13, 1982, the American Psychiatric Association (APA) submitted a reclassification petition to FDA requesting that ECT be classified into class II. The reclassification petition was discussed at a Panel meeting on November 4, 1982 (47 FR 44611, October 8, 1982). The Panel recommended that ECT be reclassified from class III to class II. FDA tentatively agreed that there was sufficient evidence to reclassify to class II for severe depression and schizophrenia and published a notice of intent to reclassify (48 FR 14758, April 5, 1983). Several comments received by the Agency argued that research and data did not support that ECT is an effective therapy for schizophrenia, and after careful review of the scientific literature and the APA's petition, FDA agreed with the comments. In the subsequent proposed rule (55 FR 36578, September 5, 1990), FDA determined that the evidence of effectiveness for schizophrenia was inconclusive, and proposed that ECT be reclassified to class II only for severe depression and remain class III for all other indications. In 1995, FDA published an order for the submission of safety and effectiveness information on ECT devices (60 FR 41986, August 14, 1995). In 2003, FDA published an intent to withdraw the 1990 proposed rule (68 FR 19766, April 22, 2003) followed by withdrawal in 2004 (69 FR 68831, November 26, 2004) of the proposed rule for reclassification of ECT, along with other FDA proposed rules that had been outstanding for more than 5 years because the proposals were no longer considered viable candidates for final action. Thus, ECT devices remain in class III for all indications.

In 2009, FDA published an order for the submission of safety and effectiveness information on ECT devices by August 7, 2009 (74 FR 16214, April 9, 2009). In response to that order, FDA received two submissions from ECT manufacturers suggesting that ECT devices could be reclassified to class II. The manufacturers stated that safety and effectiveness of these devices may be assured by reducing the frequency of treatments, temporary or permanent interruption of treatments, reduction of stimulus dose, electrode placement, dosage or type of anesthetic (or other) medications, including minimizing psychotropic medications, brief pulse or ultra-brief pulse waveform stimulus, EEG monitoring, proper preparation (including conductive gel) and contact of the electrodes to the skin, changing anesthetic medications or doses, and changing concurrent medications.

In 2009, FDA also opened a public docket to receive information and comments regarding the current classification process for ECT by January 8, 2010 (74 FR 46607, September 10, 2009). FDA received over 3,000 submissions to the docket, with the majority of respondents, approximately 80 percent, opposing reclassification of ECT. The majority of those opposing reclassification of ECT cited adverse events from ECT treatment as the basis for their opposition. The most common type of adverse event mentioned in the public docket were memory adverse events, followed by other cognitive complaints, brain damage, and death.

On January 27–28, 2011, a meeting of the Neurological Devices Panel was held to discuss the classification of ECT devices for treatment of several disorders. There was panel consensus recommending class III for Schizophrenia, Bipolar manic states, Schizoaffective, and Schizophreniform disorder. The Panel did not reach consensus on the classification of ECT for depression (unipolar and bipolar) and catatonia. The Panel transcript and other meeting materials are available on FDA's Web site (*http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/NeurologicalDevicesPanel/ucm240924.htm*).

III. Device Description

The ECT device consists of an electrical generator and a pair of electrodes that apply a brief intense electrical current to the head in order to induce a generalized seizure. In addition to generating and modulating the electrical functions of the stimulus, the box enclosing the generator also has capabilities and displays for physiological monitoring. The device parameters such as voltage, pulse width, frequency, and treatment (train) duration are adjustable. The typical display may provide information such as Electroencephalograph (EEG) activity, stimulus administration, total charge, energy, and impedance. These devices are currently regulated under § 882.5940 (21 CFR 882.5940), product code GXC.

FDA is proposing in this order to modify the identification language from how it is presently written in § 882.5940(a). FDA is clarifying in the identification that these are prescription devices and clarifying that this device type includes the ECT pulse generator and its stimulation electrodes and accessories.

IV. Proposed Reclassification

FDA is proposing that ECT devices intended for treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition be reclassified from class III to class II. In this proposed order, the Agency has identified special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls applicable to the devices, would provide reasonable assurance of safety and effectiveness. Absent the special controls identified in this proposed order, general controls applicable to the device are insufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and21 CFR 860.130, based on new information with respect to the devices and taking into account the public health benefit of the use of the device and the nature and known incidence of the risk of the device, FDA, on its own initiative, is proposing to reclassify this preamendments class III device into class II when the device is intended to treat severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. FDA believes that this new information is sufficient to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in the next section, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness for ECT devices intended for treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition.

Section 510(m) of the FD&C Act authorizes the Agency to exempt class II devices from premarket notification (510(k)) submission. FDA has considered ECT devices intended for treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition and decided that the device does require premarket notification. Therefore, the Agency does not intend to exempt this

proposed class II device from premarket notification (510(k)) submission.

V. Risks to Health

After considering the available information from the reports and recommendations of the advisory committees (panels) for the classification of these devices, FDA has evaluated the risks to health associated with the use of ECT devices and determined that the following risks to health are associated with its use:

- *Adverse reaction to anesthetic agents/neuromuscular blocking agents.* The muscle relaxing and sedating (or sleep inducing) drugs that are a part of the procedure may hamper the patient's ability to breathe spontaneously.
- *Adverse skin reactions.* The patient-contacting materials of the device may cause an adverse immunological or allergic reaction in a patient.
- *Cardiovascular complications.* The therapeutic convulsions may be accompanied by arrhythmias (irregular heartbeat) or ischemia/infarction (*i.e.,* heart attack). Hypertension (high blood pressure) as well as hypotension (low blood pressure) may be associated with ECT treatment. ECT treatment may also result in stroke (impairment of blood flow to the brain or bleeding in the brain).
- *Cognition and memory impairment.* ECT treatment may result in memory impairment, specifically immediate post-treatment disorientation, anterograde memory impairment and retrograde personal (autobiographical) memory impairment.
- *Death.* Death may result from various complications of ECT such as reactions to anesthesia, cardiovascular complications, pulmonary complications, or stroke.
- *Dental/oral trauma.* Dental fractures, dislocations, lacerations, and prosthetic damage may occur as a result of strong muscle contractions during treatment.
- *Device malfunction.* Faulty hardware, software or accessories (electrodes) or improper use may cause electrical hazards, such as the risk of excessive dose administration, prolonged seizures, and skin burns.
- *Manic symptoms.* ECT treatment may result in the development of hypomanic or manic symptoms.
- *Pain/discomfort.* The patient may experience mild to moderate pain following the motor seizure induced by ECT treatment.
- *Physical trauma.* Inadequate supportive drug treatment may allow the patient to be injured from unconscious violent movements during convulsions.
- *Prolonged or tardive seizures.* ECT treatment may result in prolonged or delayed seizures, and status epilepticus (continuous unremittent seizure) may ensue if prolonged seizures are not properly treated.
- *Pulmonary complications.* ECT treatment may result in prolonged apnea (no breathing) or inhalation of foreign material, such as regurgitated stomach contents.
- *Skin burns.* Excessive electrical current or improperly designed electrodes may cause the patient's skin under the electrodes to be burned.
- *Worsening of psychiatric symptoms.* ECT treatment may be ineffective and therefore may result in worsening psychiatric symptoms.

VI. Summary of Reasons for Reclassification

FDA believes that ECT devices indicated for severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition should be reclassified from class III to class II because, in light of new information about the effectiveness of these devices, special controls, in addition to general controls, can be established to provide reasonable assurance of safety and effectiveness of the device, and because general controls themselves are insufficient to provide reasonable assurance of its safety and effectiveness. FDA believes that in the specified patient population, and with the application of general and special controls as described in this document, the probable benefit to health from use of the device outweighs the probable injury or illness from such use. FDA acknowledges significant risks associated with ECT but believes that for the specified population—patients age 18 years of age and older experiencing a severe MDE associated with MDD or BPD for whom other treatment options have not been successful or for whom rapid, definitive response is needed due the severity of a psychiatric or medical condition—the probable benefit of ECT outweighs these risks. FDA is inviting comments on whether the term ''treatment resistant'' and the phrase ''require rapid response'' provide sufficient clarity to the population for which ECT benefits outweigh risks.

VII. Summary of Data Upon Which the Reclassification Is Based

Since the time of the original ECT device classification, sufficient evidence has been developed to support a reclassification of ECT to class II with special controls for severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. FDA's review of the clinical literature has been previously summarized in the Executive Summary to the January 27–28, 2011, Neurological Device Panel meeting to discuss ECT classification (*http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/NeurologicalDevicesPanel/UCM240933.pdf*). The largest body of evidence for ECT effectiveness exists for MDE associated with MDD and BPD in patients 18 years of age and older. Based on this review, FDA concluded that ECT demonstrated effectiveness in the acute phase (less than 3 months after treatment); however, the Panel members had various scientific opinions regarding the long-term effectiveness of ECT for the treatment of depression, but agreed that it was effective in the acute phase. Panel members indicated that controlled clinical trials are lacking regarding the effectiveness of ECT beyond the acute phase, in part, due to the fact that many patients have an initial improvement in the depressive symptoms following an acute course of ECT and are able to return to alternative treatments for managing depression such as medications and psychotherapy. The findings from FDA's review are consistent with other recently conducted, comprehensive, high quality systematic reviews, including the American Psychiatric Association (APA) recommendations/guidelines (Ref. 1), the Third report of the Royal College of Psychiatrists' Special Committee on ECT (2004) (Ref. 2), the United Kingdom National Institute for Health and Clinical Excellence (NICE 2003; NICE 2009) (Refs. 3, 4), the Surgeon General's report on mental health (Ref. 5), systematic reviews by Semkovska and McLoughlin (Ref. 6), and Greenhalgh et al (Ref. 7). These findings from the FDA review included examining the results of over 60 randomized controlled clinical trials comparing ECT with either placebo (sham) or antidepressant therapy in which ECT was superior for patients with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. In addition, FDA conducted a systematic meta-analysis of these

studies which supported a robust effect of ECT in the short-term (*e.g.* 3 months) (Ref. 11).

FDA also examined other conditions, including bipolar mania, schizophrenia, schizoaffective disorder, schizophreniform disorder, and catatonia, but there were insufficient clinical data to support effectiveness for these conditions. FDA relied upon literature describing clinical study data collected largely in patients age 18 and older. Data on the use of ECT in children and adolescents is limited and hence the recommended reclassification is limited to patients 18 years of age and older. Most of the published literature FDA is aware of and reviewed focused on subject populations that did not receive benefit from prior treatments; therefore, the recommended reclassification is limited to treatment resistant populations as well as those patients who require a rapid response due to the severity of their psychiatric or medical condition. Further, practice guidelines published by the APA task force on ECT and the NICE in the United Kingdom recommend that ECT be considered for primary use (*i.e.,* prior to medications) when there is a need for rapid, definitive response due to the severity of a psychiatric or medical condition. Conventional treatments such as medications and psychotherapy are likely to be less effective for a rapid definitive response, thus the recommended reclassification for ECT includes patients who require a rapid response because of the severity of their psychiatric or medical condition.

Panel deliberations focused heavily on ECT versus sham meta-analysis for treatment of depression. Discussion focused on the clinical meaningfulness of the effect size, the wide confidence interval which included 0 (*i.e.,* the possibility of no effect), and the sources of variability in the dataset. Compared with other approved treatments for depression, the data suggest that the effect size of ECT is at least as large as, or larger than, that of other treatments (*i.e.,* antidepressant medications) (Refs. 8, 9). In addition, other sources of evidence supported the effectiveness claim of ECT, including the FDA effectiveness systematic review, the meta-analysis demonstrating ECT favorability over placebo, and meta-analyses demonstrating ECT effectiveness being equal to or better than some antidepressant medications (see FDA Executive Summary from the panel meeting, Ref. 11).

While medical/physical risks may occur with ECT, they vary in frequency, with the most severe risks being quite rare. Death associated with ECT appears to occur at a very low rate comparable to that of minor surgical procedures. Recent estimates of the mortality rate associated with ECT treatment are 1 per 10,000 patients or 1 per 80,000 treatments (Refs. 1, 10).

The risks of greatest concern to clinicians and patients remain cognitive and memory impairment. Both the FDA review of literature and the meta-analyses of the randomized controlled studies indicate that while post-procedure disorientation occurs frequently, it is transient, typically resolving within minutes after the procedure is complete. The systematic meta-analyses of the randomized controlled clinical trials data by FDA revealed that there is no evidence that disorientation following ECT is long-term or persistent. The primary areas of concern for persistent changes are anterograde and retrograde autobiographical memory. While rates of occurrence are difficult to estimate, it appears that both types of memory impairment are not uncommon. The literature review suggests that anterograde memory declines immediately post-ECT and then returns to baseline within 3 months post-ECT. Retrograde autobiographical memory declines immediately post-ECT and then appears to improve over time. It is important to note that while improvement is seen, impairment may persist past 6 months post-ECT. Data on persistent retrograde autobiographical memory deficits beyond 6 months is lacking in the scientific literature. Therefore, it cannot be concluded that retrograde autobiographical memory returns to baseline over time. (See tables 6 and 7 and Figures 2–24 from FDA's Executive Summary, Ref. 11.)

Despite the occurrence and uncertainty of duration of memory impairment, FDA believes that the potential benefits of ECT outweigh the risks in patients 18 years of age or older for MDE associated with MDD or BPD in patients who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition.

VIII. Proposed Special Controls

FDA believes that special controls, in addition to the general controls, are necessary to provide a reasonable assurance of safety and effectiveness for ECT devices indicated for severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. FDA believes that the risks to health identified in section V associated with ECT devices indicated for severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition can be mitigated with general and special controls.

Several of the risks associated with ECT, including adverse reaction to anesthetic agents/neuromuscular blocking agents, cardiovascular complications, death, and pulmonary complications, are medical/physical risks related to the procedure involving use of the device. For these risks, safe use of the device is based on appropriate directions for use. FDA believes that labeling provisions are adequate to mitigate these risks, including:

- Disclosure of contraindications, precautions, warnings, and potential adverse effects/complications in both physician and patient labeling so that users and patients can be advised of conditions under which ECT treatment should not proceed, and
- Specific device use instructions including information regarding conduct of pre-ECT patient assessments; and information on appropriate patient monitoring during an ECT procedure) to minimize potential ECT procedural complications.

Other ECT risks are specific to the medical/physical effects of the induced seizure and potentially severe muscle contractions that result from use of the device (dental/oral trauma, physical trauma, prolonged or tardive seizures, pain/discomfort). FDA believes that appropriate labeling provisions are adequate to mitigate these risks, including:

- Disclosure of contraindications, precautions, warnings, and adverse effects/complications in both physician and patient labeling so that users and patients can be advised of conditions under which ECT treatment should not proceed and are aware of potential adverse effects associated with ECT treatment, and
- Specific device use instructions including information regarding conduct of pre-ECT assessments, use of mouth protection during the procedure, use of general anesthetic agents and neuromuscular blocking agents, and information on appropriate patient monitoring during the procedure to minimize potential post-ECT complications.

The risks of skin burns can be mitigated by performance testing of the device to demonstrate safe electrical performance, adhesive integrity, and physical and chemical stability of the

stimulation electrodes. This risk is further mitigated by providing specific user instructions regarding proper electrode placement, including instructions for adequate skin preparation and use of conductivity gel in placing the electrodes.

The risk of cognitive and memory impairment can be mitigated by establishing the technical parameters for the device along with non-clinical testing data to confirm the electrical characteristics of the output waveform to ensure that the device performance characteristics are consistent with existing clinical performance data that supports a reasonable assurance of safety and effectiveness (see information on review of clinical performance data in section VII). This risk is further mitigated by providing information to both the user and patient on the potential adverse effects of the device, alternative treatments, and a prominent warning that ECT device use may be associated with: Disorientation, confusion, and memory problems and limited in its long-term effectiveness (greater than 3 months). These risks can also be mitigated by providing instructions to the user that include recommendations on cognitive status monitoring prior to beginning ECT and during the course of treatment. Providing this information helps patients and providers to make informed choices about how and when to use ECT to maximize benefits and minimize potential adverse effects.

The risks associated with malfunction of the device can be mitigated by data demonstrating electrical and mechanical safety and the functioning of all safety features built into the device (including the static and dynamic impedance monitoring system); appropriate analysis/testing of electromagnetic compatibility such that electromagnetic interference does not cause device malfunction; and appropriate software verification, validation, and hazard analysis to ensure that any device software has been adequately designed.

The potential for manic symptoms or worsening of the condition being treated can be mitigated by labeling provisions, including:

- The clinical training needed by users of the device to ensure appropriate use of ECT and appropriate ongoing medical management of the patient, and
- Information on the patient population in which the device is intended to be used, including a detailed summary of the clinical testing pertinent to use of the device, information on the potential adverse effects of treatment, and information on the typical course of treatment such that users and patients can make informed decisions regarding the appropriate use of ECT.

The risks of adverse skin reactions can be mitigated with biocompatibility testing to ensure that the materials used in patient-contacting components of the device are safe for skin contact as well as labeling that provides information on validated methods for reprocessing any reusable components between uses.

Specifically, FDA believes that special controls in § 882.5940(b)(1), together with general controls, are sufficient to mitigate the risks to health described in section V:

Table 1 shows how FDA believes that the risks to health identified in section V can be mitigated by the proposed special controls.

TABLE 1—HEALTH RISKS AND MITIGATION MEASURES FOR ECT

Identified risk	Special controls
Adverse reaction to anesthetic agents/neuromuscular blocking agents	Labeling.
Adverse skin reactions	Biocompatibility Labeling.
Cardiovascular complications	Labeling.
Cognitive and memory impairment	Technical parameters Non-clinical test data. Labeling.
Death	Labeling.
Dental/oral trauma	Labeling.
Device malfunction	Performance data. Electromagnetic compatibility. Software verification, validation, and hazard analysis.
Manic symptoms	Labeling.
Pain/discomfort	Labeling.
Physical trauma	Labeling.
Prolonged or tardive seizures	Labeling.
Pulmonary complications	Labeling.
Skin burns	Performance data. Labeling.
Worsening of psychiatric symptoms	Labeling.

In addition, FDA is proposing to limit this reclassification to prescription use devices under 21 CFR 801.109. Under 21 CFR 807.81, the device would continue to be subject to 510(k) notification requirements. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a draft guidance document entitled ''Electroconvulsive Therapy (ECT) Devices for Class II Intended Uses,'' that, when finalized, would provide recommendations on how to comply with the special controls proposed in this order, if FDA reclassifies this device.

IX. Dates New Requirements Apply

In accordance with section 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency within 90 days after issuance of any final order based on this proposal for ECT devices intended for Certain Specified Intended Uses. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found to be substantially equivalent to such a device, will be permitted to continue marketing such class III devices during FDA's review of the PMA provided that the PMA is timely filed. FDA intends to review any PMA for the device within 180 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA

beyond 180 days unless the Agency finds that ''the continued availability of the device is necessary for the public health.''

FDA intends that under § 812.2(d), the preamble to any final order based on this proposal will state that, as of the date on which the filing of a PMA or a notice of completion of a PDP is required to be filed, the exemptions from the requirements of the IDE regulations for preamendments class III devices in § 812.2(c)(1) and (2) will cease to apply to any device that is: (1) Not legally on the market on or before that date or (2) legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA for a class III device is not filed with FDA within 90 days after the date of issuance of any final order requiring premarket approval for the device, the device would be deemed adulterated under section 501(f) of the FD&C Act (21 U.S.C. 351(f)). The device may be distributed for investigational use only if the requirements of the IDE regulations are met. The requirements for significant risk devices include submitting an IDE application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under § 812.30. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period after the issuance of the final order to avoid interrupting investigations.

FDA proposes that following the effective date of any final order, ECT devices intended for use in treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition must comply with the special controls. FDA notes that a firm whose ECT device was legally in commercial distribution before May 28, 1976, or whose device was found to be substantially equivalent to such a device and who does not intend to market such device for uses other than use in treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition, may remove such intended uses from the device's labeling. FDA proposes that such ECT devices must comply with the special controls, and, as part of the special controls, anyone who wishes to continue to market an ECT device for these uses must submit an amendment to their previously cleared premarket notification (510(k)) that demonstrates compliance with the special controls within 60 days after the effective date of the final order. Such amendment will be added to the 510(k) file but will not serve as a basis for a new substantial equivalence review. A submitted 510(k) amendment in this context will be used solely to demonstrate to FDA that an ECT device is in compliance with the special controls. If a 510(k) amendment is not submitted within 60 days after the effective date or if FDA determines that the amendment does not demonstrate compliance with the special controls, the device may be considered adulterated under section 501(f)(1)(B) of the FD&C

X. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that this device have an approved PMA or a declared completed PDP when intended for use in treating any condition other than MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition and (2) the benefits to the public from the use of ECT devices for other specified intended uses.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) Order (74 FR 16214), the public docket (74 FR 46607) and any additional information that FDA has obtained. Additional information regarding the risks as well as classification associated with this device type can be found in 43 FR 55729, 44 FR 51776, 48 FR 14758, and 55 FR 36578.

XI. Device Subject to the Proposal To Require a PMA—ECT Devices for Certain Specified Intended Uses (§ 882.5940(c))

A. Identification

An electroconvulsive therapy device is a device used for treating severe psychiatric disturbances by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head.

B. Summary of Data

For intended uses other than the treatment of MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition, FDA concludes that the safety and effectiveness of ECT devices have not been established by adequate scientific evidence. Given the FDA analysis and the advisory panel deliberations (see *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/NeurologicalDevicesPanel/ucm240924.htm*), there is insufficient evidence of effectiveness for indications including: schizophrenia, bipolar mania (and mixed states), schizoaffective disorder, schizophreniform disorder, and catatonia. The panel recommended Class III designation for schizophrenia, bipolar mania (and mixed states), schizoaffective disorder, and schizophreniform disorder; however, the panel did not reach consensus on the classification of ECT in treatment of catatonia and a review of the literature for use of ECT in catatonia yielded only one randomized control trial (Ref. 11). The body of evidence is not sufficiently robust for FDA to determine that there is a reasonable assurance of safety and effectiveness for ECT treatment of catatonia. Catatonia is a potentially life-threatening condition for patients unresponsive to the current standard of care treatment. FDA encourages collection of additional data that may support future reclassification of ECT for this use.

FDA believes that insufficient information exists regarding the risks and benefits of the device in order for FDA to determine that general and/or special controls will provide reasonable assurance of the safety and effectiveness of ECT for Certain Specified Intended Uses. As established in section 513(a)(1)(C) of the FD&C Act and 21 CFR 860.3(c)(3), a device is in class III if insufficient information exists to determine that general controls and/or special controls are sufficient to provide reasonable assurance of its safety and effectiveness and the device is purported or represented to be for a use that is life-supporting or life-sustaining, or for a use which is of substantial importance in preventing impairment of human health, or if the device presents a potential unreasonable risk of illness or injury. FDA believes that the risks to health identified in section V for the use of ECT devices for Certain Specified

Intended Uses, in the absence of an established positive benefit-risk profile, presents a potential unreasonable risk of illness or injury.

C. Risks to Health

The risks to health for ECT devices for intended uses other than the treatment of MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition are the same as outlined in section V.

D. Benefits of ECT Devices

As discussed previously, there is limited scientific evidence regarding the effectiveness of ECT devices for intended uses other than the treatment of MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. Because the benefits of these devices for such uses are unknown, it is impossible to estimate the direct effect of the devices on patient outcomes. However, based on claims made about the devices, the devices have the potential to benefit the public by providing additional treatment options for schizophrenia, bipolar manic states, schizoaffective disorder, schizophreniform disorder, and catatonia.

XII. PMA Requirements

A PMA for ECT devices Certain Specified Intended Uses must include the information required by section 515(c)(1) of the FD&C Act. Such a PMA should also include a detailed discussion of the risks identified previously, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the device for its intended use (see § 860.7(c)(1)). Valid scientific evidence is evidence from well-controlled investigations, partially controlled studies, studies and objective trials without matched controls, well-documented case histories conducted by qualified experts, and reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use. Isolated case reports, random experience, reports lacking sufficient details to permit scientific evaluation, and unsubstantiated opinions are not regarded as valid scientific evidence to show safety or effectiveness. (§ 860.7(c)(2)).

XIII. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the FD&C Act.

A request for a change in the classification of ECT devices is to be in the form of a reclassification petition containing the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

XIV. Codification of Orders

Prior to the amendments by FDASIA, section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices and section 515(b) of the FD&C Act provided for FDA to issue regulations to require approval of an application for premarket approval for preamendments devices or devices found to be substantially equivalent to preamendments devices. Because sections 513(e) and 515(b) of the FD&C Act as amended require FDA to issue final orders rather than regulations, FDA will continue to codify reclassifications and requirements for approval of an application for premarket approval, resulting from changes issued in final orders, in the Code of Federal Regulations (CFR). Therefore, under section 513(e)(1)(A)(i) of the FD&C Act, as amended by FDASIA, in this proposed order, we are proposing to codify the reclassification of ECT devices for use in treating severe Major Depressive Episode (MDE) associated with Major Depressive Disorder (MDD) or Bipolar Disorder (BPD) in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition into class II by amending § 882.5940.

XV. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XVI. Paperwork Reduction Act of 1995

This proposed order refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120. The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078. The collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231.

The device and patient warning labeling provisions in this proposed rule are not subject to review by OMB because they do not constitute a ‘‘collection of information’’ under the PRA. Rather, the recommended labeling is a ‘‘public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public’’ (5 CFR 1320.3(c)(2)).

XVII. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective 90 days after the date of publication in the **Federal Register**.

XVIII. Specific Questions for Comment

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). FDA is explicitly seeking comments on whether: (1) The term ‘‘treatment resistant’’ and the phrase ‘‘require rapid response’’ provide sufficient clarity to the population for which ECT benefits outweigh risks and (2) if 60 days is an appropriate time to allow existing manufacturers who do not intend to market their ECT device(s) for uses other than use in treating severe MDE associated with MDD and BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition to prepare and submit 510(k) amendments for ECT devices.

XIX. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. American Psychiatric Association. 2001. The Practice of Electroconvulsive Therapy: Recommendations for Treatment, Training and Privileging—A Task Force Report, 2nd ed. American Psychiatric Press, Washington, DC.
2. Royal College of Psychiatrists. The ECT Handbook. Ed. A.I.F. Scott. The Third Report of the Royal College of Psychiatrists' Special Committee on ECT. 2004. Available at: *http://www.ectron.co.uk/ws-public/uploads/143_cr128.pdf*
3. NICE (National Institute for Health and Clinical Excellence). Guidance on the Use of Electroconvulsive Therapy. Technology Appraisal Guidance: 59:1–37, 2003. Available at: *https://www.nice.org.uk/guidance/ta59*
4. NICE (National Institute for Health and Clinical Excellence). Depression in Adults (update). National Clinical Practice Guideline: 90:1–585, 2009. Available at: *https://www.nice.org.uk/guidance/cg90*
5. U.S. Department of Health and Human Services. Mental Health: A Report of the Surgeon General. Rockville, MD: Substance Abuse and Mental Health Services Administration/Center for Mental Health Services; National Institutes of Health/National Institute of Mental Health, 1999. Available at: *http://profiles.nlm.nih.gov/ps/retrieve/ResourceMetadata/NNBBHS*
6. Semkovska, M., D.M. McLoughlin, ''Objective Cognitive Performance Associated with Electroconvulsive Therapy for Depression: A Systematic Review and Meta-Analysis.'' *Biological Psychiatry:* 68:568–577, 2010.
7. Greenhalgh, J., C. Knight, D. Hind, C. Beverley, S. Walters, ''Clinical and Cost-effectiveness of Electroconvulsive Therapy for Depressive Illness, Schizophrenia, Catatonia and Mania: Systematic Reviews and Economic Modelling Studies. *Health Technology Assessment:* 9(9):1–170, 2005. J.C. Fournier, R.J. DeRubeis, S.D. Hollon, S. Dimidjian, J.D. Amsterdam, R.C. Shelton, J. Fawcett, ''Antidepressant Drug Effects and Depression Severity.'' *Journal of the American Medical Association:* 303(1):47–53, 2010.
8. Kirsch, I., B.J. Deacon, T.B. Huedo-Medina, A. Scoboria, T.J. Moore, B.T. Johnson, ''Initial Severity and Antidepressant Benefits: A Meta-analysis of Data Submitted to the Food and Drug Administration.'' *PLoS Medicine:* 5(2):260–268, 2008.
9. Watts, B.V., et al. ''An Examination of Mortality and Other Adverse Events Related to Electroconvulsive Therapy Using a National Adverse Event Report System.'' *Journal of ECT,* 2010.
10. Girish, K., N.S. Gill, ''Electroconvulsive Therapy in Lorazepam Non-Responsive Catatonia.'' *Indian Journal of Psychiatry:* 45(1):21–25, 2003.
11. FDA Executive Summary, Prepared for the January 27–28, 2011 meeting of the Neurological Devices Panel, Meeting to Discuss the Classification of Electroconvulsive Therapy Devices (ECT), available at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/NeurologicalDevicesPanel/ucm240924.htm.*

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 882 be amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Revise § 882.5940 to read as follows:

§ 882.5940 Electroconvulsive therapy device.

(a) *Identification.* An electroconvulsive therapy device is a prescription device, including the pulse generator and its stimulation electrodes and accessories, used for treating severe psychiatric disturbances by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head.

(b) *Classification.* (1) Class II (special controls) when the device is intended to treat severe major depressive episodes (associated with major depressive disorder or bipolar disorder) in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. The special controls for this device are:

(i) The technical parameters of the device, including waveform, output mode, pulse duration, frequency, train delivery, maximum charge and energy, and the type of impedance monitoring system must be fully characterized.

(ii) Non-clinical testing data must confirm the electrical characteristics of the output waveform.

(iii) Components (and accessories) of the device that come into human contact must be demonstrated to be biocompatible.

(iv) Performance data must demonstrate electrical and mechanical safety and the functioning of all safety features built into the device including the static and dynamic impedance monitoring system.

(v) Appropriate analysis/testing must validate electromagnetic compatibility.

(vi) Appropriate software verification, validation, and hazard analysis must be performed.

(vii) Performance data must demonstrate electrical performance, adhesive integrity, and physical and chemical stability of the stimulation electrodes.

(viii) The labeling for the device must include the following:

(A) Information related to generic adverse events associated with ECT treatment.

(B) Instructions must contain the following specific recommendations to the user of the device:

(*1*) Conduct of pre-ECT medical and psychiatric assessment (including pertinent medical and psychiatric history, physical examination, anesthesia assessment, dental assessment, and other studies as clinically appropriate);

(*2*) Use of patient monitoring during the procedure;

(*3*) Use of general anesthesia and neuromuscular blocking agents;

(*4*) Use of mouth/dental protection during the procedure;

(*5*) Use of EEG monitoring until seizure termination;

(*6*) Instructions on electrode placement, including adequate skin preparation and use of conductivity gel; and

(*7*) Cognitive status monitoring prior to beginning ECT and during the course of treatment via formal neuropsychological assessment for evaluating specific cognitive functions (*e.g.,* orientation, attention, memory, executive function).

(C) Clinical training needed by users of the device.

(D) Information on the patient population in which the device is intended to be used.

(E) Information on how the device operates and the typical course of treatment.

(F) A detailed summary of the clinical testing, which includes the clinical outcomes associated with the use of the device, and a summary of adverse events and complications that occurred with the device.

(G) A detailed summary of the device technical parameters;

(H) Where appropriate, validated methods and instructions for reprocessing of any reusable components.

(I) The following statement, prominently placed: ''Warning: ECT

device use may be associated with: disorientation, confusion, and memory problems.''

(J) Absent performance data demonstrating a beneficial effect of longer term use, generally considered treatment in excess of 3 months, the following statement, prominently placed: ''Warning: When used as intended this device provides short-term relief of symptoms. The long-term safety and effectiveness of ECT treatment has not been demonstrated.''

(ix) Patient labeling must be provided and include:

(A) Relevant contraindications, warnings, precautions.

(B) A summation of the clinical testing, which includes the clinical outcomes associated with the use of the device, and a summary of adverse events and complications that occurred with the device.

(C) Information on how the device operates and the typical course of treatment.

(D) The potential benefits.

(E) Alternative treatments.

(F) The following statement, prominently placed: ''Warning: ECT device use may be associated with: disorientation, confusion, and memory problems.''

(G) Absent performance data demonstrating a beneficial effect of longer term use, generally considered treatment in excess of 3 months, the following statement, prominently placed: ''Warning: When used as intended this device provides short-term relief of symptoms. The long-term safety and effectiveness of ECT treatment has not been demonstrated.''

(H) The following statements on known risks of ECT, absent performance data demonstrating that these risks do not apply:

(*1*) ECT treatment may be associated with disorientation, confusion and memory loss, including short-term (anterograde) and long-term (autobiographical) memory loss following treatment. These side effects tend to go away within a few days to a few months after the last treatment with ECT. However, some patients have reported a permanent loss of memories of personal life events (*i.e.,* autobiographical memory). Improvements in the way ECT is applied to patients currently, with controlled electric currents and electrode placement, can minimize but not completely eliminate, these risks.

(*2*) Patients treated with ECT may also experience manic symptoms (including euphoria and/or irritability, impulsivity, racing thoughts, distractibility, grandiosity, increased activity, talkativeness, and decreased need for sleep) or a worsening of the psychiatric symptoms they are being treated for.

(*3*) The physical risks of ECT may include the following (in order of frequency of occurrence):

(*i*) Pain/somatic discomfort (including headache, muscle soreness, and nausea).

(*ii*) Skin burns.

(*iii*) Physical trauma (including fractures, contusions, injury from falls, dental and oral injury).

(*iv*) Prolonged or delayed onset seizures.

(*v*) Pulmonary complications (insufficient, or lack of breathing, or inhalation of foreign substance into the lungs).

(*vi*) Cardiovascular complications (heart attack, high or low blood pressure, and stroke).

(*vii*) Death.

(*viii*) Devices marketed prior to the effective date of this reclassification must have an amendment submitted to their previously cleared premarket notification (510(k)) that demonstrates compliance with these special controls within 60 days after the effective date of this reclassification.

(2) *Classification:* Class III (premarket approval) for the following intended uses: schizophrenia, bipolar manic states, schizoaffective disorder, schizophreniform disorder, and catatonia.

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **Federal Register**], for any electroconvulsive therapy device with an intended use described in paragraph (b)(2) of this section, that was in commercial distribution before May 28, 1976, or that has, on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **Federal Register**], been found to be substantially equivalent to any electroconvulsive therapy device with an intended use described in paragraph (b)(2) of this section, that was in commercial distribution before May 28, 1976. Any other electroconvulsive therapy device with an intended use described in paragraph (b)(2) of this section shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: December 18, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32592 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1271

[Docket No. FDA–2015–D–3719]

Draft Guidances Relating to the Regulation of Human Cells, Tissues, or Cellular or Tissue-Based Products; Public Hearing; Request for Comments; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments; correction.

SUMMARY: The Food and Drug Administration (FDA or Agency) is correcting a notification of a public hearing entitled ''Draft Guidances Relating to the Regulation of Human Cells, Tissues, or Cellular or Tissue-Based Products; Public Hearing; Request for Comments'' that appeared in the **Federal Register** of October 30, 2015 (80 FR 66845). The document announced a public hearing to obtain input on four recently issued draft guidances relating to the regulation of human cells, tissues, or cellular or tissue-based products (HCT/Ps). The document published with conflicting information about who must register for the public hearing. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lori Jo Churchyard, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION: In FR Doc. 2015–27703, appearing on pages 66845 and 66847 in the **Federal Register** of Friday, October 30, 2015, the following corrections are made:

1. On page 66845, in the third column under **DATES**, the third sentence is revised to read: ''Persons seeking to attend (including FDA employees) or to present at the public hearing must register by January 8, 2016.''

2. On page 66847, in the first column under section IV. Attendance and Registration, the third sentence is revised to read: ''Individuals who wish to attend (including FDA employees) or present at the public hearing must

register by sending an email to *CBERPublicEvents@fda.hhs.gov* on or before January 8, 2016, and provide complete contact information, including name, title, affiliation, address, email, and phone number.''

Dated: December 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32686 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 55, 70, 71 and 124

[EPA–HQ–OAR–2015–0090, FRL–9937–21–OAR]

RIN 2060–AS59

Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) proposes to revise the public notice rule provisions for the New Source Review (NSR), title V and Outer Continental Shelf (OCS) permit programs of the Clean Air Act (CAA) and the corresponding onshore area (COA) determinations for implementation of the OCS air quality regulations. This action would remove the mandatory requirement to provide public notice of a draft air permit, as well as certain other program actions, through publication in a newspaper and would instead allow for electronic noticing (e-notice) of these actions. The proposed rule revisions would apply to major source air permits issued by the EPA, by EPA-delegated air agencies, and by air agencies with EPA-approved programs (with the exception of permits that are issued pursuant to the Tribal NSR Rule, which already allows for e-notice methods).

DATES: *Comments.* Comments must be received on or before February 29, 2016.

Public hearing. If anyone contacts us requesting a public hearing on or before January 13, 2016, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0090, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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: For general information on this proposed rule for NSR and OCS programs, please contact Mr. Dave Svendsgaard, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–2380 or by email at *svendsgaard.dave@epa.gov;* for title V programs please contact Ms. Grecia Castro, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–1351 or by email at *castro.grecia@epa.gov.* To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–0641 or by email at *long.pam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

*A. How is this **Federal Register** notice organized?*

The information presented in this document is organized as follows:

I. General Information
A. How is this **Federal Register** notice organized?
B. Does this action apply to me?
C. What should I consider as I prepare my comments for the EPA?
D. How can I find information about a possible public hearing?
E. Where can I obtain a copy of this document and other related information?
II. Overview of Action
III. Background
IV. Proposed Revisions
A. What are the e-notice requirements?
B. What are the e-access requirements?
C. Requirements for Agencies Implementing the Federal Permit Program Rules
D. Requirements for Agencies Implementing Approved Programs Pursuant to the EPA's Permitting Rules for States
E. Soliciting Comment on Allowing Temporary Use of Alternative Noticing Methods
F. Clarifying E-Notice and E-Access Applicability for Minor NSR Permits
G. Notice Requirements for PSD Permit Rescissions
V. Policy Rationale and Legal Basis
VI. Implementation
A. Agencies Implementing Federal Preconstruction Permit Program Rules
B. Agencies Implementing State Preconstruction Permit Program Rules
C. Agencies Implementing Approved Operating Permit Programs
D. Agencies Delegated to Implement the Federal Operating Permit Program
VII. Environmental Justice Considerations
VIII. 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 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
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
IX. Statutory Authority

B. Does this action apply to me?

Entities potentially affected by this proposed rule include air agencies responsible for the permitting of stationary and OCS sources of air pollution or for determining COA designation for implementation of the OCS Air Regulations. This includes the EPA Regions, and both EPA-delegated air programs and EPA-approved air programs that are operated by state, local and tribal governments. Entities also potentially affected by this proposed rule include owners and operators of stationary and OCS sources that are subject to air pollution permitting under the CAA, as well as the general public who would have an interest in knowing about permitting actions, public hearings and other agency actions.

C. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through *http://www.regulations.gov* or email. Clearly mark the specific information that you claim to be CBI. For CBI in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing comments.* When submitting comments, remember to:

• Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

• Follow directions. The proposed rule may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.

• Describe any assumptions and provide any technical information and/or data that you used to support your comment.

• If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

• Provide specific examples to illustrate your concerns wherever possible, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

D. How can I find information about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–0641 or by email at *long.pam@epa.gov.*

E. Where can I obtain a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this **Federal Register** document will be posted at *http://www3.epa.gov/nsr/actions.html* and *http://www3.epa.gov/airquality/permits/actions.html.*

II. Overview of Action

The CAA authorizes the EPA to administer and oversee the permitting of stationary and other sources of air pollution. To accomplish this obligation, the EPA has promulgated permitting regulations for construction of sources pursuant to NSR under title I of the CAA, for operation of major and certain other sources of air pollutants under title V of the CAA; and for OCS sources under CAA § 328. These regulations are contained in 40 CFR parts 51, 52, 55, 70, 71 and 124, and cover the requirements for federal permit actions (*i.e.,* when the EPA or a delegated air agency is the permitting authority [1]) and minimum permitting requirements under an approved state implementation plan (SIP) and title V program.[2] These rules contain, among other things, requirements for public notice and availability of supporting information to allow for informed public participation in permit actions. These regulatory requirements for public participation in permit and other actions are the subject of this proposed rule.

In general, prior to issuing a permit to a major stationary source [3] of air pollution, the permitting authority prepares a draft permit, provides notice to the public of the draft permit, and provides the public reasonable access to the draft permit, the application, and supporting information. The permitting authority must provide an opportunity for public comment, as well as an opportunity to request a public hearing on the draft permit. *See, e.g.,* 40 CFR 70.7(h). In addition, the information that supports the permit decisions—referred to in some cases as the ''permit record'' or ''administrative record''—must be made available to the public for inspection. *Id.* Under the title V programs, these procedures apply to permits for all covered sources, including certain non-major sources. *See* 40 CFR 70.3.[4]

This action addresses the method by which the permitting agency provides the required notice of the permitting action and access to the information supporting the action. We specifically propose to remove from the EPA rules the mandatory requirement that draft permits under CAA permitting programs for major sources be noticed in a newspaper of general circulation and instead allow—and, in some cases, require (as explained below)—the use of electronic methods to provide notice of and access to these draft permits. We are not changing the majority of the existing procedural requirements for processing permit applications and the requirement to keep a record of the materials that support the permit decisions. We also are not changing existing requirements as to the substance of the information that must be made available when the permitting agency notifies the public of the draft permitting action.

We are also not proposing to revise the federal rules for public notice that apply to minor NSR permits under 40 CFR part 51.161, which require ''notice by prominent advertisement.'' *See* § 51.161(b)(3). In 2012, the EPA clarified through guidance that the § 51.161 term ''prominent advertisement'' is media neutral, and therefore newspaper notice of minor NSR actions is not required. (''EPA's 2012 Memorandum'') [5] The guidance memorandum did not, however, address notice requirements for synthetic minor source permits.[6] In

[1] In lieu of ''permitting authority,'' in this preamble and rule, we sometimes use the terms ''permitting agency,'' ''reviewing authority,'' and ''air agency'' (or ''agency''). These terms generally denote all forms of air permitting authorities, including EPA Regions, EPA-delegated air programs, and air programs that are operated by state, local and tribal governments and that implement their own rules under an EPA-approved implementation plan. Furthermore, the rules for the federal permit programs sometimes use the terms ''Administrator'' and ''Director'' in referring to the permitting authority.

[2] NSR includes the Prevention of Significant Deterioration (PSD), nonattainment major NSR (NNSR), and minor NSR permitting programs. Requirements for the NSR programs can be found at 40 CFR 51 for approved state and local permitting programs, and at 40 CFR 52 for federal permit programs. (In addition, 40 CFR 52 references part 124 for additional requirements.) Requirements for approved title V operating permit programs are located at 40 CFR 70 and for federal operating permit programs at 40 CFR 71. Requirements for the permitting of OCS sources can be found at 40 CFR 55.

[3] The term ''major source'' in the title V program rules includes any ''major stationary source'' under the NSR program rules. *See, e.g.,* 40 CFR 52.21(b)(1)(i) and 40 CFR 71.2. In this preamble, we use the terms ''major source'' and ''major stationary source'' interchangeably.

[4] The EPA's rules generally require less extensive public participation procedures for the permitting of minor sources and minor modifications.

[5] Memorandum from Janet McCabe, Principal Deputy Assistant Administrator, Office of Air and Radiation, ''Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3)'' (April 17, 2012). *See http://www2.epa.gov/sites/production/files/2015-07/documents/pubnot.pdf.*

[6] A synthetic minor source is a source that has taken restrictions to avoid applicability of major

Continued

this action, we are proposing to extend the media neutrality policy of the EPA's 2012 Memorandum to all permit actions governed by § 51.161, including synthetic minor source permits, and to ensure that e-access methods are available for minor NSR permit actions.

We are also not proposing to revise the public participation requirements for permits that establish a Plantwide Applicability Limitation (PAL), which cross reference the public participation procedures at § 51.161. *See* §§ 51.165(f)(5), 51.166(w)(5), and 52.21(aa), and Appendix S to part 51, Section IV.K.5. As discussed in the preamble to the PAL regulations (''PAL preamble''), ''[t]he reviewing authority must establish a PAL in a federally enforceable permit (for example, a ''minor'' NSR construction permit, a major NSR permit, or a SIP-approved operating permit program).'' 67 FR 80208; December 31, 2002. The PAL preamble further explains that ''the reviewing authority must provide an opportunity for public participation when issuing a PAL permit . . . consistent with the requirements at § 51.161 and include a minimum of a 30-day period for public notice and opportunity for public comment.'' *Id.* As explained above, in EPA's 2012 Memorandum we clarified that the term ''prominent advertisement'' in § 51.161 is media neutral for minor NSR permits, and in this action we are proposing to extend the applicability of the policy in that memorandum to all permit actions governed by § 51.161. In addition, the PAL preamble explains ''[w]here the PAL is established in a major NSR permit, major NSR public participation procedures apply.'' *Id.* In this rule action, we propose to amend the public participation requirements for major source permits under CAA permitting programs to allow or require the use of electronic methods to provide notice of these permits. Therefore, since this proposed action along with our previous rules and guidance would collectively ensure that § 51.161 and the major source specific regulations allow for e-notice in lieu of newspaper notice, and these public notice requirements would apply as well to all of the types of permits that may be used to establish a PAL, we believe that it is unnecessary to propose any revisions to the PAL-specific provisions of EPA's air permitting rules.

In addition, these proposed revisions would not change the requirements for nonattainment NSR (NNSR), minor NSR, and synthetic minor NSR permits in Indian country, which are contained in 40 CFR part 49 and allow for other means of public noticing beyond a newspaper of general circulation. *See* §§ 49.157 (minor NSR and synthetic minor NSR permits) and 49.171 (nonattainment major NSR permits). However, these proposed revisions would change the requirements for PSD permits that the EPA issues in Indian country, as well as Prevention of Significant Deterioration (PSD) permits that are issued by a tribe through a delegation agreement or by a tribe that has an approved tribal implementation plan (TIP) that incorporates by reference the public noticing requirements in the federal PSD rules at 40 CFR 52.21. Also, since this proposal would revise the noticing requirements in 40 CFR 71, which apply to Indian country absent an approved part 70 program, the revisions would affect the public notice procedures for the majority of title V operating permits in tribal lands.[7] Also, the tribal agency with an approved part 70 program would have the option to implement e-notice under the same terms that apply to other approved part 70 programs.

This action addresses the public notice requirements for all air agencies. For the noticing of major source permits by the EPA and other air agencies that implement the federal permitting rules, e-notice would be required under this proposed rule. For major source permits issued by air agencies that implement their own rules approved by EPA, this proposed rule would allow additional flexibility such that these permitting authorities would have the option to provide e-notice or to continue to provide traditional newspaper notice, although they must adopt a single, ''consistent noticing method'' to be used for all of their major source permits. Thus, where an agency opts to post notices of draft permits on a Web site in lieu of newspaper publication, it must post all notices to this Web site in order to ensure that the public has a consistent and reliable location to turn to for all permit notices. If the agency does not maintain a consistent noticing method (*i.e.,* if the state posts some notices to a Web site and others in the newspaper), the public may not know where to look for information regarding a permit for a source of interest to them. We are taking comment on this proposed approach of requiring a consistent noticing method for these approved state programs, as well as the option of not requiring a consistent noticing method.

In addition, to satisfy the proposed requirements for e-notice, except for programs that implement part 51 regulations for PSD and NNSR permits and states that issue OCS permits, the air agency must maintain a mailing list that will notify any person on the list of any new public notice. This approach is consistent with the current noticing requirements in the federal rules for NSR and EPA-issued OCS permits, and for federal and state operating permits under parts 70 and 71 (and OCS permits subject to these requirements), which all require that a copy of the notice be mailed to persons who have subscribed to the appropriate mailing list. The EPA believes that continuing with this approach will maintain the current efforts to reach communities through a variety of methods. This proposed rule clarifies that distributing the public notice information to the persons on the mailing list can be by way of email or the more traditional mailing methods (*e.g.,* postal service, courier).

This proposed action also requires that, when a permitting authority adopts the e-notice approach, it also must provide e-access. For the purpose of this proposed rule, e-access means that the permitting authority must make the draft permit available electronically (*i.e.,* on the agency's public Web site or on a Web site identified by the permitting agency, which could be an online document management system) for the duration of the public comment period. It is important to note that, while e-access in this proposed rule only pertains to the availability of and access to the draft permit during the public comment period, nothing in this rule alters the requirement for the permitting authority to maintain a record of the permit action and to make it available to the public. Thus, a permitting authority that is satisfying the proposed conditions of e-access by posting the draft permit on a Web site must also provide the public with reasonable access to the other materials that support the permit decision (as it has always been required to do). Access to the other materials can be provided either electronically, or at a physical location, or a combination of both.

In addition to the proposed approach described above for EPA-approved permitting programs, we are requesting comment on an alternative approach. In the alternative approach, permitting programs that implement 40 CFR part 51 or 70 and that select e-notice as their

source requirements. Under the NSR program, such restrictions must be legally and practically enforceable. *See, e.g.,* 67 FR 80191.

[7] Most states, certain local agencies and currently one tribe have approved part 70 programs. The EPA administers the part 71 federal program in most areas of Indian country (one tribe has been delegated implementation authority) and on the Outer Continental Shelf (when there is no delegated state permitting authority).

consistent noticing method would have the option, but would not be required to, provide e-access. This approach could be of benefit to some agencies that may notice permits using an online permits register—which would qualify for e-notice under this rule proposal—but do not have the Web site capabilities to satisfy the e-access requirement of making the draft permit available electronically.

Additionally, we are soliciting comment on including a provision in the regulations to allow air agencies to temporarily use an alternative noticing method if their Web site is unavailable for a period of time. This may be necessary during periods when a Web site is temporarily offline due to, for example, malfunctions, transitions to a different Web site platform, or emergency situations that result in prolonged electrical system outages. As with the Web site noticing method, the permitting agency would need to assure that the alternative noticing method provides adequate notice to the affected public. We specifically seek comment on the criteria for determining when the alternative method should be available, the length of time it could be used, and how the transition to the method would be conveyed to the public.

Finally, we are proposing to extend the use of e-notice methods to three non-permitting actions. In each case, the regulatory provision currently requires notice of the action by way of newspaper publication. We briefly describe each provision below.

- The ''OCS Air Regulations'' at 40 CFR part 55 apply to more than just OCS permitting actions. Specifically, when the EPA makes a COA designation determination, it must do so by way of a process that allows for public comment on the draft determination. Through this action, we are proposing to require electronic notice of the COA designation.
- The existing federal PSD regulations contain a provision for ''permit rescission'' that only refers to newspaper notification. Specifically, paragraph 40 CFR 52.21(w)(4) requires that, if an agency rescinds a permit, it shall give ''adequate notice of the rescission,'' and that newspaper publication ''shall be considered adequate notice.'' We are proposing in this action to revise the provision to specifically require that the Administrator notify the public of a permit rescission by e-notice.
- Paragraph 40 CFR 71.4(g) provides that, when the EPA takes action to administer and enforce, or to delegate, a federal operating permits program, it will publish a notice in the **Federal Register** and, ''to the extent practicable, publish notice in a newspaper of general circulation within the area subject to the part 71 program effectiveness or delegation.'' We are proposing to revise this provision to require the additional notice of the program effectiveness or delegation by way of posting on a public Web site identified by the EPA.
- It is important to note that the EPA is not proposing additional public participation where existing rules do not require public participation. Thus, the minimum notice and access requirements being proposed in this rule would apply to the public participation procedures of air quality permits issued by EPA and other air agencies in cases where the current rules require public participation in a permitting decision.

III. Background

While the CAA requires permitting authorities to offer the opportunity for public participation in the processing of air permits, it does not specify the best or preferred method for providing notice to the public. *See, e.g.,* CAA 165(a)(2). The EPA's air permitting regulations also address the issue of public participation, and in those rules there is more specificity regarding the methods of meeting the public notice obligations. The EPA's regulations are intended to ensure that the EPA and other permitting authorities provide adequate public notice of their permitting actions. Among the procedural requirements for public notice, the current regulations for the major NSR, title V and OCS programs include (or cross reference to) specific language that requires agencies to notify the public of pending permitting actions and the opportunity to comment on those permitting actions by advertisement in a newspaper of general circulation.[8]

When the EPA first developed public notice provisions for the major NSR program in the late 1970s and early 1980s, newspaper advertisement was the most commonly accepted method for providing notice of permits and other agency actions in the community. The EPA, therefore, finalized rules that contained, among other things, requirements for newspaper notice of permitting and other actions. When the title V rules were first issued in 1992, the EPA considered the public notice requirements for PSD permits and similarly required in part that the public be notified of a permitting action by way of ''a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice.'' 40 CFR 70.7(h)(1).[9] OCS regulations, also promulgated in 1992, included this same approach of requiring public notice via newspaper publication, by requiring that the applicable requirements for federal PSD permits in 40 CFR part 124 also apply to the processing of OCS permit applications.[10] The EPA also added specific language within the OCS rules that require COA designation determinations to be announced by way of a newspaper of general circulation. Consequently, in promulgating the rules for NSR, title V and OCS air programs, the EPA determined that it was most appropriate for permitting actions, COA designations, and public hearings to be announced to the public by a newspaper notice. The public notice procedures in the regulations for each of these programs have not changed with respect to newspaper notification since they were first developed and issued.

Permitting authorities typically have met the required newspaper notice provision by publishing a single-day legal notice of availability of the draft permit action in a local newspaper. In some cases, depending on the location of the source and the demographics of the affected community, some permitting agencies may publish the notice in multiple newspapers to reach the intended audience, or may provide bilingual newspaper notices of their permitting actions. The specific contents of the newspaper notice are specified for some programs, and they tend to vary with different permitting authorities. Most notices typically contain basic information about the draft permit, such as the permit number, the name and physical address of the facility, and the name and contact information of a person from whom interested persons may obtain additional information on the draft permit. Depending on the permitting authority, the notice may include more detailed information on the draft permit, such as the anticipated emissions increase from the proposed project. The public notice for the permit also informs interested parties on how to request and/or attend a public hearing and how to access additional information relevant to the draft permit. This additional information is typically

[8] Those regulations also specify the information that the public notice must include, and, as noted above, this regulation does not change such information requirements.

[9] *See* 57 FR 32250 (July 21, 1992) regarding state operating permit programs (40 CFR 70) and 61 FR 34202 (July 1, 1996) regarding federal operating permit programs (40 CFR 71).

[10] *See* 57 FR 40792 (September 4, 1992).

housed in a designated public reading room near the source or in a library at the permitting agency with specified hours of operation for viewing the documents. In the case of title V permits, as well as PSD and OCS permits that follow 40 CFR part 124, the regulations also provide for mailing lists for permit actions and, as a result, notice may also occur for these draft permits (in addition to the mandatory newspaper notice) via direct mail or other communication to those persons included on a mailing list.

Over the years, however, availability of and access to the basic forms of electronic media—namely, the Internet and email—have increased significantly across the United States. More recently, sophisticated mobile devices and high-speed wireless networks are transforming the Internet and how our society interacts with it.[11] One effect of this electronic media development is that circulation of newspapers and other print media is declining, making printed newspaper notice less effective in providing widespread public notice of permit actions. Over the same time period, many permitting authorities developed their own Internet Web sites and began using email for the purpose of communicating with the public. In doing so, many of these agencies began to supplement the required one-time newspaper publication with the posting of electronic notices of availability of draft permits via their agency Web sites. Once the permitting agency develops its Web site and formats it to post permitting notices, the agency has an effective and convenient way to communicate permitting-related information to the majority of the public. In addition, the effort and cost to post a notice on an already-established Web site is generally lower than the expense of purchasing a newspaper advertisement, and it generally enables broader and faster dissemination of information to interested and affected parties as compared to newspaper noticing.

The EPA believes that having the notice of availability and the draft permit remain electronically available on an agency's Web site for an extended period of time, as compared to a one-time publication in an area newspaper that directs the public to a reading room at the permitting agency, or at a library or other location near the source, results in a significant increase in public awareness of the proposed permitting action and access to the draft permit. Even without this additional electronic access to the draft permit, posting the notice for the duration of the public comment period provides more widespread public notice than a single-day publication in a newspaper of general circulation.

We note that, in some instances, communities that are potentially affected by a proposed permitting action may have limited access to the Internet, and therefore may rely more on newspapers for receiving their information. In these cases, newspaper publication can still provide a means to convey permitting information to these communities. However, we expect that in many cases these communities would have access to a public library with Internet access that would provide access to the online permit notices and draft permits. Furthermore, because many permitting authorities are now supplementing their newspaper notices with electronic posting of the notice on their agency Web site, it seems unlikely that the public would continue to seek out permitting announcements in newspapers in the future. As discussed later in this preamble, a report issued by the National Environmental Justice Advisory Council (NEJAC) found that publication in the legal section of a newspaper is antiquated and ineffective and is not ideal for providing notice to affected environmental justice (EJ) communities. Given this significant shift away from the public's reliance on traditional newspapers for information, and the corresponding increased reliance on the Internet, the EPA recognizes that newspaper notice is no longer the only, or most effective, method of announcing permitting actions to reach the public.

To this end, the EPA has identified the need to allow for more noticing options than just newspaper publication. In 2011, the EPA issued the Tribal NSR Rules that contained, among other things, requirements for noticing of permits in Indian country that allowed for options other than newspaper and print media.[12] The July 2011 rule provides options such as web posting and email lists among the methods that the permitting authority may use to provide adequate public notice in agreement with the prominent advertisement goal. *See* 76 FR 38764. Then, through guidance issued in 2012, the EPA clarified its position on what constitutes public notice for minor NSR permit programs and is adequate to meet the requirement of ''notice by prominent advertisement.'' 40 CFR 51.161(b)(3). As noted above, the EPA's 2012 Memorandum explained, ''. . . as the public continues to increase the use of web based sources of information and states experience decreases in budgets allocated for public noticing of permits, we believe that for the purposes of minor NSR programs and permits, the 'prominent advertisement' requirement at 40 CFR 51.161(b)(3) is media neutral.'' The guidance further explains that the EPA believes ''it is appropriate to give state and local programs the flexibility to determine what constitutes prominent advertisement for purposes of minor NSR programs and permits, consistent with the overarching requirement that the public have routine and ready access to the alternative publishing venues.''

IV. Proposed Revisions

This action proposes to remove the mandatory requirement that draft permits for sources subject to the major NSR, title V or OCS programs be noticed in a newspaper of general circulation and instead allow the use of electronic methods to provide notice of draft permits. This action also proposes these same revisions for COA designations in the OCS program, permit rescissions under the federal PSD program, and noticing of federal operating permits programs. In the case of permits issued by the EPA or other agencies implementing 40 CFR parts 52 or 71, we are proposing to require that the EPA provide e-notice for all draft permits. For permits issued by other air agencies—specifically, agencies that implement 40 CFR parts 51 or 70—we are proposing that those permitting authorities would have the option to adopt either e-notice or traditional newspaper notice; however, they must select one of the noticing methods as their consistent noticing method to be used to notice all of their draft permits and their rules must reflect this selection.

This proposed action also requires that, if the permitting authority adopts the e-notice approach, it would also provide e-access as described in this rule. Specifically, the agency would make the draft permit available electronically for the duration of the public comment period. Furthermore, this rule proposes specific minimum requirements for satisfying the meaning of the terms ''e-notice'' and ''e-access.'' While e-access in this rule pertains only to the availability and access to the draft permit, nothing in this rule nullifies the requirement for the permitting authority to maintain a record of the permit

[11] Exploring the Digital Nation: Embracing the Mobile Internet, U.S. Department of Commerce, National Telecommunications and Information Administration, October 2014, *http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_embracing_the_mobile_internet_10162014.pdf.*

[12] *See* 76 FR 38748, July 1, 2011.

decisions and to make it available to the public. Hence, a permitting authority that is satisfying the proposed terms of e-access by posting the draft permit on its Web site must also maintain the other materials that support the permit decision and make them publicly available—either electronically, or at a physical location, or a combination of both. This proposed action does not affect any of the record retention or CBI policies of agencies.

More specifically, this proposed action includes revisions to 40 CFR part 51.166 (state/local PSD permits), part 52.21 (EPA/delegated agency-issued PSD permits), part 70 (state/local/tribal operating permits), part 71 (EPA/delegated agency-issued operating permits), part 55 (EPA-issued OCS permits and COA designations), and part 124 (EPA-issued permits applying generally to a number of media programs, including EPA-issued PSD and OCS permits). In addition, this action proposes to add specific public notice provisions in 40 CFR 51.165 (for state/local major NNSR permits), which currently does not contain section-specific public notification requirements (except for PAL permits).[13] However, since the PSD program rules under 40 CFR 51.166 contain specific newspaper public notice provisions at § 51.166(q)(2)(iii), for clarity and consistency purposes we are proposing to add parallel noticing provisions to § 51.165 to avoid any possible confusion as to the methods for providing notice under approved state and local NNSR programs.

It is important to note that some of the rule sections that we are proposing to amend have existing noticing and access requirements that are specific to the section and may not appear in other sections. We are not proposing to alter these specific rule provisions in this action. For example, the notice requirements in § 51.166(q) relate to the ''degree of increment consumption'' that is expected from the source or modification, but these requirements are not in other sections. Similarly, parts 70 and 71 have differing requirements for what information the notice should identify. In the federal PSD and the OCS permitting sections, there are currently no specific provisions for permit noticing—nor are we proposing specific requirements through this action—but these sections cross reference the procedural requirements in part 124 for which amendments are being proposed in this action. Consequently, the proposed rule revisions that would allow for e-notice and e-access appear differently in each rule section, but the basic effect of the changes is the same across all of the sections being revised.[14]

In specifying that an agency electronically post the notice and draft permit ''for the duration of the public comment period,'' we note that there may be instances during the comment period when the Web site is unavailable. This may occur due to, among other things, Web site failures or power outages. While we expect that these situations would be infrequent and short in duration, they would nonetheless temporarily interrupt the noticing of the draft permit and the electronic posting would be less than ''the duration of the comment period.'' We do not interpret ''the duration of the comment period'' to be a requirement for uninterrupted web access, but rather to mean that, to the extent that interruptions to the accessibility of the posted notice and draft permit occur, they would be short and infrequent. Further, we expect that the permitting authority or webmaster would be in a good position to make a reasonable assessment, based on experience, regarding unusual interruptions that would significantly affect the noticing of the permit. In general, we do not expect that short interruptions would significantly affect the noticing of the permit, and we do not expect these situations to result in a need for the comment period to be extended to account for the time during which the Web site is unavailable. On the other hand, for an agency that is providing only electronic access to the permit record (*i.e.,* no physical access options), Web site interruptions could present larger problems for anyone who is attempting to understand the draft permit and provide timely comments. In such cases, the air agency should evaluate the degree of limitation that the interruption has on the public's access to the permit record. For any interruption that impacts public access for an extended period, we recommend that the agency provide hard copies of the permit record at appropriate locations. In addition to taking comment on this proposed approach for the phrase ''for the duration of the public comment period,'' we are soliciting comment on whether we should include a provision in the regulations that allows a permitting authority to use an alternative noticing (and/or access) method to reach the affected public while the Web site is unavailable.

In addition to the proposed rule approach, we are taking comment on an alternative approach for air agencies that implement 40 CFR parts 51 and 70 that would not require these agencies to couple e-notice with e-access. In other words, if an agency adopts e-notice as its consistent noticing method, it would not be required to provide e-access (although the agency could provide e-access at its discretion—*e.g.,* to supplement its physical access of the draft permit). This alternative approach may be of benefit to some agencies that notice permits using an online permits register—which would qualify for e-notice—but do not have the technical capabilities to satisfy the e-access requirement of making the draft permit electronically available.

These proposed rules provide flexibility to air agencies with EPA-approved programs, such that they are no longer required to use newspaper noticing, although they can continue to use the newspaper method for noticing if they choose. In the case of EPA and other air agencies that implement the federal permitting rules, we are proposing that these programs are required to use e-notice and e-access, but these terms are limited in scope to require only minimal electronic noticing and access and to allow the agency the flexibility to use either its own Web site or another publicly available Web site that it identifies. We believe the proposed rule revisions, once final, will lead to more effective noticing of air permitting actions and will likely promote additional public participation in the permitting process, while also avoiding the higher costs of newspaper advertisement.

A. What are the e-notice requirements?

For the purpose of this proposed rule, the term ''e-notice'' means the notice of availability of the draft permitting action is provided on the permitting agency's Web site or another public Web site identified by the permitting agency for the purpose of noticing permits. The Web site should be easily accessible by the public, and the noticing section of the Web site should be ''user friendly''—*i.e.,* organized in such a way that it directs the public to the entire notice in a clear and straightforward manner. In some cases, the Web site may be characterized as a ''portal'' or it can be some other publicly accessible

[13] While 40 CFR 51.165 does not currently contain specific noticing provisions for draft major source permits, agencies implementing § 51.165 rely on the provisions of § 51.161 for the noticing of NNSR permits. As noted in this preamble, the EPA's 2012 Memorandum clarified that the terms used in § 51.161 allow for a media neutral approach to the noticing of permits, but the memorandum only applies to minor NSR permits.

[14] The docket for this action contains a document that reflects how the proposed rule changes compare to the existing rule provisions. *See* EPA–HQ–OAR–2015–0090–0002.

Web site that is identified by the permitting authority and allows for the noticing of draft permits (*e.g.,* a state permits register).

In some of the rule sections proposed for revision, the permitting authority must maintain a mailing list that will be used to notify persons on the list of any new public notice of a draft permit. This requirement exists in part 124 for EPA-issued PSD and OCS permits and in parts 70 and 71 for title V permits. We are proposing that the mailing list requirement would continue to apply for the noticing of these permits, and we are proposing that the mailing list requirement would not apply to programs that currently do not have a mailing list requirement—namely, agencies that follow part 51 regulations for PSD and NNSR permits and for state-issued OCS permits. Although the mailing list provisions were originally created with the idea that authorities would use the postal service to physically convey the notice to the recipients on the list, it has evolved over time such that many agencies that maintain a mailing list use electronic notification rather than mailing the notice through the postal service. In general, email notification has become a common practice among air agencies that currently provide supplemental notice via their agency Web site. Furthermore, many of these agencies' Web sites are equipped with a hyperlink or a radio button that facilitates convenient and easy sign up for interested persons to subscribe to the mailing list. Thus, we are not changing the current rule sections that require mailing lists, but we are updating the provisions to also allow agencies to use electronic methods to administer the activities of the mailing list, to include subscribing to the list, maintaining the list, and distributing the required information to the parties on the list. We expect that some agencies may use both electronic methods and more traditional methods (*e.g.,* a mailing list sign-up sheet posted at a public hearing) to administer their permits mailing lists.

Part 71.11(d)(3) currently requires the EPA and delegated agencies to affirmatively solicit for their mailing lists. As part of this proposed rulemaking, we are proposing revised language for part 71 to explain that the permitting authority will notify the public via Web site of the opportunity to be included or removed from its mailing list. We expect that many agencies will add a generally accepted method (*e.g.,* hyperlink sign up function, radio button) to their Web sites that will facilitate easy and convenient sign-up for their mailing list, as well as methods for unsubscribing. As noted above, many air agencies maintain a Web site that currently supplements the newspaper noticing of their permits with online noticing of their permits. Furthermore, some of these agencies rely on a variety of methods, beyond mailing lists, to alert the affected community that their Web site has been updated with a new draft permit or new information about a permit. Though not required under this proposed rule, we encourage air agencies to continue the practice of providing appropriate additional outreach to the general public for permits of interest. These outreach efforts may consist of opportunities presented by social media services (*e.g.,* RSS feed, Twitter, Facebook) where appropriate, or more traditional techniques such as online community bulletin boards or community newspapers. We are proposing that use of these additional outreach methods is not required, but is discretionary for the permitting authority.

Also, it is important to reiterate that we are not proposing to alter any existing requirements regarding the content of the public notice. We are, however, expressly requiring that the notice direct interested parties to information on how to request and/or attend a public hearing and how to access additional information relevant to the draft permit. Requirements regarding additional information in the notice vary across the different sections of the permitting rules, and may further vary among different individual permitting authorities. Most notices of availability will contain, at a minimum, the permit number, name and physical address of the facility, and the name and contact information of a person from whom interested persons may obtain additional information on the draft permit.

We request comment on this approach to defining e-notice as it applies to this proposed rule. In particular, we request comment on whether this approach and the corresponding rule text preclude some forms of electronic noticing that are currently being used or under development.

To clarify what this action is proposing for e-notice, in the following section we provide a summary of the proposed rule requirements. In addition, we are providing recommended ''best practices'' for electronic notice. These best practices recommendations are intended to foster improved communication and outreach of permit notices beyond the minimum requirements being proposed in this action.

1. Proposed Regulatory Requirements for E-Notice

In order to satisfy the requirement for e-notice of a permit, the permitting authority shall electronically post, for the duration of the public comment period, the following information on a public Web site identified by the permitting authority:

(1) notice of availability of the draft permit for public comment;

(2) information on how to access the permit record (either electronically and/or physically);

(3) information on how to request and/or attend a public hearing on the draft permit; and

(4) all other information currently required to be included in the public notice under the existing regulations.

In addition, where already required by the current rules, the permitting authority shall maintain a mailing list of persons who request to be notified of permitting activity and shall distribute (*e.g.,* by email) the above information to these persons.

2. Recommended Best Practices for E-Notice

While not proposed as a requirement of this rule, the EPA is recommending best practices that can be used to augment the above requirements for electronic notice. These best practice methods are not required to satisfy the e-notice requirements for this proposed rule, but may be helpful in the course of providing the fullest communication to the public on permitting actions. The recommended best practices of e-notice include:

- Providing notice of the final permit issuance on the Web site.
- Soliciting actively for the mailing list on the Web site (*e.g.,* Web site equipped with radio button, hyperlink, or ''click here'' function to subscribe).
- Providing options for email notification that enable subscribers to tailor the types of notifications they receive (*e.g.,* a person can request notification of only draft permit notices for major source actions, rather than receiving notice of all permitting activity by the agency).

B. What are the e-access requirements?

For the purpose of this proposed rule, the term ''e-access'' means the permitting authority shall post on its Web site (or a Web site identified by the permitting authority) the draft permit for the duration of the public comment period. As with e-notice, the posting of the draft permit should be in a prominent location on the Web site, and the Web site should allow user-friendly

access to the draft permit. Access to all other relevant materials that represent the record for the permit shall also be available to the public during the public comment period, but these other materials can be accessible either electronically or at a physical location, or in both locations. In this action, we are proposing that if the permitting authority provides e-notice, then it must also provide e-access.

In defining the requirements for e-access and authorizing the use of e-access for major source permits that are undergoing public notice, we are proposing to add new paragraphs to certain program rules and specifically revise other program rules that have draft permit access requirements containing language that could be read to suggest that access requirements could not be met through electronic availability of the permit materials. *See, e.g.,* 40 CFR 51.166(q)(2)(ii), 55.5(f)(1)(i). These revised rule paragraphs would expressly allow for electronic availability of permit documents.

As noted above, nothing in this proposed rule affects the requirement for an agency to maintain a record to support the decisions of the permitting actions and to make it available to the public. Furthermore, nothing in this proposed rule affects the record retention policies and requirements of governmental agencies that provide schedules for retention and disposal of paper and electronic records. Finally, the electronic posting of draft and final permits, including information supporting the permit decisions (*e.g.,* permit applications), would be subject to the applicable CBI policies and requirements of the air agency and, consequently, some permit-related documents may be redacted or otherwise withheld from viewing on a Web site or public reading room if it is determined that the document contains CBI.

We request comment on this approach to defining e-access as it applies to this proposed rule. In particular, we request comment on whether this approach and the corresponding regulatory text preclude some forms of electronic access that are currently being used or under development. Also, as noted above, we are requesting comment on an alternative proposal that does not require air agencies with EPA-approved programs to electronically post the draft permit (*i.e.,* e-access) if they choose e-notice as their consistent noticing method.

To clarify what this action is proposing for e-access, in the following section we provide a summary of the proposed rule requirements. As we provided in the preceding section on e-notice, we are also sharing what we consider to be recommended best practices for electronic access.

1. Proposed Regulatory Requirements for E-Access

In order to satisfy the requirement for electronic access, the permitting authority shall electronically post, for the duration of the public comment period, the draft permit on a public Web site identified by the permitting authority, which may include the permitting authority's public Web site, an online state permits register, or a publicly-available electronic document management Web site that allows for downloading documents. The draft permit file should be in a format that can be opened and viewed by the public using commonly accepted computer software (*e.g.,* portable document format that can be opened with Adobe Acrobat Reader). We request comment on whether our rules should require that the electronic format of the draft permit be viewable by software that is ''free'' (*i.e.,* available without charge) to the user.

The Federal Docket Management System (FDMS) at *http://www.regulations.gov* is a web-based docket system used for, among other things, federal permitting actions that require public notice and comment. This searchable docket system allows for public access and downloading of the draft permit and permit related documents. The *http://www.regulations.gov* Web site also allows the public to register to receive email alerts to track activity on selected dockets. Similar online data management systems exist in a number of states and allow agencies to provide digital access to permits and other records.

2. Recommended Best Practices for E-Access

While not proposed as a requirement of this rule, the EPA is recommending best practices that can be used to augment the above requirement for electronic access. These best practice methods are not required to satisfy the e-access provision for this proposed rule, but may be helpful in the course of providing the fullest communication to the public on permitting actions. The recommended best practices of e-access include:

- Continued posting of the draft permit on the Web site past the public comment period (*e.g.,* until issuance of the final permit or until the permit application has been denied or withdrawn).
- Posting the final permit on the Web site for a specified period of time after issuance of the permit (*e.g.,* through the permit appeal period or petition period).
- Posting (or hyperlinking to) other key permit support documents on the agency Web site or on a publicly-available online document management site (*e.g.,* FDMS), such as the permit application, Statement of Basis, fact sheet, preliminary determination, final determination, and response to comments.[15]

C. Requirements for Agencies Implementing the Federal Permit Program Rules

For programs in which the permits are issued by the EPA or by an air agency that implements the EPA's federal permitting rules (*i.e.,* 40 CFR parts 52, 55, 71 or 124), the EPA is proposing specific changes to the public notice and permit access methods. We are proposing to remove the mandatory newspaper notice requirement and mandatory access to the permit information at a physical address, and to replace these requirements with mandatory e-notice and mandatory e-access, as those terms are outlined in this rule, as the consistent noticing method for major source permits issued under the federal rules for NSR and title V, and for all EPA-issued OCS permits.[16] While each of these programs currently has specific rule provisions for noticing that may be worded differently depending on the program, we are proposing to replace the existing rule provisions with consistently worded provisions that describe the requirements for mandatory e-notice and e-access.

As noted in the above sections of this preamble, if an agency is satisfying the requirements of e-notice and e-access, the permitting authority would retain the discretion to supplement the e-notice with any other noticing method (*e.g.,* newspaper publication, announcement through social media) depending on the specific circumstances of the permit application, such as the location of the proposed project and the accessibility of

[15] While the EPA believes it is a best practice to electronically post as many of the key permit decision documents and information as possible, we recognize that air quality modeling runs and other permit data files may not be compatible with e-access. These documents typically cannot be uploaded to an electronic format due to the size and storage requirements in the electronic posting. In some cases, permitting authorities may choose to upload a description of these documents with directions on how to access the files or how to request access to them.

[16] OCS permits issued by delegated agencies should use the approved public notice requirements of the delegated agency. 40 CFR 55.11.

information sources by the affected community and other stakeholders. Moreover, the EPA recommends that agencies supplement their Web site postings with notices in newspapers and other forms of print media when noticing draft permits for facilities that are in areas where the agency believes such print media may enhance noticing efforts for certain audiences among the interested public. The EPA specifically encourages agency practices that consider the input and special needs (such as social, economic and geographic factors at the location) of the particular communities that may be affected by a permit action in order to provide public notice by methods that would better reach particular communities.[17] Thus, we are not proposing to require that the permitting agency provide additional noticing methods beyond e-notice. At the same time, nothing in the proposed rule revisions prevents the permitting agency from also providing additional notice by a method other than e-notice.

With respect to title V in particular, the rule revisions include additional changes in order to support the movement to e-notice. Currently, the title V regulations in part 71 include the use of a mailing list for public notice purposes. This proposal includes regulatory revisions to amend the EPA's solicitation obligations associated with the mailing list, but it otherwise keeps the mailing list in place. The EPA interprets its rules, and understands that many air agencies do as well, to allow for the mailing list to be maintained in an electronic format. Further, the EPA recognizes that many air agencies also maintain their part 70 mailing lists in an electronic format and that such a format is generally supported by stakeholders as well. *See, e.g.,* Clean Air Act Advisory Committee (CAAAC) Task Force Report at 202, 206–207.[18] With respect to the EPA's mailing list obligations for the federal program, we are proposing to remove the specific language within 40 CFR 71.11(d)(3)(E) and 71.27(d)(3)(E) that requires the EPA to solicit mailing list membership through ''area lists'' and ''periodic publication in the public press.''

Similar changes are proposed for 40 CFR part 124, which are ''general program requirements'' that apply to federally-issued PSD and OCS permits, as well as permits issued for other media programs. 40 CFR 52.21(q), 40 CFR 55.6(a)(3). Due to the existing language in part 124 covering a number of permit programs other than air permitting, the EPA is proposing minor revisions to part 124 in order to maintain the current provisions for the other permit programs and to specifically clarify public notice requirements associated with EPA-issued PSD permits (and PSD permits issued by any program that implements 40 CFR 52.21). In this action, we are proposing to establish a new paragraph within paragraph 124.10(c)(2) that applies exclusively to PSD permits (and OCS permits, which use the PSD provisions) with clearly identified public notice requirements that will require e-notice rather than newspaper notice. The part 124 provisions would continue to require the agency to solicit the public to be added to a mailing list and to provide specific notifications (*e.g.,* state, local governments, resource agencies). However, the proposed new provision would allow that in lieu of the existing requirement in part 124 regarding soliciting persons for ''area lists'' and notifying the public of the opportunity to be on a mailing list, the agency may use generally accepted methods (*e.g.,* hyperlink sign up function or radio button on agency Web site, sign-up sheet at public hearing) that enable interested parties to subscribe to the mailing list.

The OCS regulations specify that EPA will use the applicable administrative and procedural requirements in 40 CFR part 124 and the federal title V rules (part 71 is incorporated by reference), and that the Administrator will follow the procedures used to issue PSD permits when using 40 CFR part 124. 40 CFR 55.6(a)(3), 40 CFR 55.13(f), 40 CFR 55.14(c)(5). Hence, as e-notice flexibility is added to parts 71 and 124, it will be incorporated by reference into the OCS regulations for EPA-issued OCS permits. In addition, specific language referencing the administrative procedures of 40 CFR 71 is proposed to be added to the Administrative Procedures and Public Participation requirements provisions of the OCS regulations to clarify that EPA may use either the applicable administrative procedures of 40 CFR 71 or 40 CFR 124 when issuing OCS permits.

We note that some air programs with EPA-approved plans for implementing the PSD program incorporate by reference the federal rule provisions—*e.g.,* 40 CFR part 52.21. Furthermore, some of these program rules automatically update whenever the EPA revises its rules and the revisions become effective. These agencies would not have the option to continue with newspaper notice as their noticing method (unless they revise their rules and undertake a SIP revision to remove the referencing of the federal rules). These agencies would be required to provide e-notice and e-access according to this rule. This same scenario would apply to programs that are delegated by the EPA to implement 40 CFR 52.21 and issue PSD permits on behalf of the EPA. We specifically solicit comment on whether any air program that incorporates by reference the federal permitting rules would have difficulty meeting the e-notice and e-access requirements of this proposed rule if the revisions become effective immediately upon finalizing the rule. We also solicit suggestions for addressing such difficulties.

In addition, we are proposing to delete a superfluous provision from 40 CFR 52.21(q) ''*Public participation.''* The second sentence reads ''[t]he Administrator shall follow the procedures at 40 CFR 52.21(r) as in effect on June 19, 1979, to the extent that the procedures of 40 CFR part 124 do not apply.'' The preamble to the 1980 NSR rules explained the transition from the previous regulations to the consolidated permitting regulations at part 124: ''. . . the procedures of the 1978 Part 52 regulations continue to apply to the extent that the new procedures have not yet displaced them. In time, the new procedures will displace the old ones entirely.'' *See* 45 FR 52686, August 7, 1980. Since the procedures of 40 CFR 124 have displaced the old procedures, this sentence is no longer necessary.

We solicit comment on this ''mandatory e-notice and e-access'' approach for permit programs implemented by the EPA and by other agencies implementing the federal air permitting rules.

D. Requirements for Agencies Implementing Approved Programs Pursuant to the EPA's Permitting Rules for States

For the noticing of major source permits issued pursuant to EPA-approved air agency programs under 40 CFR part 51 or 70, we are proposing to

[17] For example, an agency may determine that a permitting action may potentially impact a community that has a large population with limited English proficiency and could decide that it is prudent to provide multilingual notices of the draft permit to reach the affected community. *See http://www.epa.gov/ocr/limited-english-proficiency* and *http://www.lep.gov/.*

[18] In 2006, a task force assembled by the EPA finalized a document titled, ''Final Report to the Clean Air Act Advisory Committee: Title V Implementation Experience.'' This document was the result of the task force's efforts to report on the implementation performance of the operating permit program under title V of the 1990 Clean Air Act Amendments, based on the first 10 years of experience. The final report to the CAAAC, dated April 2006, can be found at *http://www3.epa.gov/airquality/permits/taskforcedocs/200604_report.pdf.*

remove the mandatory newspaper notice requirement and provide these agencies with the option to select either e-notice or newspaper notice. A required element of these programs is to provide adequate notice and informed public participation, and this program element is not changing. However, a key aspect of this proposed approach is that the agency would be required to adopt one noticing method—known as the ''consistent noticing method''—to be used for all of its notices. Thus, if an agency selects e-notice, it must provide e-notice for all of its draft permit notices. If a consistent noticing approach is not adhered to (*i.e.,* if the agency posted some notices to its Web site and others in the newspaper), it could lead to confusion for the public, who may not know where to look for permitting information regarding a source proposing to locate in the community. Accordingly, if the agency elects e-notice as its consistent noticing method (and e-notice is not available in its approved SIP), it must implement its choice of noticing method through a change in its program rules. As discussed later in this preamble, we are requesting comment on whether there are air agencies that believe they can implement e-notice and e-access in lieu of newspaper notice without contravening their state rules.

As with the proposed mandatory requirements for e-notice for the federal programs, if the e-notice option is chosen as the consistent noticing method for a particular state program, the state must use e-notice to provide the information required under existing public notification regulations and must provide e-access to the draft permit. All other permit documents required under existing regulations can be accessible either electronically or physically (*i.e.,* in a designated reading room). However, if the agency chooses newspaper notice as the consistent noticing method, then the agency can either provide electronic access or physical access (or both) to the additional materials that existing regulations require be made publicly available.

We are aware that many states already have Web sites that are actively used for permitting purposes—*e.g.,* permit application instructions, form downloads, online permit applications. Consequently, we anticipate that most of these state agencies will opt for the e-notice approach, since it may mirror what they are already doing to supplement their newspaper notice. For these agencies, we believe this change would be minimally burdensome and would relieve them of the additional burden of providing newspaper notice. At the same time, we recognize that some air agencies do not have an established Web site, or they may have a Web site but they would need to invest in significant infrastructure to increase their Web site capability in order to accommodate the posting of permit information that existing regulations require be included in a newspaper notice. These agencies may opt to continue with the newspaper notice as their consistent noticing method.

With regard to part 70, the proposed revisions would affect only the mandatory newspaper language, and would not change any other obligations such as the requirement to have or maintain a mailing list. The EPA interprets the existing mailing list obligations to include either electronic or hardcopy mailing list, or both, at the reasonable discretion of the air agency.

Furthermore, nothing in these proposed revisions to parts 51 and 70 prevents the air agency from also providing public notice through other methods including, but not limited to, a newspaper notice. As with our proposal for noticing of permitting actions under the federal rules, under this proposed option, agencies would have the discretion to provide public notice through other methods—in addition to their consistent noticing method—if a particular permit action warrants it and ensure that the notice of the draft permit reaches the affected community and stakeholders. We encourage all air agencies to consider facility- and permit-specific facts in determining the appropriate methods of public notice, such as expected public interest, location and type of source being permitted, environmental justice considerations, including the language that will be understood by the affected community.

To summarize, we propose that for air agencies that implement 40 CFR part 51 or 70, for the noticing of their major source draft permits, they either provide: (1) Mandatory e-notice and e-access, as these terms are used in the context of this proposed rule, or (2) newspaper notice with either electronic access (*e.g.,* Web site) and/or physical access (*e.g.,* reading room) to the draft permit. In choosing (1) or (2), they must use a consistent method of noticing. These air agencies can continue to supplement the consistent noticing method with other noticing methods at their discretion or as currently required under part 70. We specifically request comment on this approach for EPA-approved NSR and title V permit programs to establish either ''e-notice'' or newspaper notice as the single, consistent noticing method.

As noted above, since many air agencies with EPA approved programs currently have a Web site and notice draft permits and provide permit documents on their Web sites, we do not believe that the e-notice requirement would impose any additional burden on most agencies. We are specifically seeking comment on whether (and how significantly) this rule imposes additional burden on air agencies that already provide postings of permits on their Web sites and those air agencies that do not already use a Web site for permit postings.

Finally, the EPA is requesting comment on two alternative approaches to the ones being proposed in this rule and described above, one for providing notice and the other for providing access. In the first alternative approach, an agency implementing rules pursuant to either part 51 or 70 would not be required to choose a consistent noticing method. Thus, the agency could potentially provide one noticing method for some permits (or some types of permits) and another noticing method for other permits. This approach is analogous to the ''media neutral'' approach that is available under § 51.161 for the noticing of minor NSR permits, as well as the approach adopted in the Tribal NSR Rule. *See* 40 CFR 49.157(b)(1). Neither of these other program rules requires a consistent noticing method. Thus, under such an approach for this rule, we would amend the part 51 and 70 rules that currently require ''newspaper'' notice to require use of Web site or newspaper notice, but without specifying a consistent noticing method. Alternatively, to provide additional flexibility to the agency, we could simply require that they provide notice via ''a method reasonably likely to provide routine and ready access to the public'' without imposing any more specific requirements. The EPA requests comment on whether to allow such an approach, how likely it is that this approach could lead to confusion (*e.g.,* if the permitting agency regularly or frequently changed its noticing method from one permitting action to another), and whether EPA should require the permitting agency to specify the circumstances under which it will use a particular method or articulate criteria for doing so. The EPA also requests comment on whether it is reasonable to assume that permitting authorities would try to avoid such problems because each agency is ultimately responsible to ensure that it provides adequate notice on each of its permits and access to the permit information. In

other words, does the suggested requirement for the agency to notice via ''a method reasonably likely to provide routine and ready access to the public,'' in and of itself ensure that some level of noticing consistency is achieved?

The EPA also requests comments on a second alternative approach to providing access, under which e-notice would not need to be coupled with e-access for state agency programs implementing approved rules pursuant to parts 51 and 70. This may help some states that notice permits using an online permits register (which would qualify for e-notice), but where the state may not have its own Web site to satisfy the ''e-access'' requirement of making the draft permit available electronically. As noted elsewhere in this preamble, the state would still be required to provide access to the draft permit, as well as any other documents that are part of the permit record.

E. Soliciting Comment on Allowing Temporary Use of Alternative Noticing Methods

We are requesting comments on adding a provision to each of the program rules that would allow an agency that is relying on e-notice (and/or e-access) to temporarily use another noticing medium for a reasonable period of time during which its Web site is unavailable. This may be necessary during planned Web site outages (*e.g.,* a transition to a different Web site platform) or unforeseen circumstances, such as Web site malfunctions or emergency situations (*e.g.,* hurricanes) that result in prolonged electrical system outages. We do not believe this same problem existed under the current regulations that require newspaper notice. This is based on the assumption that, in the event that a problem occurs with a newspaper that the agency plans to use, the agency can notice the permit in another newspaper in the area that it determines would provide adequate notice.

If an alternative noticing method is used, it would need to be publicly announced in some way before they occur, so that the public has reasonable notice of where to look for permit notices during such outages. It would also need to assure adequate notice to the affected public. Noticing either in the newspaper or State Register could be an agency's alternative noticing method, since each method is generally presumed to provide adequate notice to the public.

Given the broad range of situations that could lead to problems with a Web site, it may be difficult to specify the limits of the duration of the ''temporary'' period. We expect that most agencies would generally have an incentive to restore operations to their Web site as soon as possible for cost purposes and to ensure that they continue to provide the most effective notice of their permitting actions. We request comment as to whether providing specific boundaries around the use of the alternative noticing method should be required, and how those boundaries should be established and what criteria should be used to judge their adequacy. We specifically seek comment on the appropriate criteria for invoking the alternative noticing method, the length of time it could be used, and how the transition to the alternative method would be conveyed to the public.

F. Clarifying E-Notice and E-Access Applicability for Minor NSR Permits

As noted earlier in this preamble, this rule proposal is not revising any regulatory requirements for minor NSR permits. Notably, this rule proposal is not revising the requirement for ''notice by prominent advertisement'' in 40 CFR 51.161(b)(3), because the prominent advertisement term, as discussed in the EPA's 2012 Memorandum, is sufficiently broad to allow for e-notice. However, while we are reaffirming the guidance provided in the EPA's 2012 Memorandum, we are proposing to amplify its policy guidance in two respects.

This rule is proposing to clarify that the EPA's 2012 Memorandum's interpretation of ''prominent advertisement'' in paragraph 51.161(b)(3) as ''media neutral'' also applies to paragraph 51.161(b)(1). The provision currently reads: ''[a]vailability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the State or local agency's analysis of the effect on air quality.'' Thus, paragraph 51.161(b)(1) does not expressly require that permitting information be made available in the form of paper records, and we are proposing to clarify that it allow for electronic access to the permitting information. More specifically, we are proposing that allowing electronic access to the information submitted by the owner or operator and to the agency's analysis of the effect on air quality by way of a Web site identified by the permitting authority would satisfy the requirement of ''availability for public inspection in at least one location in the area affected . . .'' We believe this approach is consistent with the memorandum with respect to allowing use of electronic and other methods to provide notice of minor NSR actions, and it is reasonable for the same reasons discussed in this preamble for allowing electronic access to permit documents for major source permits. We specifically request comment on this clarification for the minor NSR program rules.

In addition, in issuing the EPA's 2012 Memorandum, the EPA indicated that our guidance on the meaning of the term ''prominent advertisement'' in 40 CFR part 51.161(b)(3) applies only to minor sources and not to synthetic minor sources. *See* Footnote 1. Given the statement in the memorandum, which raises uncertainty about the flexibility to use media neutral methods for synthetic minor programs, the EPA has now determined that it is not appropriate to exclude synthetic minor permits in this regard, and that this action should propose to clarify that the limitation established in the footnote is no longer appropriate. In this action, we are proposing to treat minor and synthetic minor sources identically in this regard by extending the EPA's media neutrality policy to synthetic minor sources. In addition, we propose to extend this policy to any permit action that relies on the public notice requirements of § 51.161.

We seek comment on these two proposed revisions to the policy guidance provided by the EPA's 2012 Memorandum. Through the preamble to the final rule for this action, we intend to provide amplifying guidance with regard to the EPA's noticing policies for permits subject to 40 CFR 51.161.

G. Notice Requirements for PSD Permit Rescissions

In addition to the existing mandatory newspaper notice required for draft permits, part 71 permits programs and COA designations, the permitting program rules contain another regulatory provision that provides for newspaper notification. In the federal PSD regulations, a provision titled ''permit rescission'' requires that ''[i]f the Administrator rescinds a permit under this paragraph, the public shall be given adequate notice of the rescission'' and that notice ''in a newspaper of general circulation in the affected region . . .'' is considered adequate. 40 CFR 52.21(w)(4). While this language does not foreclose the notion that another type of noticing method could also be ''adequate,'' we are proposing to revise the rule provision to specifically require that the permitting authority notify the public of a permit rescission electronically—*i.e.,* on a Web site identified by the permitting authority. This ''mandatory e-notice'' approach for

permit rescissions under 40 CFR 52.21(w) is consistent with our approach for the noticing of other actions that implement the federal program rules. We specifically request comment on whether this is an appropriate approach for the noticing of a permit rescission.

V. Policy Rationale and Legal Basis

This proposal to revise these CFRs to allow permitting authorities to provide public notice of permits and other actions on a publicly available Web site in lieu of the newspaper publication requirement, when final and effective, would reduce burden to all air agencies. In addition, the proposed requirements are consistent with practices some permitting agencies currently follow to supplement existing requirements for noticing permits, and they would provide flexibility for agencies to use the noticing methods that they determine are appropriate, reasonable and effective without the need for newspaper notice. These proposed changes are consistent with the approaches taken in EPA's permitting rule for Indian country and in EPA's minor NSR regulations, and with broad stakeholder input regarding more effective advertisement of permitting actions.

As noted earlier in this preamble, Internet Web sites have become an increasingly effective and widely employed avenue for broadly disseminating information to the public and many agencies currently supplement the required newspaper publication by posting draft and final permits on their agency Web sites. Since the Internet is generally available at all times, it allows for the noticing of a permit, and for the information that supports the permit, to be available and accessible over a longer period of time, rather than a one-day newspaper publication of the notice. As noted above, most states are already using the Internet (to varying degrees) for noticing permitting actions, so we do not anticipate many agencies having to spend a lot of time or funding on upgrading their existing Web sites to meet the proposed requirements. For agencies currently without a Web site for noticing permits and hearings, the use of e-notice and other applicable alternatives may allow the permitting authority to redirect funds that were being used for newspaper publication in order to establish and maintain a Web site where permit information could be posted. Thus, the EPA anticipates these proposed rule revisions, when finalized, would result in more effective dissemination of permitting and hearing information to the surrounding communities (including the underserved and environmental justice (EJ) communities) and possibly substantial cost savings for both the EPA and for state and local program permitting authorities.

We believe these proposed requirements are consistent with CAA goals of providing public notice and promoting access to information in permitting, and they would enhance the permitting process. With respect to preconstruction permit actions, CAA § 160(1) establishes a statutory policy of providing for informed public participation in the permitting process, and CAA § 165(a)(2) precludes issuing a PSD permit without an opportunity for the public to review the decision and submit comments. These proposed revisions enable the use of e-notice and e-access for both EPA-issued and other agency-issued permits and further the statutory policies these provisions establish. With respect to operating permits, the 1990 CAA Amendments require that the EPA rules for permitting programs provide ''adequate, streamlined and reasonable procedures'' including an opportunity for the general public to have informed participation in the air permitting process in the areas affected by a proposed permit. CAA § 502(b)(6). Also, § 502(b)(8) provides that procedures to make information available should be consistent with the need for expeditious action on permit applications or related matters. The proposed revisions, which enable the use of e-notice for both EPA-issued and other agency-issued permits, would improve implementation of the statutory policy of ensuring public notice of title V permits by providing more effective noticing procedures in affected areas across the country.

Another basis for, and benefit from, the proposed action would come from the cost savings associated with the move to electronic notification instead of legal notice advertisements in newspapers. The EPA's annual costs for publishing notices in newspapers is a significant annual expenditure, and it is the EPA's understanding that the newspaper publication for noticing permits has become costly for states as well. The EPA's proposal intends to reduce those costs by allowing the permitting authority to notice draft permits using a publicly available Web site in lieu of newspaper publication. While e-notice may pose a burden for certain states that do not already have a permitting Web site, the EPA is not mandating that permitting authorities that implement 40 CFR part 51 or 70 adopt the e-notice and e-access approaches, so these agencies can continue with the current program of newspaper publication if they prefer. In addition, permitting authorities that incorporate by reference the federal PSD rules at 40 CFR 52.21 that wish to continue to use newspaper notice as their primary method of notice can undertake a SIP revision to remove the reference to the federal provisions and adopt their own noticing rules that conform to § 51.166.

As an example of the approximate costs for publishing permit and hearing notices in the newspaper, in Fiscal Year 2013, the EPA Regions incurred a cost of over $40,000 to publish newspaper notices for NSR, title V and OCS permits. In Fiscal Year 2014, newspaper notice for the EPA regional permits exceeded $35,000. Newspaper publication costs vary widely depending on a number of factors, but for most permits the cost to notice averages between $600 and $1,000 per notice. While these costs vary on a yearly basis in each EPA Region, the overall annual costs are significant for the EPA. Moreover, given that state and local air agencies generally process more air permits than the EPA, it is reasonable to expect that the annual costs incurred for newspaper publication by state and local permitting agencies exceed the annual costs incurred by the EPA. (We note, however, that some air agencies require that the applicant bear the cost of newspaper publication.)

While we recognize that there is a cost associated with developing and maintaining an agency Web site for the purpose of noticing permits, the incremental cost to upload permit notices is expected to be very low, and we expect the overall burden would be less than that of the existing rules that mandate newspaper publication. This is because most agencies already have their own Web sites (or some other means to electronically notice draft permits and hearings) and they will continue to have their Web sites regardless of the requirements that are being proposed by this action. Thus, even though the costs of creating, upgrading and maintaining a Web site and providing web security may very well be many times higher than the cost of an agency's annual newspaper notice, states are choosing to continue to have a Web site due to the convenience of noticing and the ability to level out the overall costs of the Web site across all of the program areas of the agency. Furthermore, for agencies that already do web postings and posting of the draft permit, the newspaper requirement is duplicative and consequently the

removal of the requirement would result in savings. The EPA specifically seeks comments on the potential cost savings, and the possibility of increased burden, from the specific noticing requirements in this rule proposal.

A broad range of stakeholders has identified e-notice as a more efficient, more prominent, less costly and more cost-effective, and more reasonable approach to public notice of permitting actions, as compared to newspaper notice. For example, e-notice is responsive to recommendations from the CAAAC's Title V Task Force Report, which includes a number of recommendations for implementation improvements, such as public notice. Importantly, task force members agreed unanimously on two recommendations related to the means of providing public notice. First, task force members recommended that state program rules should be allowed to include alternatives to newspaper notification, provided the alternative is more effective in informing a cross section of the affected public. (A remaining concern mentioned was that members of the public may lack routine access to the Internet.) *See* Recommendation #1 at 210. Second, task force members agreed that states should improve their title V Web sites to provide better notice and access to relevant documents in a permit proceeding. Accordingly, the Final Report recommended that the EPA should encourage permitting authorities to provide the option to receive notification by email instead of traditional mail, and to maintain their Web sites with information, documents, and dates helpful for public participation, including how to sign up to be included on a mailing list. *See* Recommendation #3 at 210. While these recommendations were focused on permitting under title V, the EPA believes that the same concepts and concerns would also apply to NSR and OCS permits.

As noted in the previous sections, providing e-notice is consistent with noticing requirements of the EPA's Tribal NSR Rule issued in 2011 and with the EPA's 2012 Memorandum that clarified the term ''prominent advertisement'' is media neutral for the minor NSR program. This action also supports Executive Orders 13563 and 13610 (issued in 2011 and 2012, respectively), which direct the Agency to modernize its rules periodically in order to achieve regulatory objectives more effectively, considering the agency resources and priorities.

VI. Implementation

A. Agencies Implementing Federal Preconstruction Permit Program Rules

Once this rule becomes final, it will become effective within 30 days for air permitting programs that implement the federal program rules at 40 CFR parts 52, 55 and 124. This includes EPA Regions, air agencies that are delegated authority by the EPA to issue permits on behalf of the EPA (via a delegation agreement), and air agencies that have their own rules approved by EPA in a SIP and the SIP incorporates by reference the federal program rules and automatically updates when EPA's rules are amended. Under this rule proposal, these programs would be required to implement e-notice and e-access, with the exception of states that are delegated authority to issue permits under part 55 (as described earlier in this preamble).

While we expect that most programs that implement the federal permitting rules are in a position to comply with the proposed requirements for e-notice and e-access once this rule is finalized, some programs may need more time. More time may be necessary if, for example, a delegated air program needs to upgrade or improve its Web site to allow for e-notice and/or e-access. We request comment on whether any air programs that would be required to immediately implement 40 CFR 52.21 would need a ''phase in'' period, beyond the 30 days, in order to implement e-notice and e-access.

B. Agencies Implementing State Preconstruction Permit Program Rules

For an air agency with an approved SIP that implements 40 CFR part 51 and that chooses e-notice and e-access as its consistent noticing method, it may need to revise its applicable program rules and seek the EPA's approval of a SIP revision in order to begin to implement e-notice in lieu of newspaper notice. (However, NNSR programs under § 51.165 are subject to the public participation requirements at § 51.161 and may be able to interpret their state rules and SIP to currently allow for implementing e-notice in lieu of newspaper notice.) Similarly, for an agency that implements rules that incorporate by reference our federal program regulations (40 CFR 52), and if its rules do not automatically update upon the EPA amending its federal rules, it may need to amend its regulations and seek the EPA's approval of a SIP revision in order to implement e-notice and e-access in lieu of newspaper notice.

Under this proposed rule it is voluntary for these programs to move to e-notice and e-access, and we are not proposing to impose a deadline for submission of SIP revisions for those programs that are choosing to adopt e-notice and e-access instead of newspaper notice. Furthermore, nothing in the current or proposed 40 CFR part 51 rules prevents an agency from beginning to implement e-notice and e-access methods once the agency is ready, but depending on the air agency's rules there may be ongoing obligations to continue with newspaper notices until the agency revises its rules. We request comment on whether agencies believe they have the ability to implement e-notice and e-access in lieu of newspaper notice without amending their state rules.

C. Agencies Implementing Approved Operating Permit Programs

Consistent with title V and the part 70 regulations for initial program submittals, approved part 70 programs must provide for implementation of 40 CFR 70.7, including subsection ''h'' which sets forth the public participation obligations including ''adequate procedures for public notice.'' *See, e.g.,* 40 CFR 70.4(b)(16). A program revision may be necessary when the relevant federal regulations are modified or supplemented. 40 CFR 70.4(i). When part 70 is revised after the air agency program is approved, the EPA determines the need for conforming revisions, but the approved program may initiate a program revision on its own initiative. *See, e.g.,* 40 CFR 70.4(a) and (i). Under the proposed rulemaking, air agencies implementing part 70 have a choice as to whether or not to adopt e-notice as their consistent method of public notice of air permits. If an air agency chooses that approach and a program revision is necessary (*e.g.,* additional authority is needed), then the agency should initiate a program revision by undergoing a rule change and submitting a program revision package to the EPA for review and approval consistent with § 70.4(i)(2).

As previously noted in this preamble, this proposal would not change the requirement to provide ''adequate procedures for public notice.'' Consequently, we believe that a program revision will not necessarily be required for all approved programs and that certain agency programs could implement e-notice and e-access upon approval of the rules at the state level. We propose that, for an agency that needs only to revise the agency program rules to clarify its implementation of e-notice and e-access but does not otherwise require a program change because the current program practice

includes electronic posting of public notices and the draft permit and has adequate authority and resources for maintaining the practice, that such agency does not need a program revision for implementing the revised part 70 notice requirements. We request comment on our proposed determination that certain approved programs will not need a program revision for implementing e-notice. Alternatively, the EPA proposes that these program revisions are non-substantial. Accordingly, the EPA Regional offices would issue direct approvals of these program revisions concurrent with their notice of proposed approval. We request comment on our interpretation that the program revisions are non-substantial.

D. Agencies Delegated To Implement the Federal Operating Permit Program

With regard to the proposed part 71 program revisions, once the rules are finalized, an air agency that is delegated the part 71 program would likely need to update its delegation agreement to update its notice procedures consistent with the e-notice requirement in the federal rules.

VII. Environmental Justice Considerations

The 1990 CAA Amendments generally require that the EPA or the permitting authority provide for adequate procedural opportunity for the general public to have informed participation in the air permitting process in the areas affected by a proposed permit. These areas include EJ communities.

The effectiveness of noticing methods for reaching underserved and EJ communities is a substantial concern to the EPA. A 2011 report issued by NEJAC found that publication in the legal section of a regional newspaper is antiquated and ineffective, and is not ideal for providing notice to affected EJ communities.[19] Regarding public participation, the report recommends to the EPA: ''To ensure meaningful public participation, the public notice and outreach process must include direct communication in appropriate languages through telephone calls and mailings to EJ and tribal communities, press releases, radio announcements, electronic and regular mail, Web site postings and the posting of signs.'' Thus, the NEJAC specifically listed Web site postings as a method to ensure meaningful public participation. The EPA concludes that notice via the Internet would be a viable and effective means of making information widely available to the public. We encourage permitting authorities to provide additional notice where they determine that a specific jurisdiction or population would be better served with notice by traditional newspaper or another noticing method.

VIII. 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 the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2060–0003 (for PSD and NNSR permit programs) and 2060–0243 and 2060–0336 (for operating permit programs).

In this action, the EPA is proposing to revise regulations to address public noticing method requirements for permits for major sources of air pollution. It is important to note that the proposed rule revisions would not require air agencies that implement the permitting program through an EPA-approved title V program or SIP to use e-notice. These agencies may continue to provide notice by newspaper publication or they can adopt e-notice as their consistent noticing method. Only in the latter case would an agency be required to revise the title V program rules or undertake a SIP revision. For EPA-delegated agencies, and for agencies that incorporate by reference the federal rules and their rules automatically update when the EPA revises its rules, no rulemaking action would be required by the agency to adopt the e-notice requirements. In addition, an agency delegated a part 71 program may need to update its delegation agreement. However, if any of these agencies desire to continue to provide notice by way of newspaper publication, they could request removal of delegation, revise their program rules consistent with the rules for state programs (*e.g.,* 40 CFR 51.166), and undertake a SIP revision. An agency delegated the part 71 program may have to choose between implementing e-notice, obtaining approval for implementing a part 70 program, or relinquishing their title V program. Given that many air agencies already are providing various forms of electronic notice as a supplement to their newspaper notices, we anticipate that many agencies will cease to notice permits by way of newspaper. However, to the extent that a SIP revision or a title V program revision is necessary to effect the changes being proposed, we believe that the burden is already accounted for under the approved information collection requests noted above.

In addition, the proposed rule would not create any new requirements for regulated entities, since air agencies are responsible for the noticing of permits. Some industry sources could experience a reduction in costs for permitting in cases where the permitting agency requires that the cost of the newspaper public notice be incurred by the permit applicant.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Entities potentially affected directly by this proposal include state, local and tribal governments, and none of these governments would qualify as a small entity. Other types of small entities are not directly subject to the requirements of this action.

D. Unfunded Mandates Reform Act (URMA)

This action does not contain any unfunded federal mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

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.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Specifically, these proposed public notice revisions do not affect the relationship or distribution of

[19] ''Enhancing Environmental Justice in EPA Permitting Programs.'' National Environmental Justice Advisory Council. April, 2011, pp. 20–21, *http://www3.epa.gov/environmentaljustice/resources/publications/nejac/ej-in-permitting-report-2011.pdf.*

power and responsibilities between the federal government and Indian tribes. Elsewhere in this preamble we specifically describe the interaction of this proposed rule with tribal air agencies. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This rulemaking does not involve technical standards.

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 because it does not affect the level of protection provided to human health or the environment. The results of this evaluation are contained in Section VII of this preamble titled, ''Environmental Justice Considerations.''

IX. Statutory Authority

The statutory authority for this action is provided by 23 U.S.C. 101; 42 U.S.C. 6901, *et seq.;* 42 U.S.C. 300f, *et seq.* 33 U.S.C. 1251, *et seq.;* 42 U.S.C. 7401, *et seq.*

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control.

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

40 CFR Part 55

Environmental protection, Administrative practice and procedure, Air pollution control.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control.

40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Air pollution control.

Dated: December 21, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401—7671q.

Subpart I—Review of New Sources and Modifications

■ 2. Section 51.165 is amended by adding paragraph (i) to read as follows:

§ 51.165 Permit requirements.

* * * * *

(i) *Public participation requirements.* The reviewing authority shall notify the public of a draft permit by a method described in either paragraph (i)(1) or (2) of this section. The selected method, known as the ''consistent noticing method,'' shall comply with the public participation procedural requirements of § 51.161 of this chapter and be used for all permits issued under this section and can be supplemented by other methods on individual permits at the discretion of the reviewing authority.

(1) Post the information in paragraphs (i)(1)(i) through (iv) of this section, for the duration of the public comment period, on a public Web site(s) identified by the reviewing authority.

(i) A notice of availability of the draft permit for public comment;

(ii) The draft permit;

(iii) Information on how to access the record for the permit; and

(iv) Information on how to request and/or attend a public hearing on the permit.

(2) Publish a notice of availability of the draft permit for public comment in a newspaper of general circulation in the area where the source is located. The notice shall include information on how to access the draft permit and the record for the permit and how to request and/or attend a public hearing on the draft permit.

■ 3. Section 51.166 is amended by revising paragraphs (q)(2)(ii), (iii), (iv), (vi), and (viii) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(q) * * *

(2) * * *

(ii) Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement can be met by making these materials available at a physical location or on a public Web site identified by the reviewing authority.

(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment through a public hearing and through written public comment. Alternatively, these notifications can be made on a public Web site identified by the reviewing authority; however, the reviewing authority's selected notification method (*i.e.,* either newspaper or Web site), known as the ''consistent noticing method,'' shall be used for all permits subject to notice under this section and can be supplemented by other methods on individual permits at the discretion of the reviewing authority. If the reviewing authority selects Web site notice as its consistent noticing method, the notice shall be available for the duration of the comment period and shall include the notice of public comment, the draft permit, and information on how to access the record for the permit and how to request and/or attend a public hearing on the permit.

(iv) Distribute (*e.g.,* via email, courier mail, postal service) a copy of the notice of public comment to the applicant, the Administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: Any other State or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.

* * * * *

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The reviewing authority shall make all comments available for public inspection in the same physical location(s), or the same Web site(s), where the reviewing authority made available preconstruction information relating to the proposed source or modification.

* * * * *

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location(s) or Web site(s) where the reviewing authority made available preconstruction information and public comments relating to the proposed source or major modification.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

■ 5. Section 52.21 is amended by revising paragraphs (q) and (w)(4) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(q) Public participation. The administrator shall follow the applicable procedures of 40 CFR part 124 in processing applications under this section.

* * * * *

(w) * * *

(4) If the Administrator rescinds a permit under this paragraph, the Administrator shall post a notice of the rescission determination on a public Web site identified by the Administrator within 60 days of the rescission.

* * * * *

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

■ 6. The authority citation for the part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 7. Section 55.5 is amended by revising paragraphs (f)(1)(i) and (ii) and (f)(2) and (4) to read as follows:

§ 55.5 Corresponding onshore area designation.

* * * * *

(f) * * *

(1) * * *

(i) Make available, in at least one location in the NOA and in the area requesting COA designation, which can be a public Web site identified by the EPA, a copy of all materials submitted by the requester, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making the preliminary determination; and

(ii) Notify the public, by prominent advertisement in a newspaper of general circulation in the NOA and the area requesting COA designation or on a public Web site identified by the EPA, of a 30-day opportunity for written public comment on the available information and the Administrator's preliminary COA designation.

(2) A copy of the notice required pursuant to paragraph (f)(1)(ii) of this section shall be sent (or emailed) to the requester, the affected source, each person from whom a written request of such notice has been received, and the following officials and agencies having jurisdiction over the COA and NOA: State and local air pollution control agencies, the chief executive of the city and county, the Federal Land Manager of potentially affected Class I areas, and any Indian governing body whose lands may be affected by emissions from the OCS source.

* * * * *

(4) The Administrator will make a final COA designation within 60 days after the close of the public comment period. The Administrator will notify, in writing (which includes email), the requester and each person who has requested notice of the final action and will set forth the reasons for the determination. Such notification will be made available for public inspection.

■ 8. Section 55.6 is amended by revising paragraph (a)(3) to read as follows:

§ 55.6 Permit requirements.

(a) * * *

(3) *Administrative procedures and public participation.* The Administrator will follow the applicable procedures of 40 CFR part 71 or 40 CFR part 124 in processing applications under this part. When using 40 CFR part 124, the Administrator will follow the procedures used to issue Prevention of Significant Deterioration (''PSD'') permits.

* * * * *

■ 9. Section 55.7 is amended by revising paragraphs (f)(4)(ii) and (iii) to read as follows:

§ 55.7 Exemptions.

* * * * *

(f) * * *

(4) * * *

(ii) Make available, in at least one location in the COA and NOA, which can be a public Web site identified by the permitting authority, a copy of all materials submitted by the requester, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public, by prominent advertisement in a newspaper of general circulation in the COA and NOA or on a public Web site identified by the permitting authority, of a 30-day opportunity for written public comment on the information submitted by the owner or operator and on the preliminary determination.

* * * * *

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 10. The authority citation for the part 70 continues to read as follows:

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

■ 11. Section 70.7 is amended by revising paragraphs (h)(1) and (2) to read as follows:

§ 70.7 Permit issuance, renewal, reopenings, and revisions.

* * * * *

(h) * * *

(1) Notice shall be given by one of the following methods that is selected by the permitting authority as its ''consistent noticing method'': by publishing the notice in a newspaper of general circulation in the area where the source is located (or in a State publication designed to give general public notice) or by posting the notice, for the duration of the public comment period, on a public Web site identified

by the permitting authority. The consistent noticing method shall be used for all permits subject to notice under this paragraph. If Web site noticing is selected as the consistent noticing method, the draft permit shall also be posted, for the duration of the public comment period, on a public Web site identified by the permitting authority. In addition, notice shall be given to persons on a mailing list developed by the permitting authority, including those who request in writing (via email, Web sign up, or other method) to be on the list. The permitting authority shall use other means if necessary to assure adequate notice to the affected public.

(2) The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or Web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for otherwise publically available materials and publications) that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

* * * * *

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

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

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

Subpart A—Operating Permits

■ 13. Section 71.4 is amended by revising paragraph (g) to read as follows:

§ 71.4 Program implementation.

* * * * *

(g) *Public notice of part 71 programs.* In taking action to administer and enforce an operating permits program under this part, the Administrator will publish a notice in the **Federal Register** informing the public of such action and the effective date of any part 71 program as set forth in § 71.4(a) through (c) or (d)(1)(ii). The publication of this part in the **Federal Register** on July 1, 1996 serves as the notice for the part 71 permit programs described in § 71.4(d)(1)(i) and (e). The EPA will also publish a notice in the **Federal Register** of any delegation of a portion of the part 71 program to a State, eligible Tribe, or local agency pursuant to the provisions of § 71.10. In addition to notices published in the **Federal Register** under this paragraph (g), the Administrator will, to the extent practicable, post a notice on a public Web site identified by the Administrator of the part 71 program effectiveness or delegation, and will send a letter to the Tribal governing body for an Indian Tribe or the Governor (or his or her designee) of the affected area to provide notice of such effectiveness or delegation.

* * * * *

■ 14. Section 71.11 is amended by revising paragraphs (d)(3)(i) introductory text, (d)(3)(ii), and (d)(4)(i)(G) to read as follows:

§ 71.11 Administrative record, public participation, and administrative review.

* * * * *

(d) * * *

(3) * * *

(i) By mailing (or emailing) a copy of a notice to the following persons (any person otherwise entitled to receive notice under paragraph (d) of this section may waive his or her rights to receive notice for any permit):

* * * * *

(ii) By posting a notice on a public Web site identified by the permitting authority for the duration of the public comment period. The notice shall be consistent with paragraph (d)(4)(i) of this section and be accompanied by a copy of the draft permit.

* * * * *

(4) * * *

(i) * * *

(G) The physical location and/or Web site address of the administrative record, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant are available as part of the administrative record; and

* * * * *

Subpart B—Permits for Early Reductions Sources

■ 15. Section 71.27 is amended by revising paragraphs (d)(3)(i) introductory text, (d)(3)(ii), and (d)(4)(i)(E) to read as follows:

§ 71.27 Public participation and appeal.

* * * * *

(d) * * *

(3) * * *

(i) By mailing (or emailing) a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph (d) may waive his or her rights to receive notice for any permit):

* * * * *

(ii) By posting a notice of availability and a copy of the draft permit on a public Web site identified by the permitting authority for the duration of the public comment period.

* * * * *

(4) * * *

(i) * * *

(E) The physical location and/or Web site address of the administrative record, the times at which the record will be open for public inspection, a statement that all data submitted by the applicant are available as part of the administrative record, and the name, address, and telephone number of a person (or an email or Web site address) from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials, and all other materials available to the Administrator that are relevant to the permit decision;

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

■ 16. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* Clean Air Act, 42 U.S.C. 7401 *et seq.*

Subpart A—General Program Requirements

■ 17. Section 124.10 is amended by adding paragraph (c)(2)(iii) to read as follows:

§ 124.10 Public notice of permit actions and public comment period.

* * * * *

(c) * * *

(2) * * *

(iii) For PSD permits:

(A) In lieu of the requirement in paragraphs (c)(1)(ix)(B) and (C) of this section regarding soliciting persons for ''area lists'' and notifying the public of the opportunity to be on a mailing list, the Director may use generally accepted methods (*e.g.,* hyperlink sign up function or radio button on agency Web site, sign-up sheet at public hearing, etc.) that enable interested parties to subscribe to a mailing list. The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the

name of any person who fails to respond to such a request within a reasonable timeframe.

(B) In lieu of the requirement in paragraph (c)(2)(i) of this section to publish a notice in a daily or weekly newspaper, the Director shall notify the public by posting the following information, for the duration of the public comment period, on a public Web site identified by the Director: a notice of availability of the draft permit for public comment (or the denial of the permit application), the draft permit, information on how to access the administrative record, and information on how to request and/or attend a public hearing on the permit.

(C) In lieu of the requirement in paragraph (d)(1)(vi) of this section to specify a location of the administrative record, the Director may post the administrative record on a public Web site identified by the Director.

* * * * *

[FR Doc. 2015–32639 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 78, and 97

[EPA–HQ–OAR–2015–0500; FRL–9940–57–OAR]

RIN 2060–AS05

Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule titled ''Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS'' that was published in the **Federal Register** on December 3, 2015. The proposal provided for a public comment period ending January 19, 2016. The EPA received several requests from the public to extend this comment period. The EPA is extending the comment period to a 60-day public comment period ending February 1, 2016.

DATES: The comment period for the proposed rule published December 3, 2015, at 80 FR 75706, is extended. Comments, identified by docket identification (ID) number EPA–HQ–OAR–2015–0500, must be received on or before February 1, 2016.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the December 3, 2015 proposal.

FOR FURTHER INFORMATION CONTACT: Mr. David Risley, Clean Air Markets Division, Office of Atmospheric Programs (Mail Code 6204M), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 343–9177; email address: *Risley.David@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period for the proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (80 FR 75706, December 3, 2015) in order to ensure that the public has sufficient time to review and comment on the proposal.

List of Subjects in 40 CFR Parts 52, 78, and 97

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Incorporation by reference, Nitrogen oxides, Reporting and record keeping requirements.

Dated: December 18, 2015.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2015–32507 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 300

[Docket No. 090223227–5999–02]

RIN 0648–AX63

Trade Monitoring Procedures for Fishery Products; International Trade in Seafood; Permit Requirements for Importers and Exporters

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to revise procedures and requirements for filing import, export, and re-export documentation for certain fishery products to meet requirements for the SAFE Port Act of 2006, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), other applicable statutes, and obligations that arise from U.S. participation in regional fishery management organizations (RFMOs) and other arrangements to which the United States is a member or contracting party. Specifically, NMFS proposes to integrate the collection of trade documentation within the government-wide International Trade Data System (ITDS) and require electronic information collection through the automated portal maintained by the Department of Homeland Security, Customs and Border Protection (CBP). Under this integration, NMFS would require annually renewable International Fisheries Trade Permits (IFTP) for the import, export, and re-export of certain regulated seafood commodities that are subject to trade monitoring programs of RFMOs and/or subject to trade documentation requirements under domestic law. These trade monitoring programs enable the United States to exclude products that do not meet the criteria for admissibility to U.S. markets, including products resulting from illegal, unregulated, and unreported (IUU) fishing activities. This proposed rule would consolidate existing international trade permits for regulated seafood products under the Antarctic Marine Living Resources (AMLR) and Highly Migratory Species International Trade Permit (HMS ITP) programs and expand the scope of the permit requirement to include regulated seafood products under the Tuna Tracking and Verification Program (TTVP). This proposed rule would also stipulate data and trade documentation for the above programs which must be provided electronically to CBP and address recordkeeping requirements for these programs in light of the proposed changes. Trade documentation excludes any programmatic documents that are not required at the time of entry/export (*e.g.,* biweekly dealer reports).

DATES: Written comments must be received by February 29, 2016.

ADDRESSES: You may submit comments on this document, identified by docket NOAA-NMFS-2009-0124, 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-2009-0124,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Mark Wildman, International Fisheries Division, Office for International Affairs and Seafood Inspection, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office for International Affairs and Seafood Inspection (see **FOR FURTHER INFORMATION CONTACT**) or by email to the Office of Information and Regulatory Affairs at *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Mark Wildman, International Trade and Marine Stewardship Division, Office for International Affairs and Seafood Inspection, NOAA Fisheries (phone 301–427–8386, or email *mark.wildman@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

The Security and Accountability For Every Port Act of 2006 (SAFE Port Act, Pub. L. 109–347) requires all Federal agencies with a role in import admissibility decisions to collect information electronically through the ITDS. The Department of the Treasury has the U.S. Government lead on ITDS development and Federal agency integration. CBP developed Automated Commercial Environment (ACE) as an internet-based system for the collection and dissemination of information for ITDS. The Office of Management and Budget (OMB), through its e-government initiative, oversees Federal agency participation in ITDS, with a focus on reducing duplicate reporting across agencies and migrating paper-based reporting systems to electronic information collection.

The term ITDS refers to the integrated, government-wide project for the electronic collection, use, and dissemination of the international trade and transportation data Federal agencies need to perform their missions, while the term ACE refers to the ''single window'' system through which the trade community will submit data related to imports and exports. Detailed information on ITDS is available at: *http://www.itds.gov.*

Numerous Federal agencies are involved in the regulation of international trade and many of these agencies participate in the import, export and transportation-related decision-making process. Agencies also use trade data to monitor and report on trade activity. NMFS is a partner government agency in the ITDS project because of its role in monitoring the trade of certain fishery products. Electronic collection of seafood trade data through a single portal will result in an overall reduction of the public reporting burden and the agency's data collection costs, will improve the timeliness and accuracy of admissibility decisions, and increase the effectiveness of applicable trade restrictive measures.

Overview of Current Trade Measures and Trade Monitoring Programs

NMFS is responsible for implementation of trade measures and monitoring programs for fishery products subject to RFMO documentation requirements and/or documentation requirements under domestic laws. RFMOs are international fisheries organizations, established by treaties, to promote international cooperation to achieve effective and responsible marine stewardship and ensure sustainable fisheries management. The United States is a signatory to many RFMO treaties, and Congress has passed implementing legislation to carry out U.S. obligations under those treaties. Trade measures and monitoring programs enable the United States to exclude products that do not meet the criteria for admissibility to U.S. markets.

NMFS notes that the MSA defines ''import'' to mean ''land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing or introduction constitutes an importation within the meaning of the customs laws of the United States; but . . . does not include any activity described [above] with respect to fish caught in the exclusive economic zone or by a vessel of the United States.'' 16 U.S.C. 1802(22). This definition of ''import'' covers a broad range of activities, including but not limited to, customs entry for consumption, withdrawal from warehouse for consumption, or entry for consumption from a foreign trade zone. The following sections outline NMFS authorities for the various trade measures and trade monitoring programs that apply to fishery products.

Authorities for Trade Measures

The High Seas Driftnet Fishing Moratorium Protection Act (HSDFMPA) (16 U.S.C. 1826d–k) requires U.S. actions to address IUU fishing activity, bycatch of protected living marine resources (PLMR) and shark catch. Specifically, the HSDFMPA requires the Secretary of Commerce (Secretary) to identify in a biennial report to Congress foreign nations whose vessels engaged in IUU fishing or fishing practices that result in PLMR bycatch or shark catch on the high seas without a regulatory program comparable to that of the United States. The Secretary has established procedures to certify whether nations identified in the biennial report are taking appropriate corrective actions to address the activities for which they were identified (50 CFR 300, Subpart N). Certain fish and fish products from identified nations that do not receive positive certifications could be subject to import prohibitions under the authority provided in the High Seas Driftnet Fisheries Enforcement Act (HSDFEA) (16 U.S.C. 1826a–c).

Additionally, there are identification and/or certification procedures in other statutes, including the Pelly Amendment to the Fishermen's Protective Act (22 U.S.C. 1978) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). These procedures may result in trade restrictive measures for a country for those fishery products associated with the activity that raised concerns. Further, import prohibitions for certain fishery products could also be applied under provisions of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) and other statutes, depending on the circumstances of the fish harvest and the conservation concerns of the United States. Trade monitoring authority is also provided by the Dolphin Protection Consumer Information Act (DPCIA) (16 U.S.C. 1385) which specifies the conditions under which tuna products, eligible to be labeled dolphin-safe, may be imported into the United States.

Multilateral efforts to combat IUU fishing may also result in requirements to take trade action. The United States is a member or contracting party to several RFMOs. Many of these RFMOs have established procedures to identify nations and/or vessels whose fishing activities undermine the effectiveness of the conservation and management measures adopted by the organization. Fishery products exported by such

nations or harvested by such vessels may be subject to import or sale prohibitions specified by the RFMO as a means to address the activity of concern. In these cases, the United States is obligated to deny entry of the designated products into its markets, unless it has lodged a timely objection to the RFMO measure establishing the import or sale prohibition. Relevant RFMO statutes include the ATCA, the Antarctic Marine Living Resources Convention Act (AMLRCA) (16 U.S.C. 2431 *et seq.*), the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) (16 U.S.C. 6901 *et seq.*), and the Tuna Conventions Act (TCA) (16 U.S.C. 951 *et seq.*).

Although the proposed rule would not amend existing regulations pertaining to any of the above trade measure authorities, import filing through ACE will facilitate U.S. Government implementation of trade measures when and if imposed. ITDS will facilitate sharing of data between agencies and allow for improved targeting of suspected illegal (or embargoed) shipments.

Trade Monitoring and Documentation Programs

Pursuant to domestic statutory authorities and/or multilateral agreements, NMFS has implemented a number of monitoring programs to collect information from the seafood industry regarding the origin of certain fishery products. The purpose of these programs is to determine the admissibility of the products in accordance with the specific criteria of the trade measure or documentation requirements in effect. The three NMFS trade monitoring programs subject to this proposed rule are the HMS ITP program which regulates trade in specified commodities of tuna, swordfish, billfish, and shark fins; the AMLR trade program which regulates trade in Antarctic and Patagonian toothfish and other fishery products caught in the area where the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) applies; and the TTVP, which regulates trade in frozen and/or processed tuna products, as well as certain other fishery products under the authority of the HSDFEA (refer to 50 CFR 216.24(f)(2)(iii) for a complete list). Generally, these trade monitoring programs require anyone who intends to import, export, and/or re-export regulated species to: Obtain a permit from NMFS; obtain documentation on the flag-nation authorization for the harvest from the foreign exporter; and submit this information to NMFS. Depending on the commodity, specific information may also be required, for example the flag state of the harvesting vessel, the ocean area of catch, the fishing gear used, the harvesting vessel name, and details and authorizations related to harvest, landing, transshipment and export.

In most cases, these trade monitoring programs require the importer to submit documentation that provides catch and/or other statistical information to NMFS, while other relevant information on the inbound shipments is provided by the dealer, importer, shipper, carrier, or customs broker to CBP by electronic means. NMFS reviews and reconciles the information reported by importers with the information obtained from CBP and, where applicable, from the relevant RFMO or harvesting or exporting/re-exporting nation to determine if the admissibility requirements have been satisfied. If documentation is incomplete, fraudulent or missing, or if the shipment is not admissible given its ocean area of harvest, flag country of the harvesting vessel, harvesting vessel or the circumstances under which it was harvested, entry into U.S. commerce may be prohibited for that shipment and the shipment may be subject to forfeiture. In addition, the importer or other responsible party may be subject to enforcement action. Likewise, U.S. exporters must provide similar documentation for use by other importing nations.

As an ITDS partner government agency, access to the ACE system and ITDS data has improved NMFS' ability to evaluate trends and identify potential problems with seafood imports, including potential cases of seafood fraud (*e.g.,* tariff code misspecification) or imports lacking proper documentation. ACE has helped NMFS communicate with the seafood industry to educate importers and brokers on documentation requirements. It has also helped NMFS target enforcement resources using a risk management approach and has improved the Agency's ability to intercept illegal shipments by providing access to real time information on shipments coming into U.S. ports of entry. NMFS anticipates that efficiencies derived from ITDS integration would better enable the agency to implement potential future trade measures taken by RFMOs or under domestic statutes, as well as enhance the implementation of NMFS' three current trade monitoring and documentation programs (AMLR, HMS ITP, and TTVP). NMFS believes implementation of ITDS would result in reduced reporting burdens for the seafood industry, reduced data processing time for government, increased compliance with product admissibility requirements, faster admissibility decisions and more effective enforcement.

Under the proposed rule (50 CFR 300.320), an IFTP would be established which would consolidate existing international trade permits for regulated seafood products under the AMLR and HMS ITP programs and expand the scope of the permit requirement to include regulated seafood products under the TTVP. To obtain the IFTP, U.S. importers, exporters, and re-exporters of seafood products covered under the TTVP, AMLR, and HMS ITP programs would be required to electronically submit their application and fee for the IFTP via a Web site designated by NMFS. As explained above, currently, the TTVP, AMLR and HMS ITP regulations require submission of specific information and documentation for trade monitoring. Under this proposed rule, the IFTP holder, or his or her representative, would need to electronically provide CBP via ACE with certain data sets (*i.e.,* a subset of the information required to be submitted under the TTVP, AMLR or HMS ITP) and scanned images of documentation for each applicable trade transaction. NMFS would provide detailed information regarding submission of such data sets and documentation in a compliance guide for industry that will be prepared in advance of NMFS' implementation of a final rule. The format for the data sets would be designated for each of the three programs and specified in the following documents that would be jointly developed by NMFS and CBP and made available to entry filers by CBP (*http://www.cbp.gov/trade/ace/catair*):

- CBP and Trade Automated Interface Requirements—Appendix PGA
- CBP and Trade Automated Interface Requirements—PGA Message Set
- Automated Broker Interface (ABI) Requirements—Implementation Guide for NMFS

While this proposed rule only applies to the three programs described above, proposed § 300.320 provides that the IFTP and ACE requirements may be incorporated by reference in other regulations pertaining to documentation and reporting of imports and/or exports.

Because NMFS will have access to the ITDS, importers, exporters, re-exporters and/or their customs agents would no longer be required to provide NMFS with paper copies of trade documentation. However, they would still need to maintain, and make

available for inspection, electronic or paper versions of said records at their place of business for a period of two years after the transaction. Biweekly dealer reports, or other documents not required for import/export admissibility decisions, will not be affected by this proposed rule and will continue to be submitted to NMFS as paper copies. Currently, a trade permit is not required for trade of TTVP fishery commodities. Under this proposed rule, however, those who trade in TTVP fishery commodities would need to obtain an IFTP and individuals or business entities trading in fishery commodities covered by the current HMS ITP and AMLR trade programs would need to obtain an IFTP rather than the program-specific permits required currently. The IFTP would authorize import, export and re-export of fishery commodities covered by the TTVP, AMLR or HMS ITP programs, provided that the permit holder complies with the specific requirements of each program. The amount of the fee charged for the IFTP would be calculated, at least annually, in accordance with procedures of the NOAA Finance Handbook (*http://www.corporateservices.noaa.gov/finance/Finance%20Handbook.html*) for determining the costs for administering the IFTP program; the fee would not exceed such costs.

Alternatives Considered

When deliberating how best to implement ITDS, NMFS also considered several alternatives to the proposed action described above. Under the first alternative, rather than require entry filers to submit scanned images of documentation and a limited data set, such filers would be required to enter all data elements necessary for the authentication and authorization of each shipment into the CBP's automated ACE system. Although this alternative would not require the submission of scanned images of documentation for two of the three trade monitoring programs (scanned images would still be required for the TTVP), it would require entry filers to provide most of the data contained in such documentation at the time of import or export rather than providing a data set limited to only those elements absolutely necessary to determine admissibility. NMFS considers this alternative to be too burdensome for entry filers in terms of the additional time that would be required to enter such data into ACE.

A second alternative would involve the submission of a limited electronic data set with no scanned documentation provided electronically. In this scenario, NMFS would require entry filers to submit a limited message set into ACE, but entry filers would also need to separately provide NMFS with any additional documentation and data necessary for NMFS to complete dolphin-safe tuna verification at the time of, or in advance of, importation and periodic reports for RFMOs. This alternative is not preferred as it would create an unnecessary burden on both NMFS and the trade since it would require entry filers to both complete ACE entry procedures and also submit admissibility documents to NMFS outside of ACE, the ITDS single window.

A third alternative would be for NMFS to require an electronic data set consisting solely of the international fisheries trade permit number with scanned documentation provided electronically via ITDS. This alternative would not be preferred as it would place a significant burden on NMFS to manually convert scanned document images to data sets so that NMFS could make decisions regarding product admissibility. Such an approach would require considerable NMFS staff time and would inevitably create burdens on industry as such an alternative would result in post-release seizures or re-delivery orders to the trade for products later determined by NMFS to be inadmissible.

A fourth alternative would be to implement the IFTP requirement for the HMS ITP and AMLR trade program but not for the TTVP which currently has no permit requirement. The rationale for instituting the IFTP for the TTVP is to identify the business entities that are engaged in the trade activities subject to monitoring, for the purposes of informing them of requirements and any changes thereto. Lack of education/notification could increase noncompliance, resulting in delayed release, seizures or other enforcement actions, and/or blocked shipments when requirements are not met at the border. In addition, not requiring an IFTP for the TTVP participants, would preclude the imposition of permit sanctions in the event of serious infractions of reporting or recordkeeping requirements in the TTVP. For all the above-stated reasons, this alternative is not preferred.

Amendments to AMLR Regulations

As a Member of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the United States is obligated to implement conservation measures adopted by CCAMLR, unless the United States objects, pursuant to Article IX of the CCAMLR Convention. NMFS has implemented CCAMLR-adopted conservation measures in 50 CFR part 300, subpart G. Under these regulations, a person that intends to import or re-export AMLR must obtain a dealer permit. To integrate the collection of information on the trade of AMLR within the ITDS, NMFS proposes to revise the AMLR regulations to require a dealer importing or exporting AMLR to possess a valid IFTP issued under the proposed § 300.322 discussed below. These proposed revisions to 50 CFR part 300 subpart G would replace the AMLR dealer permit procedures with a reference to the proposed IFTP procedures (see below). Where appropriate, the term ''AMLR dealer permit'' and references to that permit would be replaced with ''IFTP.'' Section 300.114(k) of the AMLR regulations regarding registered agents would be removed because § 300.322 provides for the designation of resident agents who would be authorized to act on behalf of foreign entities.

Amendments to HMS ITP Regulations

NMFS established permitting, reporting, and recordkeeping regulations to implement various RFMO trade monitoring programs under the HMS ITP program in 50 CFR part 300 subpart M. As noted above, a person trading in fishery commodities covered by the current HMS ITP program would need to obtain the newly established IFTP and the program-specific HMS ITP permit will be retired. Submission of consignment documents such as the International Commission for the Conservation of Atlantic Tuna (ICCAT) bluefin tuna catch document would be through ACE and the CBP Document Imaging System (DIS). Using the ACE system rather than submitting hardcopy documents to NMFS would result in reduced reporting burdens for the seafood industry and reduced data processing time for the government as documents would be submitted only once, to CBP, instead of to both CBP and NMFS.

Amendments to TTVP

As noted above, a person trading in fishery commodities covered under the TTVP would need to obtain an IFTP. Such a trade permit is currently not a requirement under the TTVP. NMFS believes the benefits and efficiencies resulting from ITDS implementation and establishing a single consolidated IFTP covering all three of the NMFS trade monitoring programs would greatly exceed the fee charged to cover administrative costs associated with NMFS issuance of the IFTP.

In addition, under current regulations at 50 CFR 216.24(f)(3)(ii), TTVP

importers are able to submit documents electronically in Portable Document Format (PDF) using a secure file transfer protocol site. This proposed rule would eliminate that document submission option in favor of document submission through the ACE system. Such a change would result in reduced reporting burdens for the seafood industry and reduced data processing time for the government as documents would be submitted only once, to CBP, instead of to both CBP and the TTVP. The proposed rule would also allow for a reduced data set to be filed via ACE in certain circumstances. The reduced data set is limited to importations by domestic canners and to processors other than canners that label any tuna product dolphin-safe, and which are required to submit the monthly reports required under 50 CFR 216.93(d)(2) or (e) to the TTVP. The reduced data set pertains to importations of: 1) frozen cooked tuna loins used in cannery operations and 2) tuna products in airtight containers manufactured in American Samoa and imported into the United States or Puerto Rico that originated from the tuna receipts listed on those monthly reports. The reduced data set is intended to prevent duplicative reporting for the companies that import the tuna products described above and that already submit required information to the TTVP via the monthly reports.

This proposed rule also makes minor edits to the regulatory text in order to update an internet Web site address, harmonize regulatory text in part 216, Subpart H, Dolphin Safe Tuna Labeling, with the regulatory text being revised as part of ITDS implementation in 50 CFR 216.24(f), and allow importers to submit documentation to the ACE system at the time of, or in advance of, importation. Revisions to the tables in § 216.24(f)(2)(i) through (iii) have been made to reflect the latest updates to harmonized tariff codes.

Relationship to Presidential Task Force on Combatting Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud

This current rulemaking does not propose measures to implement recommendations 14 and 15 (seafood traceability) of the Presidential Task Force on Combatting Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud (Task Force). There will be a separate opportunity for public comment on the proposed regulations pertaining to these Task Force recommendations.

Classification

This proposed rule is published under the authority of AMLRCA of 1984, 16 U.S.C. 2431 *et seq.;* ATCA of 1975, 16 U.S.C. 971 *et seq.;* TCA of 1950, 16 U.S.C. 951–961; MSA, 16 U.S.C. 1801 *et seq.;* MMPA of 1972, 16 U.S.C. 1361–1407; DPCIA, 16 U.S.C. 1385; HSDFMPA, 16 U.S.C. 1826d–k; and HSDFEA, 16 U.S.C. 1826a–c. Other relevant authorities include the Pelly Amendment to the Fishermen's Protective Act, 22 U.S.C. 1978, and the Lacey Act, 16 U.S.C. 3371.

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the provisions of these and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866. NMFS has prepared a regulatory impact review of this action, which is available from NMFS (see **ADDRESSES**). This analysis describes the economic impact this proposed action, if adopted, would have on the United States. NMFS invites the public to comment on this proposal and the supporting analysis.

Regulatory Flexibility Act

An initial regulatory flexibility analysis was not prepared because this proposed rule is not expected to have a significant economic impact on U.S. small entities. Thus, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have any significant economic impact on a substantial number of small entities.

The regulatory action being considered, and its legal basis, is described in detail earlier in the preamble. Although a new IFTP is proposed to be established for the import, export or re-export of regulated products under the AMLR, HMS ITP and TTVP programs, this new permit generally represents a consolidation of information contained in existing permits and should actually result in fewer reporting or recordkeeping requirements. Data sets to be entered electronically to determine product admissibility are already required to be submitted in paper form under the respective trade programs. Thus, NMFS anticipates that U.S. entities would not be significantly affected by this action because it generally does not pose new or additional burdens with regard to the collection and submission of information necessary to determine product admissibility.

With regard to the possible economic effects of this action, per the response to Question 13 of the supporting statement prepared for the Paperwork Reduction Act analysis (available from *www.reginfo.gov/public/do/PRAMain*), NMFS estimates there will be 751 applicants for the new IFTP with an estimated net increase in annual costs of $16,255 for obtaining those permits, based on the combined number of permit holders and respondents under NMFS' existing trade monitoring programs. Although NMFS does not have access to data about the business sizes of importers and receivers that would be impacted by this proposed rule, it is likely that the majority may be classified as small entities. However, when overall total new burdens for the three requirements proposed under this rule (IFTP, data set submission, and admissibility document(s) submission) are compared to current burdens, the new consolidated burdens are estimated to result in an overall net burden *decrease* of 4,225 hours and $63,650. A no-action alternative, where NMFS would not promulgate the proposed rule, was not considered as all applicable U.S. government agencies are required to implement ITDS under the authority of section 405 of the SAFE Port Act and Executive Order 13659 on Streamlining the Export/Import Process, dated February 19, 2014.

The proposed action would not affect the volume of seafood trade or alter trade flows in the U.S. market. Although the proposed rule would require traders under the TTVP to obtain an IFTP, which they are not currently required to do, NMFS expects that the consolidated IFTP would have no impact on, or would actually reduce, the overall administrative burden on the public; those parties currently required to obtain two separate permits under the AMLR and HMS ITP programs would be required to obtain only one consolidated permit under this proposed rule.

The consolidated permitting and electronic reporting program proposed by this rulemaking would not have significant adverse or long-term economic impacts on small U.S. entities. This proposed rule has also been determined not to duplicate, overlap, or conflict with any other Federal rules. Thus, the requirements and prohibitions in the proposed rule would not have a significant economic impact on a substantial number of small entities. Consequently, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. When overall total new burdens for the three requirements proposed under this rule (IFTP, data set submission, and admissibility document(s) submission) are compared to current burdens, the new burdens are estimated to result in an overall net burden decrease of 4,225 hours and $63,650.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Office for International Affairs and Seafood Inspection at the **FOR FURTHER INFORMATION CONTACT** above, or to the Office of Information and Regulatory Affairs by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 216

Administrative practice and procedure, Exports, Marine mammals, Reporting and recordkeeping requirements.

50 CFR Part 300

Exports, Fisheries, Fishing, Fishing vessels, Foreign relations, Illegal, unreported or unregulated fishing, Imports, International trade permits, Treaties.

Dated: December 23, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 216 and 300 are proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. In § 216.24, revise introductory paragraph (f)(2); (f)(2)(i)(A) and (D); (f)(2)(ii)(A) and (D); (f)(2)(iii)(A) through (C); introductory paragraph (f)(3); and (f)(3)(i) through (iii) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations by tuna purse seine vessels in the eastern tropical Pacific Ocean.

* * * * *

(f) * * *

(2) *Imports requiring a Fisheries Certificate of Origin and an International Fisheries Trade Permit.* Shipments of tuna, tuna products, and certain other fish products identified in paragraphs (f)(2)(i) through (iii) of this section may not be imported into the United States unless: a scanned copy of a properly completed Fisheries Certificate of Origin (FCO), NOAA Form 370, associated certifications and statements described in § 216.91(a), and required data set are filed electronically with U.S. Customs and Border Protection (CBP) at the time of, or in advance of, importation as required under § 300.322; and the importer of record designated on the entry summary (Customs Form 7501) holds a valid International Fisheries Trade Permit as specified at § 300.322 of this title. ''Required data set'' has the same meaning as § 300.321 of this title (*see* definition of ''Documentation and data sets required'').

(i) * * *

(A) *Frozen:* (products containing Yellowfin).

0303.42.0020 Yellowfin tunas, whole, frozen
0303.42.0040 Yellowfin tunas, head-on, frozen, except whole
0303.42.0060 Yellowfin tunas, other, frozen, except whole, head-on, fillets, livers and roes
0304.87.0000 Tuna fish fillets, frozen, not elsewhere specified or indicated (NESOI)
0304.99.1190 Tuna, frozen, in bulk or in immediate containers weighing with their contents over 6.8 kg each

* * * * *

(D) *Other:* (products containing Yellowfin).

0511.91.0090 Fish, shellfish products unfit for human consumption
1604.20.1000 Fish pastes
1604.20.1500 Fish balls, cakes and puddings, in oil
1604.20.2000 Fish balls, cakes and puddings, not in oil, less than 6.8 kg, in airtight containers
1604.20.2500 Fish balls, cakes and puddings, not in oil, not in airtight containers, in immediate containers weighing with their contents not over 6.8 kg each
1604.20.3000 Fish balls, cakes and puddings, NESOI
1604.20.4000 Fish sticks, not cooked, nor in oil
1604.20.5010 Fish sticks, cooked and frozen
1604.20.5090 Fish sticks, NESOI
2309.10.0010 Dog or cat food, in airtight containers

(ii) * * *

(A) *Frozen:* (other than Yellowfin).

0303.41.0000 Albacore or longfinned tunas, frozen, except fillets, livers and roes
0303.43.0000 Skipjack tunas or stripe-bellied bonito, frozen, except fillets, livers and roes
0303.44.0000 Bigeye tunas, frozen, except fillets, livers and roes
0303.45.0110 Atlantic Bluefin, frozen, except fillets, livers and roes
0303.45.0150 Pacific Bluefin, frozen, except fillets, livers and roes
0303.46.0000 Southern bluefin tunas, frozen, except fillets, livers and roes
0303.49.0200 Tunas, frozen, except fillets, livers and roes, NESOI
0304.87.0000 Tuna fish fillets, frozen, NESOI
0304.99.1190 Tuna, frozen, in bulk or in immediate containers weighing with their contents over 6.8 kg each, NESOI

* * * * *

(D) *Other:* (only if the product contains tuna).

0511.91.0090 Fish, shellfish products unfit for human consumption
1604.20.1000 Fish pastes
1604.20.1500 Fish balls, cakes and puddings, in oil
1604.20.2000 Fish balls, cakes and puddings, not in oil, less than 6.8 kg, in airtight containers
1604.20.2500 Fish balls, cakes and puddings, not in oil, not in airtight containers, in immediate containers weighing with their contents not over 6.8 kg each
1604.20.3000 Fish balls, cakes and puddings, NESOI
1604.20.4000 Fish sticks, not cooked, nor in oil
1604.20.5010 Fish sticks, cooked and frozen
1604.20.5090 Fish sticks, NESOI
2309.10.0010 Dog or cat food, in airtight containers

(iii) * * *

(A) *Frozen:*

0303.11.0000 Sockeye (red) salmon (*Oncorhynchus nerka*), frozen, except fillets, livers and roes
0303.12.0012 Chinook (King) salmon (*Oncorhynchus tschawytscha*), frozen, except fillets, livers and roes
0303.12.0022 Chum (dog) salmon (*Oncorhynchus keta*), frozen, except fillets, livers and roes
0303.12.0032 Pink (humpie) salmon (*Oncorhynchus gorbuscha*), frozen, except fillets, livers and roes
0303.12.0052 Coho (silver) salmon (*Oncorhynchus kisutch*), frozen, except fillets, livers and roes
0303.12.0062 Pacific salmon (*Oncorhynchus masou, Oncorhynchus rhodurus*), frozen, except fillets, livers and roes, NESOI
0303.13.0000 Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*), frozen, except fillets, livers and roes
0303.14.0000 Trout (*Salmo trutta; Oncorhynchus mykiss, clarki, aguabonita, gilae, apache,* and *chrysogaster*), frozen, except fillets, livers and roes
0303.19.0100 Salmonidae, frozen, except fillets, livers and roes, NESOI
0303.57.0010 Swordfish steaks, frozen, except fillets
0303.57.0090 Swordfish, frozen, except steaks, fillets, livers and roes
0303.81.0010 Dogfish (*Squalus* spp.), frozen, except fillets, livers and roes
0303.81.0090 Sharks, frozen, except dogfish, fillets, livers and roes
0303.89.0079 Fish, other, frozen, except fillets, livers and roes, NESOI
0304.81.5010 Atlantic Salmonidae (*Salmo salar*) fillets, frozen, NESOI
0304.81.5090 Salmonidae fillets, frozen, except Atlantic salmon, NESOI
0304.89.1090 Fish fillets, skinned, frozen blocks weighing over 4.5 kg each, to be minced, ground or cut into pieces of uniform weights and dimensions, NESOI
0304.91.1000 Swordfish, frozen, in bulk or in immediate containers weighing over 6.8 kg each
0304.91.9000 Swordfish, frozen, NESOI
0304.99.9191 Fish fillets, ocean, frozen, NESOI
0307.49.0010 Squid fillets, frozen
0307.49.0022 Squid, *Loligo opalescens,* NESOI
0307.49.0024 Squid, *Loligo pealei,* NESOI
0307.49.0029 Squid, *Loligo,* other, NESOI
0307.49.0050 Squid, other, NESOI

(B) *Canned:*

1604.11.2020 Pink (humpie) salmon, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.2030 Sockeye (red) salmon, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.2090 Salmon NESOI, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.4010 Chum (dog) salmon, not in oil, canned
1604.11.4020 Pink (humpie) salmon, not in oil, canned
1604.11.4030 Sockeye (red) salmon, not in oil, canned
1604.11.4040 Salmon, NESOI, not in oil, canned
1604.11.4050 Salmon, whole or in pieces, but not minced, NESOI
1604.19.2100 Fish, NESOI, not in oil, in airtight containers
1604.19.3100 Fish, NESOI, in oil, in airtight containers
1605.54.6020 Squid, *Loligo,* prepared or preserved
1605.54.6030 Squid, except *Loligo,* prepared or preserved

(C) *Other:*

0305.39.6080 Fish fillets, dried, salted or in brine, but not smoked, NESOI
0305.41.0000 Pacific salmon (*Oncorhynchus* spp.), Atlantic salmon (*Salmo salar*), and Danube salmon (*Hucho hucho*), including fillets, smoked
0305.49.4041 Fish including fillets, smoked, NESOI
0305.59.0000 Fish, dried, whether or not salted but not smoked, NESOI
0305.69.4000 Salmon, salted but not dried or smoked; in brine
0305.69.5001 Fish in immediate containers weighing with their contents 6.8 kg or less each, salted but not dried or smoked; in brine, NESOI
0305.69.6001 Fish, salted but not dried or smoked; in brine, NESOI
0305.71.0000 Shark fins, dried, whether or not salted but not smoked
0305.49.0010 Squid, frozen, fillets
0307.49.0022 Squid, *Loligo opalescens,* frozen (except fillets), dried, salted or in brine
0307.49.0024 Squid, *Loligo pealei,* frozen (except fillets), dried, salted or in brine
0307.49.0029 Squid, *Loligo,* frozen (except fillets), dried, salted or in brine, NESOI
0307.49.0050 Squid, other, frozen (except fillets), dried, salted or in brine, except Loligo squid
0307.49.0060 Cuttle fish (*Sepia officinalis, Rossia macrosoma, Sepiola* spp.), frozen, dried, salted or in brine

(3) *Disposition of Fisheries Certificates of Origin.* The FCO described in paragraph (f)(4) of this section may be obtained from the Administrator, West Coast Region, or downloaded from the Internet at *http://www.nmfs.noaa.gov/pr/dolphinsafe/noaa370.htm.*

(i) A properly completed FCO, and its attached certifications and statements as described in § 216.91(a), must accompany the required CBP entry documents that are filed at the time of, or in advance of, importation.

(ii) FCOs and associated certifications and statements as described in § 216.91(a) must be provided electronically to CBP as indicated in paragraph (f)(2) of this section.

(iii) FCOs that accompany imported shipments of tuna destined for further processing in the United States must be endorsed at each change in ownership and submitted to the Administrator, West Coast Region, by the last endorser when all required endorsements are completed. Such FCOs must be submitted as specified in § 216.93(d)(2).

* * * * *

■ 3. In § 216.93, revise paragraphs (f) and (g)(2) to read as follows:

§ 216.93 Tracking and verification program.

* * * * *

(f) *Tracking imports.* All tuna products, except fresh tuna, that are imported into the United States must be accompanied as described in § 216.24(f)(3) by a properly certified FCO as required by § 216.24(f)(2). For tuna tracking purposes, copies of FCOs and associated certifications and statements must be submitted by the importer of record to U.S. Customs and Border Protection as described in and required by § 216.24(f)(2).

(g) * * *

(2) *Record submission.* At the time of, or in advance of, importation of a shipment of tuna or tuna products, any exporter, transshipper, importer, processor, or wholesaler/distributor of tuna or tuna products must submit all corresponding FCOs and required certifications and statements for those tuna or tuna products as required by § 216.24(f)(2).

* * * * *

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 4. The authority citation for 50 CFR part 300 continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.;* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 5501 *et seq.;* 16 U.S.C. 2431 *et seq.;* 31 U.S.C. 9701 *et seq.*

■ 5. In § 300.4:
■ a. Revise paragraph (o);
■ b. Redesignate paragraphs (p) and (q) as (q) and (r); and
■ c. Add a new paragraph (p).

The revision and addition read as follows:

§ 300.4 General prohibitions.

* * * * *

(o) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish imported, exported or re-exported in violation of this part.

(p) Import, export, or re-export any fish regulated under this part without a valid International Fisheries Trade Permit or applicable shipment documentation.

* * * * *

■ 6. In § 300.107, revise paragraph (b) introductory text, and paragraphs (b)(1), (b)(3), (c)(6)(i)(A)(*5*), and (c)(7)(i)(A)(*4*) to read as follows:

§ 300.107 Reporting and recordkeeping requirements.

* * * * *

(b) *Dealers.* Dealers of AMLR required under § 300.114 to have an International Fisheries Trade Permit (IFTP) issued under § 300.322 must:

(1) Accurately maintain all reports and records required by their IFTP and this subpart;

* * * * *

(3) Within the time specified in the IFTP requirements, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(c) * * *

(6) * * *

(i) * * *

(A) * * *

(*5*) The dealer/exporter's name, address, and IFTP number; and

* * * * *

(7) * * *

(i) * * *

(A) * * *

(*4*) The dealer/exporter's name, address, and IFTP permit number;

* * * * *

■ 7. In § 300.114:

■ a. Revise paragraphs (a)(1), (a)(2), (a)(4), (b), (d), (e), (f), (g)(1), (g)(2), (h), and (j); and

■ b. Remove paragraph (k).

The revisions read as follows:

§ 300.114 Dealer permits and preapproval.

(a) * * *

(1) A dealer importing, or re-exporting AMLR, or a person exporting AMLR, must possess a valid IFTP issued under § 300.322 and file required data sets electronically with CBP at the time of, or in advance of importation or exportation. ''Required data set: has the same meaning as § 300.321 (*see* definition of ''Documentation and data sets required. See § 300.322 for IFTP application procedures and permit regulations. The IFTP holder may only conduct those specific activities stipulated by the IFTP. Preapproval from NMFS is required for each shipment of frozen *Dissostichus* species.

(2) An AMLR may be imported into the United States if its harvest has been authorized by a U.S.-issued individual permit or its importation has been authorized by an IFTP and, in the case of frozen *Dissostichus* species, preapproval issued under § 300.114(a)(1). AMLRs may not be released for entry into the United States unless accompanied by the harvesting permit, the individual permit, or IFTP and, in the case of frozen *Dissostichus* species, the preapproval certification granted by NMFS to allow import. NMFS will only accept electronic catch documents for toothfish imports.

* * * * *

(4) An IFTP or preapproval issued under this section does not authorize the harvest or transshipment of any AMLR by or to a vessel of the United States.

(b) *Application.* Application forms for preapproval are available from NMFS. With the exception of the U.S. Customs 7501 entry number, a complete and accurate application must be received by NMFS for each preapproval at least 15 working days before the anticipated date of the first receipt, importation, or re-export. Dealers must supply the U.S. Customs 7501 entry number at least three working days prior to a Dissostichus species shipment's arrival.

* * * * *

(d) *Issuance.* NMFS may issue a preapproval if it determines that the activity proposed by the dealer meets the requirements of the Act and that the resources were not or will not be harvested in violation of any CCAMLR conservation measure in force with respect to the United States or in violation of any regulation in this subpart. No preapproval will be issued for Dissostichusspecies without verifiable documentation, to include VMS reports with vessel location and messages, of the use of real-time C–VMS port-to-port by the vessel that harvested such Dissostichus species, except for Dissostichus species harvested during fishing trips that began prior to September 24, 2007.

(e) *Duration.* A preapproval is valid until the product is imported. Each export or re-export document created by NOAA in the CDS is valid only for that particular shipment.

(f) *Transfer.* A preapproval issued under this section is not transferable or assignable.

(g) * * * (1) *Pending applications.* Applicants for preapproval under this section must report in writing to NMFS any change in the information submitted in preapproval applications. The processing period for the application may be extended as necessary to review and consider the change.

(2) *Issued preapprovals.* Any entity issued a preapproval under this section must report in writing to NMFS any changes in previously submitted information. Any changes that would result in a change in the receipt or importation authorized by the preapproval, such as harvesting vessel or country of origin, type and quantity of the resource to be received or imported, and Convention statistical subarea from which the resource was harvested, must be proposed in writing to NMFS and may not be undertaken unless authorized by NMFS through issuance of a revised or new preapproval.

(h) *Revision, suspension, or revocation.* A preapproval issued under this section may be revised, suspended, or revoked, based upon a violation of the IFTP, the Act, or this subpart. Failure to report a change in the information contained in a preapproval application voids the application or preapproval. Title 15 CFR part 904 governs sanctions under this subpart.

* * * * *

(j) *SVDCD.* Preapprovals will not be issued for *Dissostichus* spp. offered for sale or other disposition under a Specially Validated DCD.

* * * * *

■ 8. In § 300.117, revise paragraphs (b) and (r), and add paragraph (ii) to read as follows:

§ 300.117 Prohibitions.

* * * * *

(b) Import into, or export or re-export from, the United States any AMLRs without applicable catch documentation as required by § 300.107(c), without an IFTP as required by § 300.114 (a)(1), or in violation of the terms and conditions for such import, export or re-export as specified on the IFTP.

* * * * *

(r) Without a valid first receiver permit issued under this subpart, receive AMLRs from a vessel or receive AMLRs from a vessel without a valid harvesting permit issued under this subpart.

* * * * *

(ii) Import into, or export or re-export from, the United States any AMLRs harvest by a vessel of the United States

without a valid harvesting permit issued under this subpart.

* * * * *

■ 9. In § 300.181:

■ a. Add a definition for ''Automated Commercial Environment (ACE)'' in alphabetical order;

■ b. Revise the definition for ''CBP'';

■ c. Add a definition for ''International Fisheries Trade Permit (IFTP) or trade permit'' in alphabetical order;

■ d. Revise the definition for ''Permit holder''; and

■ e. Add a definition for ''Required data set'', in alphabetical order.

The additions and revisions read as follows:

§ 300.181 Definitions.

* * * * *

Automated Commercial Environment (ACE) has the same meaning as that term is defined in § 300.321 of this part.

* * * * *

CBP means U.S. Customs and Border Protection, Department of Homeland Security.

* * * * *

International Fisheries Trade Permit (IFTP) or trade permit means the permit issued by NMFS under § 300.322.

* * * * *

Permit holder, for purposes of this subpart, means, unless otherwise specified, a person who is required to obtain an International Fisheries Trade Permit (IFTP) under § 300.322.

* * * * *

Required data set has the same meaning as § 300.321 (see definition of ''Documentation and data sets required'').

* * * * *

■ 10. Section 300.182 is revised to read as follows:

§ 300.182 International Fisheries Trade Permit.

An importer, entering for consumption fish or fish products regulated under this subpart from any ocean area into the United States, or an exporter exporting or re-exporting such product, must possess a valid International Fisheries Trade Permit (IFTP) issued under § 300.322.

■ 11. In § 300.183, revise introductory paragraph (a), and paragraphs (a)(3), (b), (c), (d) and (e) to read as follows:

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person trading fish and fish products regulated under this subpart and required to obtain a trade permit under § 300.322 must submit to NMFS, on forms supplied by NMFS, a biweekly report of entries for consumption, exports and re-exports of fish and fish products regulated under this subpart except shark fins.

* * * * *

(3) A biweekly report is not required for export consignments of bluefin tuna when the information required on the biweekly report has been previously supplied on a biweekly report submitted under § 635.5(b)(2)(i)(B) of this title. The person required to obtain a trade permit under § 300.322 must retain, at his/her principal place of business, a copy of the biweekly report which includes the required information and is submitted under § 635.5(b)(2)(i)(B) of this title, for a period of 2 years from the date on which each report was submitted to NMFS.

(b) Recordkeeping. Any person trading fish and fish products regulated under this subpart and required to submit biweekly reports under paragraph (a) of this section must retain, at his/her principal place of business, a copy of each biweekly report and all supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) Other requirements and recordkeeping requirements. Any person trading fish and fish products regulated under this subpart and required to obtain a trade permit under § 300.322 is also subject to the reporting and recordkeeping requirements identified in § 300.185.

(d) Inspection. Any person authorized to carry out the enforcement activities under the regulations in this subpart (authorized person) has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports, statistical documents, catch documents, re-export certificates, relevant sales receipts, import and export documentation, and any other records or reports made, retained, or submitted pursuant to this subpart. A permit holder must allow NMFS or an authorized person to inspect any fish or fish products regulated under this subpart, and inspect and copy any import export, and re-export documentation and any reports required under this subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person trading and required to obtain a trade permit under § 300.322, or anyone responsible for importing, exporting, re-exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

(e) Applicability of reporting and recordkeeping requirements. Reporting and recordkeeping requirements in this subpart apply to any person engaging in trading regardless of whether a trade permit has been issued to that person.

■ 12. In § 300.185:

■ a. Revise paragraph (a)(2);

■ b. Remove paragraphs (a)(3) and (b)(3); and

■ c. Revise paragraphs (b)(2), (c)(2)(i) and (ii), and (c)(3) to read as follows:

§ 300.185 Documentation, reporting and recordkeeping requirements for consignment documents and re-export certificates.

(a) * * *

(2) *Documentation and consignment document reporting requirements.* (i) All fish or fish products except for shark fins, regulated under this subpart, imported into the Customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (*e.g.,* electronic filing via ACE or other documentation required by the port director) be accompanied by an original, complete, accurate, valid, approved and properly validated, species-specific consignment document. An image of such document and the required data set must be filed electronically with CBP via ACE.

(ii) *Bluefin tuna.* (A) Imports which were re-exported from another nation, must also be accompanied by an original, complete, accurate, valid, approved, and properly validated, species-specific re-export certificate. An image of such document, an image of the original import document, and the required data set must be filed electronically with CBP via ACE.

(B) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BCD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BCD tag issued by that country, and said BCD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BCD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna portions are subsequently packaged for domestic commercial use or re-export, the BCD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(iii) *Fish or fish products regulated under this subpart other than bluefin*

tuna and shark fins. (A) Imports that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, complete, accurate, valid, approved and properly validated species-specific re-export certificate. An image of such document, an image of the original import document, and the required data set must be filed electronically with CBP via ACE.

(B) All other imports that have been previously re-exported from another nation, should have the intermediate importers certification of the original statistical document completed.

(iv) Consignment documents must be validated as specified in § 300.187 by a responsible government official of the flag country whose vessel caught the fish (regardless of where the fish are first landed). Re-export certificates must be validated by a responsible government official of the re-exporting country.

(v) A permit holder may not accept an import without the completed consignment document or re-export certificate as described in paragraphs (a)(2)(i) through (a)(2)(iv) of this section.

(vi) For fish or fish products, except shark fins, regulated under this subpart that are entered for consumption, the permit holder must provide correct and complete information, as requested by NMFS, on the original consignment document that accompanied the consignment.

(b) * * *

(2) *Documentation and reporting requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section, and electronically file an image of such documentation and the required data set with CBP via ACE. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export consignment. A permit holder must provide on the consignment document the correct information and exporter certification. The consignment document must be validated, as specified in § 300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to avoid delays in inspection and validation of the export consignment. A permit holder must ensure that the original, approved, consignment document accompanies the export of such products to their export destination.

(c) * * *

(2) *Documentation and filing requirements.* (i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each such re-export consignment. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific re-export consignment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification. The permit holder must also attach the original consignment document that accompanied the import consignment or a copy of that document, and must note on the top of both the consignment documents and the re-export certificates the entry number assigned by CBP authorities at the time of filing the entry summary. An electronic image of these documents and the required data set must be filed electronically with CBP via ACE at the time of export.

(ii) If a consignment of fish or fish products regulated under this subpart, except bluefin tuna or shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section is not subdivided into sub-consignments or consolidated, for each re-export consignment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation. An electronic image of the statistical document with the completed intermediate importer's certification and the required data set must be filed electronically with CBP via ACE at the time of re-export.

* * * * *

(3) *Reporting requirements.* For each re-export, a permit holder must submit the original of the completed re-export certificate (if applicable) and the original or a copy of the original consignment document completed as specified under paragraph (c)(2) of this section, to accompany the consignment of such products to their re-export destination. For re-exports of untagged Atlantic bluefin tuna, the permit holder must email, fax, or mail a copy of the completed consignment document and re-export certificate to the ICCAT Secretariat and the importing nation, at addresses designated by NMFS, to be received by the ICCAT Secretariat and the importing nation, within five days of export.

* * * * *

■ 13. In § 300.189, revise paragraphs (a), (b), (c), (m) and (n) to read as follows:

§ 300.189 Prohibitions.

* * * * *

(a) Falsify information required on an application for a permit submitted under § 300.322.

(b) Import as an entry for consumption, purchase, receive for export, export, or re-export any fish or fish product regulated under this subpart without a valid trade permit issued under § 300.322.

(c) Fail to possess, and make available for inspection, a trade permit at the permit holder's place of business, or alter any such permit as specified in § 300.322.

* * * * *

(m) Fail to electronically file via ACE a validated consignment document and the required data set for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to § 300.322 or whether the fish products are imported as an entry for consumption.

(n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, complete, accurate, approved, valid and properly validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

■ 14. Under part 300, add subpart R to read as follows:

Subpart R—International Trade Documentation and Tracking Programs.

Sec.

300.320 Purpose and scope.
300.321 Definitions.
300.322 International Fisheries Trade Permit.
300.323 Reporting requirements.
300.324 Prohibitions.

§ 300.320 Purpose and scope.

The regulations in this subpart are issued under the authority of the Atlantic Tunas Convention Act of 1975 (ATCA), the Magnuson-Stevens Fishery Conservation and Management Act, the Tuna Conventions Act of 1950, and the Antarctic Marine Living Resources Convention Act of 1984. These regulations implement the applicable recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the conservation and management of tuna and tuna-like species in the Atlantic Ocean, the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the eastern Pacific Ocean, and the Commission for the Conservation of Antarctic Marine Living Resources so far as they affect vessels and persons subject to the jurisdiction of the United States. These regulations are also issued under the Marine Mammal Protection Act of 1972, the Dolphin Protection Consumer Information Act and the Security and Accountability For Every Port Act of 2006. The requirements in this subpart may be incorporated by reference in other regulations under this title.

§ 300.321 Definitions.

AMLR trade program means the program for monitoring trade in Antarctic marine living resources including, inter alia, Dissostichus species as set forth in subpart G of this part.

Automated Commercial Environment (ACE) means, for purposes of this subpart, the Internet accessible system through which the trade community reports imports and exports and through which the government determines admissibility through use of both user generated and automated transactional functions. ACE is maintained by Customs and Border Protection (CBP), Department of Homeland Security (DHS), for the collection and dissemination of trade data.

Catch and Statistical Document/ Documentation means a document or documentation accompanying regulated seafood imports, exports and re-exports that is submitted by importers and exporters to document compliance with TTVP, AMLR, and HMS ITP trade documentation programs as described in § 216.24(f) of this title, and subparts G and M of this part.

Documentation and data sets required under this subpart refers to documentation and data that must be submitted by an importer or exporter at the time of, or in advance of, the import, export or re-export of fish or fish products as required under this subpart, the AMLR trade program, the HMS ITP, or the TTVP. ACE will specify the required data sets to be submitted for specific programs and transactions.

Fish or fish products regulated under this subpart means species and products containing species regulated under this subpart, the AMLR trade program, the HMS ITP, or the TTVP.

HMS ITP means the Highly Migratory Species International Trade Program which includes trade monitoring and/or reporting and consignment documentation for trade of bluefin tuna, southern bluefin tuna, frozen bigeye tuna, swordfish, and shark fins as described in subpart M of this part.

Import has the same meaning as 16 U.S.C. 1802(22). Import includes, but is not limited to, customs entry for consumption, withdrawal from warehouse for consumption, or entry for consumption from a foreign trade zone.

International Fisheries Trade Permit (or IFTP) means the permit issued by NMFS under § 300.222.

TTVP means the Tuna Tracking and Verification Program, which regulates trade in certain fishery products as set forth in § 216.24(f)(2) of this title.

§ 300.322 International Fisheries Trade Permit.

(a) *General.* Any person, which includes a resident agent for a nonresident corporation (see 19 CFR 141.18), who imports into the United States (for consumption or non-consumption), exports, or re-exports fish or fish products regulated under this subpart from any ocean area, must possess a valid International Fisheries Trade Permit (IFTP) issued under this section. Fish or fish products regulated under this subpart may not be imported into, or exported or re-exported from, the United States unless the IFTP holder files electronically the documentation and the data sets required under this subpart with U.S. Customs and Border Protection (CBP) via ACE at the time of, or in advance of, importation, exportation or re-exportation. If authorized under other regulations under this title or other applicable laws and regulations, a representative or agent of the IFTP holder may make the electronic filings.

(b) *Application.* A person must apply for an IFTP electronically via a Web site designated by NMFS. The application must be submitted electronically with the required permit fee payment, at least 30 days before the date upon which the applicant wishes the permit to be made effective.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, NMFS will issue an IFTP within 30 days of receipt of a completed application. NMFS will notify the applicant of any deficiency in the application, including failure to provide information, documentation or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* An IFTP issued under this section is valid for a period of one year from the permit effective date.

(e) *Alteration.* Any IFTP that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* NMFS may issue replacement permits. An application for a replacement permit is not considered a new application. An appropriate fee, consistent with paragraph (j) of this section, may be charged for issuance of a replacement permit.

(g) *Transfer.* An IFTP issued under this section is not transferable or assignable; it is valid only for the permit holder to whom it is issued.

(h) *Inspection.* The permit holder must keep the IFTP issued under this section at his/her principal place of business. The IFTP must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by NMFS for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* NMFS will charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must be submitted via a Web site designated by NMFS at the time of application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the permit holder must report the change to NMFS via a Web site designated by NMFS. If a change in permit information is not reported

within 30 days, the permit is void as of the 30th day after such change.

(l) *Renewal.* Persons must apply annually for an IFTP issued under this section. A renewal application must be submitted via a Web site designated by NMFS, at least 15 days before the permit expiration date to avoid a lapse in permitted status. NMFS will renew a permit provided that: the application for the requested permit renewal is complete; all documentation and reports required under this subpart and: the Magnuson-Stevens Act, Atlantic Tuna Conventions Act, the Tuna Conventions Act, the Marine Mammal Protection Act, the Dolphin Consumer Protection Information Act, and the Antarctic Marine Living Resources Act have been submitted, including those required under §§ 216.24, 216.93, 300.114, 300.183, 300.185, 300.186, 300.187 and 635.5 of this title; and the applicant is not subject to a permit sanction or denial under paragraph (i) of this section.

§ 300.323 Reporting requirements.

A person importing for consumption or non-consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area must file all reports and documentation required under the AMLR trade program, HMS ITP, and TTVP, and under other regulations that incorporate by reference the requirements of this subpart.

§ 300.324 Prohibitions.

In addition to the prohibitions specified in §§ 300.4, 300.117, 300.189, 600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) violate any provision of this subpart, or any IFTP issued under this subpart,

(b) Import fish or fish products regulated under this subpart without a valid IFTP or without submitting complete and accurate information.

[FR Doc. 2015–32743 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.:150904827–5827–01]

RIN 0648–BF36

Fisheries of the Exclusive Economic Zone Off of Alaska; Observer Coverage Requirements for Small Catcher/Processors in the Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement Amendment 112 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 102 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and revise regulations for observer coverage requirements for certain small catcher/processors in the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Management Area (BSAI). If approved, this proposed rule would modify the criteria for NMFS to place small catcher/processors in the partial observer coverage category under the North Pacific Groundfish and Halibut Observer Program (Observer Program). Under this proposed rule, the owner of a non-trawl catcher/processor could choose to be in the partial observer coverage category, on an annual basis, if the vessel processed less than 79,000 lb (35.8 mt) of groundfish on an average weekly basis in a particular prior year, as specified in this proposed rule. This proposed rule would not alter observer coverage requirements for a catcher/processor using trawl gear or for a catcher/processor when participating in a catch share program; these catcher/processors would continue to be required to be in the full observer coverage category. This proposed rule would provide a relatively limited exception to the general requirement that all catcher/processors are in the full observer coverage category, and maintain the full observer coverage requirement for all trawl catcher/processors and catcher/processors participating in a catch share program that requires full coverage. The net impact of this proposed rule on the information available for fisheries management is expected to be small due, in part, to the small amount of fishing activity that would be impacted. This proposed rule is intended to promote the goals of the BSAI and GOA FMPs, and to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0114, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0114*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address), 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 Amendment 112 to the BSAI FMP and Amendment 102 to the GOA FMP, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis), and the Categorical Exclusion prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address; by email to *OIRA_Submission@omb.eop.gov*; or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries of the GOA under the GOA FMP. NMFS manages the groundfish fisheries of the BSAI under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the GOA FMP and the BSAI FMP pursuant to the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). Regulations implementing the GOA FMP and BSAI FMP appear at 50 CFR part 679.

The Council submitted Amendment 112 to the BSAI FMP and Amendment 102 to the GOA FMP (collectively referred to as Amendment 112/102) for review by the Secretary of Commerce, and a notice of availability of Amendment 112/102 was published in the **Federal Register** on February 29, 2016, with comments invited through February 29, 2016. Comments may address Amendment 112/102 or this proposed rule, but must be received by February 29, 2016 to be considered in the approval/disapproval decision on Amendment 112/102. All comments received by that time, whether specifically directed to Amendment 112/102, or to this proposed rule, will be considered in the approval/disapproval decision on Amendment 112/102.

Background

This proposed rule would modify the criteria used by NMFS to place small catcher/processors in the partial observer coverage category in the Observer Program. Under this proposed rule, the owners of non-trawl catcher/processors could choose to be in the partial observer coverage category for the upcoming fishing year if their vessels processed less than 79,000 lb (35.8 mt) of groundfish on an average weekly basis in a particular prior year, as specified in this rule. This proposed rule does not alter observer coverage requirements for a catcher/processor using trawl gear or for a catcher/processor when participating in a catch share program; these catcher/processors would continue to be required to be in the full observer coverage category. The terms ''production'' and ''processing'' are used synonymously in this proposed rule. The following sections describe: (1) The Observer Program, (2) the Need for the Proposed Action, (3) the Rationale for Major Provisions of the Proposed Rule, and (4) the Proposed Rule.

The Observer Program

Regulations implementing the Observer Program allow NMFS-certified observers (observers) to obtain information necessary for the conservation and management of the BSAI and GOA groundfish and halibut fisheries. Observers collect biological samples and fishery-dependent information on total catch and fishing vessel interactions with protected species. Managers use data collected by observers to monitor quotas, manage groundfish catch and bycatch, and document and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

The Observer Program was implemented in 1990 (55 FR 4839, February 12, 1990). In 2012, NMFS restructured the funding and deployment systems of the Observer Program (77 FR 70062, November 21, 2012). Since implementation of the restructured Observer Program in 2013, vessels, shoreside processors and stationary floating processors participating in the groundfish and halibut fisheries off of Alaska are placed in one of two observer coverage categories: (1) Partial observer coverage category, or (2) full observer coverage category.

An observer must be on board a vessel in the full observer coverage category any time the vessel is harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as specified at § 679.51(a)(2)(i). In the full observer coverage category, vessel operators obtain observers by contracting directly with observer providers. Operators of vessels in the full observer coverage category pay the observer provider for each day the observer is on board the vessel, including days that the vessel is travelling to or from the fishing grounds but not fishing.

NMFS deploys observers on vessels in the partial observer coverage category according to a statistical sample design based on an annual deployment plan developed in consultation with the Council. Vessels in the partial observer coverage category are required to carry observers on fishing trips selected at random per the statistical sample design. Instead of paying for each day an observer is on board, NMFS assesses a fee equal to 1.25 percent of the ex-vessel value of the retained groundfish and halibut landed by vessels in the partial observer coverage category. NMFS uses these fees to establish a Federal contract with an observer service provider to deploy observers in the partial observer coverage category. Under this structure, observer coverage funding is based on the number of days a vessel operates (full observer coverage category) or on the ex-vessel value of a vessel's retained catch regardless of the amount of time the vessel is covered by an observer (partial observer coverage category).

Before the Observer Program was restructured, most catcher/processors were required to have one or two observers on board at all times to generate vessel-specific estimates of retained and discarded catch needed to manage catch share programs. Observer coverage requirements on catcher/processors that were not in a catch share program were based on vessel length and gear type and included coverage levels equal to zero or no coverage, 30 percent of fishing trips, and 100 percent of fishing trips or full observer coverage. To monitor catch on unobserved catcher/processors, NMFS used the vessel-reported processed weight to estimate retained catch and data from observed vessels to estimate at-sea discards, including PSC, for each vessel. Under the restructured Observer Program, almost all catcher/processors were assigned to the full observer coverage category to obtain independent estimates of catch, at-sea discards, and PSC to reduce the potential for introducing error into NMFS' catch accounting system (as described in the proposed rule: 77 FR 23326, April 18, 2012).

The restructured Observer Program provided three limited exceptions for catcher/processors to be placed in the partial observer coverage category. The restructured Observer Program provided these exceptions in recognition that the cost of full observer coverage would be disproportionate to total revenues for some small catcher/processors.

First, the restructured Observer Program provided an exception (specified at the current § 679.51(a)(2)(v)) that applies to a hybrid vessel less than 60 feet length overall (LOA) that acted as both a catcher vessel and a catcher/processor in the same year in any year from 2003 through 2009. This exception to the full coverage requirement applies only if the vessel owner elected to participate in the partial observer coverage category at least 30 days prior to the vessel's first trip logged under Observer Declare and Deploy System (ODDS). ODDS is the system for assigning observers to trips by vessels in the partial observer coverage category (§ 679.51(a)(1)(ii)). All but two of the vessels that were eligible

for this exception elected to participate in the partial coverage category.

Second, the restructured Observer Program provided an exception from full coverage (specified at the current § 679.5(a)(2)(v)) if a catcher/processor had an average daily production of less than 5,000 lb (2.3 mt) round weight equivalent in its most recent full calendar year of operation from 2003 through 2009. This exception applied only if the owner of a catcher/processor made a one-time election to be placed in the partial observer coverage category before the catcher/processor's first fishing trip logged under ODDS. All but one of the vessels that were eligible for this exception elected to be placed in the partial observer coverage category.

Third, the restructured Observer Program provided an exception from full coverage (specified at § 679.5(a)(2)(iv)(B)) if a catcher/processor did not process more than one metric ton round weight of groundfish on any day in the immediately preceding year. This exception is based on the catcher/processor's production in any year after implementation of the restructured Observer Program (*i.e.*, in any year after 2012). Under this exception, a catcher/processor is placed in the partial observer coverage category for one year based on its production in the prior year, and this exception ends the year after the year in which the catcher/processor processes more than one metric ton on any day of the year.

The first two exceptions are based on a vessel's activity between 2003 and 2009. A vessel that started processing after 2009 could never qualify to be placed in the partial observer coverage category under either of these exceptions. Also, the first two exceptions permanently placed a vessel in the partial observer coverage category. These exceptions have no provision to review the production of a catcher/processor placed in the partial observer coverage category on an ongoing basis and remove them from the partial observer coverage category if their production increases. Out of approximately seventy catcher/processors in the Observer Program, three catcher/processors have qualified for, and elected to be assigned permanently to, the partial observer coverage category under these two exceptions (Section 2.1.1 and Table 2 of the Analysis).

The third exception, the one metric ton exception, is theoretically open to any catcher/processor that began production after 2009. However, in reviewing production data from 2008 through 2014 for this action, NMFS found no active catcher/processor (*i.e.*, a catcher/processor which did any processing in a year) that processed one metric ton or less on every day during a year (Section 2.1.1 of the Analysis).

Need for the Proposed Action

Beginning with comments on the proposed rule for the restructured Observer Program, industry participants asked that the final rule for the restructured Observer Program allow NMFS to place catcher/processors with limited production in the partial observer coverage category. In response to these comments, NMFS stated in the final rule for the restructured Observer Program (77 FR 70062, November 21, 2012) that neither the Council nor NMFS had analyzed the situation of small catcher/processors that began production after 2009. NMFS explained that if these industry participants wished to be considered for placement in the partial observer coverage category, the Council and NMFS would need to make these changes through a separate rulemaking process.

Members of industry subsequently sought a change in the rules for placement of catcher/processors in the partial observer coverage category. Members of industry stated that the cost of full observer coverage for vessels that began processing, or wished to begin processing, relatively small amounts of groundfish after 2009, was disproportionate to the revenues they could receive. The Council and NMFS reviewed and developed a series of analyses that resulted in this proposed action. The history of this action is described in detail in Section 1.2 of the Analysis.

Data on past production identified a small number of catcher/processors that processed a small amount of groundfish relative to the rest of the fleet. The Council and NMFS concluded that these vessels were paying, or would pay, a disproportionate amount for full observer coverage relative to the amount these vessels had processed, or would be likely to process. The Council and NMFS concluded that the cost of full observer coverage might be discouraging beneficial activity, such as processing sablefish in remote fishing grounds in the Aleutian Islands or processing by small jig gear vessels.

The Council and NMFS concluded that the placement of catcher/processors in the partial observer coverage category should not be a closed category but should be open to all catcher/processors based on an ongoing measure of their groundfish production in a year, except for catcher/processors where information needs compel full observer coverage regardless of the amount of production. Specifically, this proposed rule would not revise observer coverage requirements for trawl catcher/processors or catcher/processors while they are participating in a catch share program (Section 2.4.1 of the Analysis), even when these catcher/processors meet the production requirement.

The objectives for this proposed rule are to (1) refine the balance between observer data quality from the fishery and cost of observer coverage to catcher/processors with limited groundfish production relative to the rest of the catcher/processor fleet by allowing those catcher/processors with limited production to be placed in the partial observer coverage category based on contemporary groundfish production amounts; and (2) implement this exception without altering the full observer coverage requirements for all trawl catcher/processors and catcher/processors in a catch share program.

Rationale for Major Provisions of the Proposed Rule

This discussion relies on the description provided in Section 2 of the Analysis.

1. The Production Threshold for Placement in the Partial Observer Coverage Category

This proposed rule would establish a production threshold for placement in the partial observer coverage category of average weekly groundfish production of 79,000 lb (35.8 mt) or less in a standard basis year or an alternate basis year (as defined below). The Council and NMFS considered five possible measures of groundfish production that could be used to establish the eligibility for catcher/processors to be assigned to the partial observer coverage category: Average daily production; average weekly production; maximum daily production; maximum weekly production; and overall annual production. For each measure of groundfish production, the Council and NMFS examined a range of production amounts and analyzed the effects of those alternatives.

The Council and NMFS selected a weekly production measure because it would include catcher/processors that engage in intense bursts of processing activity during a year but may not process throughout the whole year. A weekly reporting period is the standard measure of production for a trip by a catcher/processor under the current regulation (see definition of ''Fishing trip'' in § 679.2). Using an average weekly production measure is less sensitive to variations in processing activity that can occur by using an

average daily production measure. Additionally, unlike a maximum measure, an average measure of production does not unduly weight a single day or week of high production (Section 2.2.1 and Section 4.9 of the Analysis).

The Council and NMFS considered a range of average weekly production measures as a threshold for partial coverage. The Council and NMFS considered a lower average weekly production threshold of 42,000 lb (19.1 mt) and a higher average weekly production threshold of 79,000 lb (35.8 mt). The three catcher/processors that are currently eligible for placement in the partial observer coverage category would still be eligible under the higher production threshold considered, and would generally be eligible for placement in the partial observer coverage category at the lower production threshold (see Table 7, Section 3.7.2 of the Analysis). The Council and NMFS selected the higher production standard to ensure that catcher/processors that are currently eligible for placement in the partial observer coverage category would continue to be eligible if these vessels maintain their current levels of production.

The Council and NMFS concluded that this production threshold would maintain a limited exception to the general requirement that catcher/processors are in the full observer coverage category. Based on historical production data, approximately 3 percent of non-trawl catcher/processors have production that would allow them to be eligible for placement in the partial observer coverage category under this proposed rule. Based on historical production data, this would represent less than 1 percent of the aggregate groundfish production in the GOA and the BSAI. The Council does not anticipate that this action would impair data quality because the overwhelming amount of groundfish production would remain subject to full observer coverage (Section 3.6.7 of the Analysis). NMFS expects that up to 11 vessels would be eligible for placement in the partial observer coverage category based on estimated production data of all catcher/processors (Table 17 in Section 3.7.12 of the Analysis). The catcher/processors eligible for partial coverage under this proposed rule are engaged primarily in the hook-and-line and Pacific cod and sablefish fisheries (see Section 3.7.12 of the Analysis).

2. The Basis Year for Placing a Catcher/Processor in the Partial Observer Coverage Category

The Council and NMFS realize that it would be impossible for NMFS to place a catcher/processor in the partial observer coverage category for a fishing year beginning January 1 based on data from the fishing year that had just ended on December 31 (*i.e.*, the fishing year minus one year) because there is not adequate time to compile and assess all of the production data relative to the production thresholds. Therefore, this proposed rule would establish the fishing year minus two years as the standard basis year for determining whether a catcher/processor was eligible for placement in the partial observer coverage category, as it is the most recent year for which NMFS would have full production data. As an example, NMFS would assess production data from 2015 to determine if a catcher/processor would be eligible for partial coverage in the fishing year that begins on January 1, 2017, (*i.e.*, the fishing year minus two years).

If a catcher/processor had no production in the standard basis year, (*i.e.*, two years before the current fishing year), but that catcher/processor had production before the standard basis year, the Council and NMFS recommended using the vessel's most recent year of production, but not earlier than 2009 (referred to as the alternate basis year) (Section 2.4 of the Analysis). For example, if this proposed rule was effective for the fishing year beginning January 1, 2017, and the most recent fishing year prior to 2015 a catcher/processor had production was 2011, the production from 2011 would be used to assess whether that catcher/processor met the threshold production amount to be eligible for placement in the partial observer coverage category. This proposed rule would not consider production data prior to 2009 because that is the first year that NMFS collected daily production reports (73 FR 76139), permitting calculation of average daily production (see Appendix D of the Analysis).

3. A Catcher/Processor With No History of Production

The Council and NMFS also considered the initial type of observer coverage (*i.e.*, full or partial) that should apply to a catcher/processor with no production in either the standard basis year or an alternate basis year, *e.g.*, a new catcher/processor. Three options were considered: placing the catcher/processor in the full observer coverage category in its first year of operation; placing the catcher/processor in the partial observer coverage category in its first year of operation; or placing any trawl catcher/processors in the full observer coverage category until it had production history and placing any non-trawl catcher/processors in the partial observer coverage category.

The Council and NMFS recommended placing any new non-trawl catcher/processor without production history in the partial coverage category in its first year of operation. The Council and NMFS selected this option after analyzing the potential impact on data quality and costs of assigning new non-trawl catcher/processors to both the full or partial observer coverage categories. The Council and NMFS realize that the costs of full observer coverage could prevent some non-trawl catcher/processors from starting processing, particularly processing of sablefish in remote fishing grounds in the Aleutian Islands, and processing of Pacific cod by catcher/processors using jig gear. If non-trawl catcher/processors had to operate for their first two years in the full observer coverage category, it might defeat one of the objectives of this action, namely encouraging beneficial activity that is being prevented by the cost of full observer coverage.

The Council and NMFS decided to exclude all trawl catcher/processors, regardless of their amount of production, from eligibility to participate in the partial observer coverage category. The unchanged observer requirements for trawl catcher/processors and catcher/processors that participate in a catch share program section of this preamble provides additional detail on trawl catcher/processor observer coverage requirements. Section 3.7.4 of the Analysis contains additional detail on the rationale for placing catcher/processors with no production in their appropriate observer coverage categories.

4. Owner Choice by an Annual Deadline

The Council and NMFS considered whether the owner of an eligible catcher/processor should have the option to be placed in the partial observer coverage category for the upcoming fishing year, or if NMFS would automatically place the qualifying vessel in the partial observer coverage category for the upcoming fishing year based on production data without any action by the vessel owner. The Council and NMFS decided that providing the vessel owner with the option to remain in the full observer coverage category best met the purposes

of this action. Therefore, under this proposed rule, the owner of a qualifying vessel could choose to be placed in the partial observer coverage category by an annual deadline. If the owner of a qualifying vessel does not select to be placed in the partial observer coverage category by the annual deadline, that catcher/processor would be placed in the full observer coverage category for the upcoming fishing year. This annual selection process would be a new requirement for the three catcher/processors that are currently permanently placed in the partial observer coverage category.

This proposed rule would establish two deadlines for a vessel owner to choose placement in the partial observer coverage category. First, NMFS anticipated that this proposed rule could be approved, be published, and become effective in spring of 2016. To achieve the benefits of this proposed rule in a timely manner, NMFS would establish a deadline in 2016 for a vessel owner of an eligible catcher/processor to request placement in the partial observer coverage category within 15 days after the effective date of the final rule, if approved. The effective date of the final rule would be 30 days after its publication in the **Federal Register**. This deadline would provide a vessel owner 45 days to consider and submit a timely request for placement in the partial coverage category after the date of publication of the final rule. This deadline would require this request to be submitted in as timely a manner as practicable after the effective date of the final rule (*i.e.*, within 15 days).

This proposed rule would also establish a deadline applicable for the 2017 fishing year, and for all future fishing years. In the Analysis, NMFS stated that a July 1 deadline for choosing to be placed in the partial observer coverage would give vessel owners adequate time to choose partial observer coverage and would give NMFS adequate time to incorporate that information into its development of the Observer Program annual deployment plan for the upcoming fishing year (Section 2.2.4 of the Analysis). For the 2017 fishing year, a vessel owner would have to request placement in the partial observer coverage category by July 1, 2016.

5. Unchanged Observer Requirements for Trawl Catcher/Processors and Catcher/Processors That Participate in a Catch Share Program

While it is possible that a vessel may meet the production threshold to request to be in the partial observer coverage category, this proposed rule does not alter existing observer coverage requirements for a catcher/processor using trawl gear or a catcher/processor when participating in a catch share program; these catcher/processors would continue to be required to be in the full observer coverage category. The rationale for each is described below.

During the development of this proposed rule, the Council and NMFS consistently stated that this proposed rule would not supersede any requirements for full observer coverage when a catcher/processor is participating in a catch share program (Section 2.4 of the Analysis). The requirements for full, or greater than full, coverage in these programs show a special need for verified individual accounting of catch by the catcher/processors in these programs.

Therefore, the proposed rule would not provide exceptions for a catcher/processor subject to additional observer requirements specified in § 679.51(a)(2)(vi) to be placed in the partial observer coverage category. The existing additional observer requirements would continue to apply to catcher/processors participating in the following catch share programs: Community Development Quota (CDQ) Program (except catcher/processors sablefish CDQ fishing); American Fisheries Act; Aleutian Islands directed pollock fishery; Amendment 80 trawl catcher/processors in the BSAI non-pollock fisheries; catcher/processors in the Central GOA Rockfish Program; and the longline catcher/processor subsector. Section 2.2 of the Analysis describes each of these catch share programs and the catcher/processors fishing under those programs in greater detail.

Trawl catcher/processors, regardless of production level, would continue to be placed in the full observer coverage category. Trawl catcher/processors are subject to multiple bycatch, or prohibited species catch (PSC), limits for salmon, halibut, crab and herring (see § 679.21(d)(3), (e)(1), (f)(2), (h)(2), and (i)(3)). Therefore, NMFS has identified a heightened need for data from these vessels best achieved under full observer coverage. In addition, Section 2.4.1 of the Analysis states that most trawl catcher/processors are currently operating under the provisions of either the Amendment 80 or American Fisheries Act catch share programs and would be ineligible for placement in the partial observer coverage category because of the requirements for additional observer coverage under those catch share programs. Finally, NMFS analyzed production data from trawl catcher/processors relative to the 79,000 lb (35.8 mt) average weekly production threshold. No active trawl catcher/processors met this threshold to be eligible for placement in the partial observer coverage category during the years analyzed (2009 through 2014). Given these factors, and even if a trawl catcher/processor met the production requirement in the future, this proposed rule would not alter the existing requirements that a catcher/processor using trawl gear would continue to be required to be in the full observer coverage category.

The Proposed Rule

The proposed rule would revise regulations at 50 CFR part 679 to modify the criteria for NMFS to place small catcher/processors in the partial observer coverage category in the Observer Program. The primary provision of the proposed rule is to establish a new paragraph in § 679.51, namely § 679.51(a)(3), ''Catcher/processor placement in the partial observer coverage category for a year.''

At § 679.51(a)(3)(i), this proposed rule would define the following terms for purposes of the new § 679.51(a)(3): A ''fishing year'' as the year during which a catcher/processor might be placed in the partial observer coverage category; the ''standard basis year'' as the fishing year minus two years; and the ''alternate basis year'' as the most recent year before the standard basis year in which a catcher/processor had any groundfish production but not earlier than 2009.

The proposed rule at § 679.51(a)(3)(i) also defines a vessel's ''average weekly groundfish production,'' as the annual groundfish round weight production estimate for a catcher/processor, divided by the number of separate weeks during which production occurred, as determined by production reports, but excluding any groundfish that was caught with trawl gear. Thus, if a vessel has groundfish production any day in a week, excluding trawl production, that would be considered as a week of production.

The proposed rule would specify at § 679.51(a)(3)(ii) the annual deadline for requesting placement in the partial observer coverage category as 15 days after the effective date of the final rule in 2016, and July 1 of the year before the year that the vessel owner would like to be placed in the partial observer coverage category, for 2017 and all future years. NMFS will make a determination within 30 days of receipt of the request for placement in the partial observer coverage category.

The proposed rule would specify at § 679.51(a)(3)(iii) the requirements for

NMFS to place a catcher/processor in the partial observer coverage category, namely if the vessel owner requests placement by the annual deadline specified and the vessel meets the production threshold of 79,000 lb (35.8 mt) of average weekly groundfish production (excluding groundfish caught with trawl gear).

To determine eligibility for placement in the partial observer coverage category, NMFS will first examine the catcher/processor's production in the standard basis year, namely two years before the fishing year. If a catcher/processor produced at or below the production threshold (79,000 lb (35.8 mt) average weekly groundfish production) in the standard basis year, but more than zero pounds, the vessel would meet the production threshold for placement in the partial observer coverage category in the upcoming fishing year. If a catcher/processor exceeded that production threshold, the vessel would not be eligible for placement in the partial observer coverage category in the upcoming fishing year.

If a catcher/processor had no production in the standard basis year, NMFS would examine the vessel's production in the alternative basis year, namely the first year that the vessel had any production before the standard basis year not earlier than 2009. If a catcher/processor had average groundfish weekly production of 79,000 lb (35.8 mt) or less in the alternate basis year, the vessel would meet the production threshold requirement for placement in the partial observer coverage category for the upcoming fishing year. If a catcher/processor exceeded the production threshold in the alternate basis year, the vessel would not be eligible for placement in the partial observer coverage category. If a catcher/processor had no production from 2009 through the standard basis year or an alternate basis year, the vessel would meet the production threshold requirement for placement in the partial observer coverage category.

If a catcher/processor meets the production threshold requirement for placement in the partial observer coverage category and is not a vessel using trawl gear or otherwise required to have full observer coverage by participation in a catch share program, the catcher/processor would be placed in partial observer coverage only if the owner of the vessel makes the request by the specified deadline. The proposed rule specifies at § 679.51(a)(3)(iv) how the vessel owner would request placement in the partial observer coverage category. A vessel owner would need to submit a request form to NMFS, which NMFS would make available on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

The proposed rule specifies at § 679.51(a)(3)(v) that NMFS will notify a vessel owner in writing if NMFS has placed the vessel in the partial observer coverage category once a request form has been submitted. Until NMFS provides this notice, the catcher/processor would remain in the full observer coverage category.

The proposed rule specifies at § 679.51(a)(3)(vi) that if NMFS denies a request for placement in the partial observer coverage category, NMFS would issue an Initial Administrative Determination, which will explain in writing the reasons for the denial. If the vessel owner wishes to appeal the denial, the proposed rule provides at § 679.51(a)(3)(vii) that the vessel owner would be able to appeal to the National Appeals Office according to the procedures in 15 CFR part 906.

In addition to the proposed new paragraph at § 679.51(a)(3), the proposed rule has several additional provisions. The proposed rule would add regulations at § 679.51(a)(1)(i)(C) to clarify that a catcher/processor placed in the partial observer coverage category under § 679.51(a)(3) is in the partial observer coverage category. The proposed rule would revise § 679.51(a)(2)(i)(A) to clarify that catcher/processors are placed in the full observer coverage category unless they are placed the partial observer coverage category using criteria specified at § 679.51(a)(3). The proposed rule also removes the regulations detailing the current exceptions to the full observer coverage category for catcher/processors at § 679.51(a)(2)(iv)(B).

The proposed rule would add a new category to the definition of fishing trip for purposes of the Observer Program in § 679.2. Section 679.2 currently defines a fishing trip for a catcher vessel delivering to a shoreside or stationary floating processor and for a catcher vessel delivering to a tender vessel. The new definition would define a fishing trip for a catcher/processor in the partial observer coverage category, namely the period of time that begins when the vessel departs a port to harvest fish until the vessel returns to port and offloads all processed product. This definition would be necessary because the current definition of a fishing trip does not accurately apply to a catcher/processor in the partial coverage category.

This proposed rule would add a new requirement at § 679.5(e)(13) for a catcher/processor landing report. The operator of a catcher/processor placed in the partial observer coverage category would be required to submit a catcher/processor landing report by 2400 hours, A.l.t., on the day after the end of the fishing trip. This would be a new reporting requirement created for this program. The landing report would be generated through eLandings or other NMFS-approved software by consolidating the daily production reports for the period the vessel operator defines as the fishing trip for purposes of observer coverage. NMFS would use information from the catcher/processor landing report to link catch data with observer data, to determine how to appropriately assign at-sea discard rates and PSC rates to unobserved catcher/processors in the partial observer coverage category, and to monitor compliance with the requirement for catcher/processors placed in the partial observer coverage category to log all fishing trips in ODDS.

The proposed rule would revise § 679.51(e)(1)(iii)(B) to remove requirements from catcher/processors placed in the partial observer coverage category to provide equipment for the purpose of observer data entry and transmission. Currently, all catcher/processors are required to provide an observer with a computer, NMFS-supplied software, and the ability to transmit data to NMFS using a point-to-point connection from the vessel. Removing this requirement would reduce the financial burden on small catcher/processors placed in the partial observer coverage category, especially for vessels mentioned in Section 3.7.4 of the Analysis that may begin to operate as a catcher/processor (*e.g.*, catcher/processors using jig gear). Currently, observers deployed in the partial observer coverage category enter and transmit data without equipment provided by the industry. Maintaining the current equipment requirements for catcher/processors in partial coverage may result in duplicative and unnecessary equipment being available on the vessel. NMFS typically receives data from observers deployed in the partial observer coverage category at the end of each trip and that timeline would be sufficient for catcher/processors in partial coverage under this proposed rule. NMFS notes that even with this proposed change, more frequent data transmission could be achieved on some vessels if the observer is allowed to use existing communication equipment.

The proposed rule would revise § 679.55(a) and (c) to clarify that all catcher/processors named on a Federal Fishing Permit (FFP) and not in the full

observer coverage category are responsible for paying the observer fee.

The proposed rule includes corrections to fix two cross reference errors in § 679.2 and replace language in § 679.5 that refer to old terminology of ''100 percent observer coverage''. That terminology would be replaced with ''full observer coverage''; this is the terminology used under the restructured Observer Program.

Classification

Pursuant to section 304 (b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 112 and 102, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

Initial Regulatory Flexibility Analysis

The objectives for this proposed rule are to (1) refine the balance between observer data quality from the fishery and cost of observer coverage to catcher/processors with limited production relative to the rest of the catcher/processor fleet by allowing those catcher/processors with limited production the opportunity to be placed in the partial observer coverage category based on contemporary groundfish production amounts; and (2) maintain the full observer coverage requirement for all trawl catcher/processors and catcher/processors in a catch share program regardless whether these catcher/processors meet the groundfish production requirement for placement in the partial observer coverage category.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA describes the reasons why this action is being proposed; the objectives and legal basis for the proposed rule; the number and description of small entities directly regulated by the proposed action; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules; impacts of the action on small entities; and any significant alternatives to the proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and would minimize any significant adverse impacts of the proposed rule on small entities. Descriptions of the proposed action, its purpose, and the legal basis are contained earlier in this preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

The RFA recognizes and defines three kinds of small entities: (1) Small businesses, (2) small non-profit organizations, and (3) small government jurisdictions. The proposed action would directly regulate small businesses.

The Small Business Administration has established size standards for all major industry sectors in the United States. A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $20.5 million, for all its affiliated operations worldwide.

Under the preferred alternative that would be implemented by this proposed rule, NMFS expects that up to 11 vessels may qualify for placement in the partial observer coverage category (See Section 3.4 and Section 4.6 of the Analysis for additional detail). NMFS estimates that these 11 vessels may be separated into four groups of entities.

The first group of vessels consists of three catcher/processors that currently qualify for placement in the partial observer coverage category under the existing program rules. These were discussed in detail in Section 3.7.2 of the Analysis. These three vessels are estimated to be small entities based on estimates of their gross revenues, and of their known affiliations.

The second group consists of three catcher/processors that currently operate as catcher/processors and are in the full observer coverage category, but that may be eligible to operate in the partial observer coverage category as a result of this proposed rule. These three catcher/processors are described in Section 3.7.3 of the Analysis. Two of these vessels are estimated to be small entities on the basis of estimates of their gross revenues, and of their known affiliations. One vessel is estimated to be a large entity on the basis of its gross revenue and its known affiliations.

The third group consists of catcher vessels that may begin to operate as catcher/processors if this action is taken. As discussed in Section 3.7.4 of the Analysis, NMFS could not identify vessels in this group on the basis of historical information. However, NMFS noted that at least one jig vessel operator has indicated that he may begin catcher/processor operations using jig gear in Federal waters if that vessel could be eligible for placement in the partial observer coverage category. NMFS estimates that this one known jig vessel would be estimated to be a small entity on the basis of gross revenues and affiliations of all known vessels currently using jig gear.

Finally, the analysis determined that fishing operations using sablefish ''A'' quota shares in the Aleutian Islands may begin processing at-sea and operating as catcher/processors in the Aleutian Islands if those vessels are eligible for placement in the partial observer coverage category. Section 3.7.5 of the Analysis provides additional detail on these vessels. NMFS identified that up to four vessels could operate as catcher/processors for sablefish. NMFS estimates that, with one exception, these vessels would be estimated to be small entities on the basis of estimates of their gross revenues, and of their known affiliations. Collectively, NMFS estimates that up to 9 of the 11 vessels identified in these four groups would be considered directly regulated small entities.

The proposed action contains one new reporting and recordkeeping requirement that affects the small entities. Vessel owners or operators desiring to be placed in the partial observer coverage category for a fishing year will have to submit a simple form expressing that choice by July 1 (except for the 2016 fishing year, as described previously). This information is needed for preparation of the Observer Program annual deployment plan.

This form will use production data that will be available to the owner or operator on the eLandings Web site. Given the simplicity of the form, and the accessibility of the data needed to complete it, NMFS estimates that it will take no more than 30 minutes to complete and file the form. For Paperwork Reduction Act estimation purposes, NMFS values this type of effort at $37 per hour. Approximately 9 small entities could be affected by this requirement. Thus, the total public time required to complete 9 forms a year x 30 minutes is 4.5 hours. At a cost of $37 per hour, the estimated cost would be about $167.

The RFA requires identification of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. As noted in the IRFA, the proposed action is expected to

create a net benefit for the directly regulated small entities. In other words, the benefits of the proposed action are expected to outweigh the reporting, recordkeeping, and other compliance costs described above.

The Council and NMFS adopted the average weekly production threshold of 79,000 lb (35.8 mt) as its preferred alternative. This production threshold would allow a catcher/processor to qualify for placement in the partial observer coverage category for a year, if its round weight equivalent of their processed product, two years previous, averaged less than 79,000 lb (35.8 mt) a week. If the vessel had not operated two years previously, NMFS would use its production in the first year with production since 2009, inclusive of 2009. If the vessel has not produced in this period, NMFS would allow the vessel to be placed in the partial observer coverage category in the year in which application is made, unless it is a trawl vessel, in which case it would be in the full observer coverage category.

This action is meant to reduce the relative burden on directly regulated small catcher/processors in comparison with the status quo. For vessels that qualify, this action would allow them to forego full observer coverage and operate with less expensive partial observer coverage, should they choose to do so. There are three catcher/processors that enjoy permanent placement in the partial observer coverage category under the status quo. These vessels would, under the action alternative, now have to qualify for placement in the partial observer coverage category each year. The Council and NMFS chose the 79,000-lb average weekly threshold, rather than an alternative 42,000-lb average weekly threshold, to maximize the potential for these three vessels to qualify for the option to be placed in the partial observer coverage category in future years. Moreover, one of the objectives of this action was to end the permanent placement in the partial observer coverage category for catcher/processor vessels and create a flexible system that could respond if a vessel increased production.

The Council and NMFS considered multiple elements and options under Alternative 2 that would qualify more vessels or fewer vessels for placement in the partial observer coverage category. In addition to the two average weekly production thresholds, a low and a high average daily, maximum daily production, maximum weekly, and annual production measures were considered.

The production thresholds analyzed under Element 1 Option 4B (high maximum weekly production) and Option 5B (high annual production) could have qualified one more small catcher/processor for partial observer coverage than is expected to qualify under the Council's preferred alternative (Option 2B: average weekly production threshold of 79,000 lb). The Council did not select Option 4B because basing a threshold on maximum weekly production could have excluded some catcher/processors that had one week of relatively high production, but had relatively low average production over the remainder of the year. The Council did not select Option 5B because it could allow catcher/processors with relatively high production levels over the course of several weeks or months during the year into the partial observer coverage category. NMFS recommended that catcher/processors with these high intensity production periods during the year should remain in the full observer coverage category so that all of their fishing activity is observed.

The average weekly measure was chosen, because it provided a measure of production intensity, which the annual, maximum daily, and maximum weekly measures, did not provide; it was readily measurable; and it was less prone to manipulation or unusually high levels of production than the other options considered. A week is also the standard measure of production for a catcher/processor trip in current regulation (Section 2.2.1 and Section 4.9 of the Analysis).

No relevant Federal rules have been identified that would duplicate or overlap with the proposed action.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The information collections are presented by OMB control number.

OMB Control No. 0648–0318

Public reporting burden for Catcher/Processor Observer Partial Coverage Request is estimated to average 30 minutes per response.

OMB Control No. 0648–0515

Public reporting burden for Catcher/Processor Landing Report through eLandings is estimated to average one minute per response.

OMB Control No. 0648–0711

Public reporting burden for submittal of Observer Fee through eFISH is estimated to average 1 minute per response.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 23, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281

■ 2. In § 679.2, add paragraph (3)(iii) to the definition of ''Fishing trip'' to read as follows:

§ 679.2 Definitions.

* * * * *

Fishing trip means: * * *

(3) * * *

(iii) For a catcher/processor in the partial observer coverage category, the period of time that begins when the vessel departs a port to harvest fish until

the vessel returns to port and offloads all processed product.

* * * * *

■ 3. In § 679.5, add paragraph (e)(13) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(e) * * *

(13) *Catcher/processor landing report.* (i) The operator of a catcher/processor placed in the partial observer coverage category under § 679.51(a)(3) must use eLandings or other NMFS-approved software to submit a catcher/processor landing report to NMFS for each fishing trip conducted while that catcher/processor is in the partial observer coverage category.

(ii) The vessel operator must log into eLandings or other NMFS-approved software and provide the information required on the computer screen. Additional instructions for submitting a catcher/processor landing report is on the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

(iii) For purposes of this landing report requirement, the end of a fishing trip is defined in § 679.2, paragraph (3)(iii) of the definition of a fishing trip.

(iv) The vessel operator must submit the catcher/processor landing report to NMFS by 2400 hours, A.l.t., on the day after the end of the fishing trip.

* * * * *

■ 4. In § 679.51,

■ a. Revise paragraph (a)(1)(i)(B);

■ b. Add paragraph (a)(1)(i)(C);

■ c. Revise paragraph (a)(2)(i)(A);

■ d. Remove and reserve paragraphs (a)(2)(iv)(B) and (a)(2)(v);

■ e. Add paragraph (a)(3); and

■ f. Revise paragraph (e)(1)(iii)(B) introductory text to read as follows:

§ 679.51 Observer requirements for vessels and plants.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(B) A catcher vessel when fishing for halibut with hook-and-line gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i), § 679.4(d)(2)(i), or § 679.4(e)(2), or for sablefish IFQ with hook-and-line or pot gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i) or § 679.4(d)(2)(i); or

(C) A catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section.

* * * * *

(2) * * *

(i) * * *

(A) Catcher/processors, except a catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section;

* * * * *

(3) *Catcher/processor placement in the partial observer coverage category for a year*—(i) *Definitions.* For purposes of this paragraph (a)(3), these terms are defined as follows:

(A) *Average weekly groundfish production* means the annual groundfish round weight production estimate for a catcher/processor, divided by the number of separate weeks during which production occurred, as determined by production reports, excluding any groundfish caught using trawl gear.

(B) *Fishing year* means the year during which a catcher/processor might be placed in partial observer coverage.

(C) *Standard basis year* means the fishing year minus two years.

(D) *Alternate basis year* means the most recent year before the standard basis year in which a catcher/processor had any groundfish production but not earlier than 2009.

(ii) *Deadline for requesting partial observer coverage.* For the 2016 fishing year, the deadline for requesting partial observer coverage is [*DATE 15 DAYS AFTER THE EFFECTIVE DATE OF THE FINAL RULE*]. For the 2017 fishing year and every fishing year after 2017, the deadline for requesting partial observer coverage is July 1 of the year prior to the fishing year.

(iii) *Requirements for placing a catcher/processor in the partial observer coverage category.* NMFS will place a catcher/processor in the partial observer coverage category for a fishing year if the owner of the catcher/processor requests placement in partial observer coverage by the deadline for requesting partial observer coverage for that fishing year and the catcher/processor meets the following requirements:

(A) An average weekly groundfish production of:

(*1*) 79,000 lb (35.8 mt) or less, but more than zero lb, in the standard basis year; or

(*2*) Zero lb in the standard basis year and 79,000 lb (35.8 mt) or less, but more than zero lb, in the alternate basis year; or

(*3*) Had no production from 2009 through the standard basis year; and

(B) Is not a catcher/processor using trawl gear; and

(C) Is not subject to additional observer coverage requirements in paragraph (a)(2)(vi) of this section.

(iv) *How to request placement of a catcher/processor in partial observer coverage.* A vessel owner must submit a request form to NMFS. The request form must be completed with all required fields accurately completed. The request form is provided by NMFS and is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*). The submittal methods are described on the form.

(v) *Notification of placement in the partial observer coverage category.* NMFS will notify the owner if the catcher/processor has been placed in the partial observer coverage category in writing. Until NMFS provides notification, the catcher/processor is in the full observer coverage category for that fishing year.

(vi) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a catcher/processor in the partial observer coverage category, NMFS will provide an IAD, which will explain the basis for the denial.

(vii) *Appeal.* If the owner of a catcher/processor wishes to appeal NMFS' denial of a request to place a catcher/processor in the partial observer coverage category, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(B) *Communication equipment requirements.* In the case of an operator of a catcher/processor (except for a catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section), a mothership, a catcher vessel 125 ft. LOA or longer (except for a vessel fishing for groundfish with pot gear), or a catcher vessel participating in the Rockfish Program:

* * * * *

■ 5. In § 679.55, revise paragraphs (a) and (c) to read as follows:

§ 679.55 Observer fees.

(a) *Responsibility.* The owner of a shoreside processor or stationary floating processor named on a Federal Processing Permit (FPP), a catcher/processor named on a Federal Fisheries Permit (FFP), or a person named on a Registered Buyer permit at the time of the landing subject to the observer fee as specified at § 679.55(c) must comply with the requirements of this section. Subsequent non-renewal of an FPP, FFP, or a Registered Buyer permit does not affect the permit holder's liability for noncompliance with this section.

* * * * *

(c) *Landings subject to the observer fee.* The observer fee is assessed on landings by vessels not in the full

observer coverage category described at § 679.51(a)(2) according to the following table:

If fish in the landing by a catcher vessel or production by a catcher/processor is from the following fishery or species:	Is fish from the landing subject to the observer fee?	
	If the vessel is not designated on an FFP or required to be designated on an FFP:	If the vessel is designated on an FFP or required to be designated on an FFP:
(1) Groundfish listed in Table 2a to this part that are harvested in the EEZ and subtracted from a total allowable catch limit specified under § 679.20(a).	Not applicable, an FFP is required to harvest these groundfish in the EEZ.	Yes.
(2) Groundfish listed in Table 2a to this part that are harvested in Alaska State waters, including in a parallel groundfish fishery, and subtracted from a total allowable catch limit specified under § 679.20(a).	No	Yes.
(3) Sablefish IFQ, regardless of where harvested	Yes	Yes.
(4) Halibut IFQ or halibut CDQ, regardless of where harvested	Yes	Yes.
(5) Groundfish listed in Table 2a to this part that are harvested in Alaska State waters, but is not subtracted from a total allowable catch limit under § 679.20(a).	No	No.
(6) Any groundfish or other species not listed in Table 2a to part 679, except halibut IFQ or CDQ halibut, regardless of where harvested.	No	No.

* * * * *

§§ 679.2 and 679.5 [Amended]

■ 6. At each of the locations shown in the ''Location'' column, remove the phrase indicated in the ''Remove'' column and replace it with the phrase indicated in the ''Add'' column for the number of times indicated in the ''Frequency'' column.

Location	Remove	Add	Frequency
§ 679.2 Definition of ''Suspension''	§ 679.50	§ 679.53	1
§ 679.2 Definition of ''Suspension''	§ 679.50(j)	§ 679.53(c)	1
§ 679.5(e)(10)(iv)(B)	required to have 100 percent observer coverage or more,.	in the groundfish and halibut fishery full observer coverage category described at § 679.51(a)(2),.	1

[FR Doc. 2015–32742 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 80, No. 249

Tuesday, December 29, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2015–0002]

National Residue Program: Monitoring Chemical Hazards

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS; also Agency) is clarifying its approach within the National Residue Program's (NRP's) Tier 2 exploratory program when it tests tissue samples collected from livestock and poultry carcasses and detects chemicals that do not have established tolerances or other regulatory levels. This approach applies to potentially hazardous chemicals that are not animal drugs or pesticide chemicals with established tolerances. The Agency also intends to apply this approach to egg products should these products become subject to chemical testing and to products from fish of the order Siluriformes when the final rule to make these species amenable to the Federal Meat Inspection Act (FMIA) is fully implemented. FSIS requests comments on the approach discussed in this document, and on how FSIS can further improve its management of environmental contaminants and other chemical hazards in meat and poultry products.

DATES: To receive full consideration, comments must be received on February 29, 2016.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2015–0002.

Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriot Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Patty Bennett, Humane Handling Enforcement Coordinator, Office of Field Operations, FSIS, USDA; Telephone (202)720–5397.

SUPPLEMENTARY INFORMATION:

Background

To protect consumers and to verify the safety of meat, poultry, and egg products [1] in the United States, FSIS collects samples and analyzes them for a number of potentially harmful chemicals. Historically, the U.S. National Residue Program for Meat, Poultry, and Egg Products (NRP), administered by FSIS, has primarily monitored livestock and poultry carcasses for animal drugs and pesticide chemicals, which are regulated and approved for use by the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA), respectively.

However, in addition to animal drugs and pesticide chemicals, there are other chemicals, including metals, mycotoxins, dioxins, and other environmental and industrial contaminants, that may on occasion be found in FSIS-regulated products. The NRP systematically addresses animal drugs and pesticide chemicals, but it has not covered other chemicals in a structured manner. The fact that it has not done so led the USDA Office of the Inspector General (OIG) to recommend, in a March 2010 report on FSIS's chemical residue program, that FSIS ''establish policies and procedures for handling hazardous substances with no tolerances.'' [2] While the OIG report concentrated on cattle, FSIS believes this concern applies to poultry and the other amenable livestock species (*e.g.,* hogs, sheep) because issues associated with chemicals without a regulatory tolerance often are associated with sources that could involve more than one establishment and production class, such as contaminated feed. It is common practice for feed mills to produce feed for multiple species, and thus, a single contamination event may become an issue for several livestock and poultry production industries. In addition, FSIS does not limit testing for chemicals without tolerances to cattle. In a contamination event, the Agency would conduct testing on all exposed species.

In this notice, FSIS is announcing that it has taken significant steps to enhance its ability to address all types of chemical hazards and is clarifying its approach within the NRP for addressing hazardous chemicals without established tolerances.

Recent Improvements to the National Residue Program

On July 6, 2012, FSIS announced that it was restructuring the NRP with respect to how samples are collected and analyzed for chemical compounds (*New Analytical Methods and Sampling Procedures for the United States National Residue Program for Meat, Poultry, and Egg Products,* 77 FR 39895). The new methods and

[1] Products that meet USDA's definition of 'egg product' are under USDA jurisdiction. The definition includes dried, frozen, or liquid eggs, with or without added ingredients, but mentions many exceptions. The following products, among others, are exempted as not being egg products: freeze-dried products, imitation egg products, egg substitutes. Products that do not fall under the definition, such as egg substitutes and cooked products, are under FDA jurisdiction.

[2] ''FSIS National Residue Program for Cattle.'' USDA, Office of the Inspector General Audit Report 24601–08–KC, March 2010.

procedures that FSIS has adopted have strengthened the NRP by making it into an integrated chemical hazard identification, prioritization, and management program that supports the Agency's efforts to ensure that the U.S. supply of meat, poultry, and egg products is safe. FSIS has implemented new, more efficient analytical methods in its laboratories that enable the Agency to detect a greater number of chemicals than had been the case, and, at the same time, FSIS has streamlined its process for collecting samples for analysis.

The restructured NRP consists of three tiers of sampling. Tier 1 is the scheduled sampling program that functions as an exposure assessment and includes sampling of both domestic and imported product. Production classes representing the majority of the annual volume of animals slaughtered in the United States (*e.g.,* beef cows, market hogs, and young chickens) are tested under Tier 1. When a tissue sample from a livestock carcass is collected for residue testing under Tier 1, FSIS withholds the mark of inspection from the livestock carcass until all test results that bear on the determination as to whether the carcass is not adulterated have been received. On the other hand, poultry carcasses are not held pending test results (*Not Applying the Mark of Inspection Pending Certain Test Results,* 77 FR 73401, Dec. 10, 2012).

Samples tested under Tier 1 are analyzed for a set of chemicals that currently includes animal drugs and pesticide chemicals. When any level of a chemical subject to Tier 1 testing is detected in a livestock carcass muscle sample, FSIS inspection program personnel are instructed to condemn the carcass and all parts, unless a tolerance level has been set for the chemical in the tissue and production class in question, and the detected level does not exceed this tolerance (*Residue Sampling, Testing and Other Verification Procedures under the National Residue Program for Meat and Poultry Products,* FSIS Directive 10,800.1). As mentioned above, poultry carcasses are generally not held pending the availability of test results, but any FSIS follow-up actions in response to violative results are the same for both poultry and livestock, including consultation with FDA and EPA. In recent years, egg products have not been a focus of the NRP. However, FSIS intends to apply the approach discussed in this notice to all FSIS-regulated products, including egg products, at which time egg products become subject to chemical testing. Thus, this notice generally refers to ''carcasses,'' even though analogous actions may be taken with respect to FSIS-regulated egg products.

Tier 2 testing encompasses two separate programs. The first, known as the inspector-generated program, is a targeted testing program in which field public health veterinarians (PHVs) decide to perform in-plant screens because they suspect that animals or carcasses contain higher than allowable levels of chemical residues. FSIS inspectors will collect and submit samples for inspector-generated residue testing if a screen test is positive, or if a PHV has reason to believe that a carcass or its parts may contain violative levels of one or more chemical residues, even if the screen test is negative (*Residue Sampling, Testing and Other Verification Procedures under the National Residue Program,* FSIS Directive 10,800.1, Rev. 1).

The second, Tier 2 testing program, known as the exploratory assessment program, includes sampling plans designed in response to information gained from previous exposure assessments, from the chemical hazard identification process, or from other agencies. Unlike livestock carcasses selected for sampling under Tier 1 or under the inspector-generated program, carcasses selected for sampling under the exploratory assessment program can be released into commerce before exploratory sampling results are available. Essentially the exploratory assessment program is designed to investigate animal populations when the compounds in question have no established tolerances; respond to intelligence regarding use of veterinary drugs, pesticides, and environmental contaminants reported from the field; determine the prevalence and concentration of residues; and evaluate residue trends.[3] FSIS uses the results from these exploratory assessments to identify potential chemical hazards of concern and to inform FSIS and NRP priorities. The exploratory assessment program includes testing for veterinary drugs, pesticides, and several metals.[4]

[3] From: The United States National Residue Program (NRP) for Meat, Poultry and Egg Products: Residue Sampling Plans (traditionally known as the Blue Book), 2011 edition. At: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry.*

[4] For example, exploratory assessment program for 2015 found in Summary Table III in: The United States National Residue Program (NRP) for Meat, Poultry and Egg Products: Residue Sampling Plans (traditionally known as the Blue Book), 2015 edition. At: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry.*

Tier 3 testing occurs in response to indications of chemical exposure to more than a single animal and encompasses targeted testing at the herd or flock level. Events triggering this type of testing are rare and usually involve extensive coordination between federal and state agencies at both the local and headquarters levels.

This notice provides clarification to the Tier 2 exploratory assessment program.

Current Regulatory Framework

Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*), FSIS inspection personnel apply the mark of inspection to meat, poultry, and egg products only if they find upon inspection that these articles are not adulterated (21 U.S.C. 455, 457, 604, 606, 607, 1034, 1036). Under the Acts, meat, poultry, and egg products that do not bear an official mark of inspection are misbranded (21 U.S.C. 601(n)(12), 453(h)(12), and 1034). The Acts prohibit the sale or transportation in commerce of meat, poultry, and egg products capable of use as human food that are adulterated or misbranded or that have not been inspected and passed (21 U.S.C. 458(a)(2), 610(c), 1037(b)).

Under the FMIA, ''any carcass, part thereof, meat or meat food product'' is adulterated ''if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in the case the substance is not an added substance, such article shall not be considered adulterated . . . if the quantity of such substance in or on such article does not ordinarily render it injurious to health'' (21 U.S.C. 601(m)(1)). Under the FMIA, a product is also adulterated ''if it bears or contains by reason of administration of any substance to the live animal or otherwise any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity, (ii) a food additive, or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food'' (21 U.S.C. 601(m)(2)(A)). In addition, a product is adulterated under the FMIA if it bears or contains any pesticide chemical, color additives, or food additive that is unsafe within the meaning of the Federal Food, Drug, and Cosmetics Act (FFDCA) (21 U.S.C. 601(m)(2)(B)–(D)). Both the PPIA and EPIA contain similar provisions (21 U.S.C. 453(g)(1)–(2) and 1033(a)(1)–(2)).

As mentioned above, because FSIS has primarily monitored livestock and poultry carcasses for animal drugs and pesticide chemicals, the approach described in this notice is initially intended to apply to livestock and poultry carcasses. FDA and EPA have statutory authority to establish residue tolerances that allow certain chemicals to remain in food products in non-harmful quantities, without causing these products to be adulterated. Under the FFDCA, the FDA may establish tolerances regulatory limits, and other limitations or specifications for animal drugs, approve food additives including conditions under which they may be used, and establish tolerances and regulatory limits for added or naturally occurring poisonous or deleterious substances, and the EPA may establish tolerance levels for registered pesticides. Title 21 of the Code of Federal Regulations (CFR) sets out tolerances and regulatory limits established by FDA, while Title 40 of the CFR sets out the tolerance levels established by EPA. In addition, FDA may also establish non-binding action levels that provide guidance for levels of contamination at which a food may be regarded as adulterated.

Many of the tolerances and regulatory limits applicable to meat, poultry, or egg products have only been established for chemicals that are either animal drugs or pesticide chemicals. Yet other hazardous chemicals exist that do not have established tolerances, regulatory limits, or action levels but that could nonetheless be present in FSIS-regulated products at levels that may cause consumers to exceed a risk level for human consumption.[5] [6] This group of chemicals includes, but is not limited to, environmental contaminants, heavy metals, industrial chemicals, and mycotoxins. Unlike animal drugs or pesticide chemicals, these chemicals are usually not intentionally administered to food-producing animals or feed crops as part of accepted husbandry and agricultural practices. As such, they may not usually be reviewed by FDA or EPA as part of an approval process and hence may not have tolerances like animal drugs and pesticide chemicals and may not be subject to other regulatory limits. In most cases, the presence of these chemicals in edible animal tissue results from the food-producing animal's ante-mortem exposure to the chemical through feed, water, air, soil, or direct application.

When a livestock or poultry carcass tested under the Tier 1 or the Tier 2 inspector-generated program is determined to contain a level of an animal drug or pesticide chemical that exceeds the applicable tolerance set by FDA or EPA, the carcass and parts are adulterated under the FMIA or PPIA and as such must be condemned.[7] FSIS Directive 10,800.1 provides instructions to FSIS personnel on the disposition of carcasses containing violative residues and on other procedures related to residue sampling under the Tier 1 and inspector-generated programs.

In contrast, although FSIS has detected, and continues to detect, environmental contaminants and other potential hazardous chemicals without established tolerances or regulatory levels through its exploratory assessment program, the Agency does not have a consistent and structured procedure for addressing these exploratory assessment results. Therefore, to better address the potential human health risks that may be associated with the presence of environmental contaminants and other potential chemical hazards without tolerances in meat and poultry products, FSIS is providing information regarding its approach to responding to findings from its exploratory sampling program. This information is intended to clarify how the Agency will respond to sampling results that reveal the presence of contaminants and chemicals of this type. FSIS is publishing this **Federal Register** document to inform the public of approach and to request public comments.

Structured Approach for Chemicals Without Established Tolerances

FSIS intends to proceed as follows when chemicals without established tolerances or other applicable regulatory levels are detected in livestock or poultry carcasses. For chemicals designated for testing in the Tier 2 exploratory assessment program, FSIS will derive a *de minimis* level (DML) for the chemical in samples collected from a given production class or species below which FSIS is confident that any public health concern is nonexistent or negligible (next section describes the derivation of the DML). If the concentrations of the chemical detected in Tier 2 exploratory testing are consistently at or below the *DML,* FSIS will likely discontinue the exploratory testing for that chemical.

If, based on FSIS testing results, carcasses in Tier 2 testing are found to contain levels of a chemical above the *de minimis* level, FSIS will take certain actions, including notifying the slaughter or processing establishment or other affected entities, such as suppliers of the source animals, if needed, of the presence of the chemical and notifying the appropriate federal partners for possible trace-back investigations and consideration of potential mitigation actions. This approach is one that FSIS has historically taken on an ad hoc basis for chemical exposure incidents and in its dioxin surveys,[8] and one that the Agency will continue to apply in this more structured approach for the exploratory chemicals in Tier 2 that are detected above the DML. Carcasses subject to Tier 2 exploratory sampling are typically not held pending the exploratory testing results. As discussed below, the Agency intends to assess levels of chemicals subject to exploratory sampling over time to evaluate the need to revise this policy.

If the levels of the chemical are found to be above the DML on more than an occasional basis, FSIS will consider adding the chemical to the Tier 1 scheduled sampling program. FSIS will consult with the appropriate federal agency (FDA or EPA) regarding such an action and will issue a notice in the **Federal Register** to request public comments before placing such a chemical into Tier 1. If the chemical without a tolerance or other regulatory level is placed in Tier 1, FSIS will not apply the mark of inspection to livestock carcasses that have been sampled for testing until results at or under the *DML* are available and received for any testing conducted by the Agency. In the further absence of a tolerance or other regulatory level, the detection of any chemical levels over the *DML* would preclude FSIS from determining that the carcass or its parts are not adulterated.

Deriving De Minimis Levels (DMLs)

The *DML* is a concentration of the chemical in a particular edible tissue below which any risk to public health is negligible (de minimis risk). FSIS intends to use the DML as a guide to help ascertain whether a test result from the Tier 2 exploratory assessment

[5] For example, for lead and cadmium, see results at: The United States National Residue Program (NRP) for Meat, Poultry and Egg Products: Residue Sample Results (traditionally known as the Red Book), 2012 edition. At: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry.*

[6] For example, for dioxin-like compounds, see results from FSIS dioxin surveys at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry.*

[7] If there is no tolerance for an identified animal drug or pesticide subject to Tier 1 testing, carcasses or parts containing any amount of the substance are condemned.

[8] Dioxin survey procedures and results at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/chemistry/residue-chemistry.*

program needs follow-up actions or not. The derivation of a *DML* follows standard and routinely accepted risk assessment approaches.[9] The *DML* is derived from a health-based guidance value for the given chemical, which is usually a human intake value (*e.g.,* oral dose exposure) that is likely to be without an appreciable risk of deleterious effects during a lifetime, like a reference dose (RfD) or an acceptable daily intake (ADI). Health-based guidance values for many chemicals are published by agencies such as the EPA, the U.S. Agency for Toxic Substances and Disease Registry (ATSDR), and the Joint FAO/WHO Expert Committee on Food Additives (JECFA). If significant exposure routes other than meat or poultry products exist for the chemical hazard, an appropriate fraction of the health-based guidance value will be allocated to these other exposure routes. To arrive at the *DML,* the health-based guidance value—or the fraction thereof allocated to the meat or poultry products in question—will be used together with consumption estimates taken from the What We Eat in America (the dietary intake interview component of the National Health and Nutrition Examination Survey (NHANES)) or other appropriate consumption data.[10 11]

For almost all chemicals being considered for Tier 2 exploratory testing, a health-based guidance value exists, and the DML will be derived as described above. In the extremely rare instance where there is not a health-based guidance value, FSIS will work its federal partners to decide on a course of action to develop one. In other instances however, a DML equivalent, such as a maximum level determination by the Codex Alimentarius, is available for specific chemicals in specific food commodities (*e.g.,* for lead in meat of cattle, pigs and sheep).[12] In these instances, FSIS will use such values as the DML.

Identifying Chemicals of Concern

FSIS may identify potential chemicals of concern for testing and the possible presence of chemical hazards in meat and poultry products through scientific literature reviews, expert elicitations, attendance at scientific meetings, collaboration with Federal, State, and international partners, and communication with stakeholders and trade partners. FSIS will also consult with its NRP collaboration body, the interagency Surveillance Advisory Team (SAT),[13] for guidance on which chemicals to pursue in the Tier 2 exploratory program and for derivation of DMLs.

Moreover, the multi-residue methods recently adopted by FSIS laboratories not only enable the Agency to test for a greater number of animal drug and pesticide chemical residues than in the past but also allow detection of a greater number of other potentially harmful chemicals, most of which do not have regulatory tolerances. As mentioned, FSIS has already been collecting data on certain environmental contaminants, including several metals, through its Tier 2 exploratory sampling.

As a result of these efforts, FSIS may identify a chemical in meat or poultry products that is not being monitored by the Agency, and for which no applicable tolerance exists. In most such cases, FSIS will seek to empirically confirm the chemical's presence in FSIS-regulated product through a Tier 2 exploratory assessment, which may be run for a period of time (*e.g.,* one year) and will record baseline levels of the chemical.

Cost-Benefit Analysis

No significant costs to establishments, regardless of size, are expected as a result of the Tier 2 exploratory assessment program. The purpose of this sampling is to determine prevalence and levels of various hazardous chemicals in meat and poultry carcasses. Exploratory testing is being conducted under the NRP at little or no additional cost to the establishment or to the Agency. Once a DML is established, and FSIS is confident that these products are not adulterated based on the results from the exploratory testing, FSIS will then be able to limit the scope of this testing in the future. As mentioned, establishments will receive notification if any results of those tests are above the DML. There is no requirement for establishments to hold carcasses until acceptable results are available (as for Tier 1 and Tier 2 inspector-generated samples) under Tier 2 exploratory sampling, so there is no establishment cost associated with Tier 2 exploratory assessment program.

In most instances, FSIS does not expect establishments to take significant mitigating actions as a result of Tier 2 exploratory sampling since the purpose of this sampling is to inform the Agency on general prevalence, and not the performance of a particular establishment. However, if an establishment has received multiple test results that are above the DML or if it receives a test result well above the DML, FSIS will consult and work with its federal, state and local partners to determine the cause of the positive test results at little or no additional expense to establishments. Once a cause has been discovered, the establishment may receive a letter from FSIS or its partner agencies (which could include any test results, possible leads of sources of contamination to evaluate, and provide opportunities to consult with the appropriate agencies), at which time the establishment may voluntarily choose to incur the additional costs of certain mitigating actions, such as discarding feed or replacing feed troughs. Given its experience under the dioxin survey program and the ongoing Tier 2 exploratory program for veterinary drugs and pesticides, FSIS expects these follow-up letters and mitigating actions to be a rare occurrence while products from an establishment are tested in the Tier 2 exploratory assessment program.

If a chemical is moved into Tier 1 sampling, the Agency will inform the public and will conduct a cost-benefit analysis for the specific chemicals and products involved. The public will then have the opportunity to comment on the cost-benefit analysis.

Request for Comments

The approach discussed in this notice is intended to provide more structure and consistency for existing FSIS procedures and practices for addressing chemicals in livestock and poultry carcasses that do not have established tolerances or other regulatory levels. The approach is designed to cover most chemical hazards that do not derive from animal drugs or pesticide chemicals. As part of an integrated chemical hazard identification, prioritization, and management system

[9] For example, see: FAO/WHO (Food and Agriculture Organization of the United Nations/World Health Organization). 2009. Environmental Health Criteria 240: Principles and methods for the risk assessment of chemicals in food. At: *http://www.who.int/ipcs/food/principles/en/index1.html.*

[10] *http://www.cdc.gov/nchs/nhanes.htm.*

[11] Kerry L. Dearfield, Sarah R. Edwards, Margaret M. O'Keefe, Naser M. Abdelmajid, Ashley J. Blanchard, David D. Labarre, and Patty A. Bennett (U.S. Department of Agriculture, Food Safety and Inspection Service), ''Dietary Estimates of Dioxins Consumed in U.S. Department of Agriculture—Regulated Meat and Poultry Products, '' *Journal of Food Protection,* 76, no. 9 (2013): 1597–1607.

[12] Found in: Codex General Standard For Contaminants And Toxins In Food And Feed. At: *http://www.codexalimentarius.org/standards/list-standards/en/?no_cache=1?provide=standards&orderField=ccshort&sort=asc&num1=.*

[13] The Surveillance Advisory Team (SAT), is an interagency committee comprised of representatives from FSIS, FDA, EPA, AMS, ARS, and CDC. It consists of experts in veterinary medicine, toxicology, chemistry, and public health who provide professional advice, as well as information on veterinary drug and pesticide use in animal husbandry. The purpose of the SAT is to enhance communication, which includes obtaining and evaluating relevant toxicity and exposure information for each compound that supports the NRP.

operating under the NRP, FSIS intends to use the risk-based procedures described in this document to efficiently and effectively address public health concerns associated with chemical hazards that may be detected in livestock and poultry carcasses. FSIS requests comments on the approach discussed in this document, and on how FSIS can further improve its management of environmental contaminants and other chemical hazards in meat and poultry products.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at: *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register* .

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC: December 18, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–32808 Filed 12–28–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent To Request Approval To Establish a New Information Collection and Record Keeping Requirement

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act of 1995, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to request approval to establish a new information collection and record keeping requirement for the Veterinary Medical Loan Repayment Program (VMLRP).

DATES: Written comments on this notice must be received by February 29, 2016, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments may be submitted by any of the following methods: Email: *rmartin@nifa.usda.gov;* Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW., Washington, DC 20250–2216.

FOR FURTHER INFORMATION CONTACT: Robert Martin, Records Officer; Email: *rmartin@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Veterinary Medical Loan Repayment Program (VMLRP).

OMB Number: 0524–New.

Type of Request: Intent to request approval to establish a new information collection and record keeping requirement for three years.

Abstract: In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997. This law established a new Veterinary Medicine Loan Repayment Program (VMLRP) (7 U.S.C. 3125a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. The purpose of the program is to assure an adequate supply of trained food animal veterinarians in shortage situations and provide USDA with a pool of veterinary specialists to assist in the control and eradication of animal disease outbreaks.

The VMLRP Program Office proposes a record keeping requirement for VMLRP participants and to collect additional information from current participants, their employers and past participants. The records to be maintained and the information collected will allow for better oversight and assessment of the program. Additionally, to streamline OMB approval processes all currently approved VMLRP information collections (OMB Control Number 0524–0046 and 0524–0047) will be combined into a single package along with the new information proposed. Each new requirement is described in detail below.

(1) Service Log

Need and Use of the Records: Program participants are required to verify on a quarterly basis that the terms of the VMLRP service agreement are being met through the Service Verification Form (NIFA–09–10, OMB No 0534–0047). This form is an affidavit signed by the program participant's employer or, if self-employed, by the participant. Upon receipt by NIFA of a signed form affirming service under the terms and conditions of the service agreement, funds are released to participant's lender(s). At this time the affidavit is not validated by VMLRP program staff. In order to validate service affidavits, the VMLRP proposes a recording keeping requirement for participants in the form of service log that would be subject to audit by program staff. During a service audit VMLRP staff will compare the service log to the shortage area description and contact participants with any questions.

Discrepancies between the shortage situation description and service log may indicate a breach in the service agreement and payments to lender(s) will be put on hold until the discrepancy is resolved.

Components of the Record: For those participants serving in the private sector (Type I and Type II shortage situations), the service log would contain the following for each service/appointment: Date of service, duration of services/appointment, windshield/drive time, species or species type served, county and zip of client/farm receiving services, and services provided. For those serving in the public sector (Type III shortage situations), the service log would contain the following: Date of service/activity, duration of service/activity and description of service/activity conducted including the specific role of the participant in that service/activity.

Method of Collection: Participants should maintain their service logs in any data format *e.g.* csv, .xls, etc. A template will be provided. The full service log should be sent via email to the VMLRP Program Office along with the signed service verification form.

Frequency of Response: Random audit. When the quarterly affidavit is sent to participants for signature, each participant will be notified if they have been selected for audit. A VMLRP participant should anticipate at least one audit during their service agreement period.

Affected Public: VMLRP participants under service agreement.

Type of Respondents: Veterinarians.

Estimate of Burden:

Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
150	260	.25	9750

(2) Feedback Survey

Need for and Use of the Information: The VMLRP Program Office does not have a formal mechanism for program participants to provide feedback to the program or to State Animal Health Officials (SAHOs) on the status of the shortage situation they are serving. Moreover, there is no formal mechanism to obtain feedback on program processes, program resources, or quality of services and interactions with program staff. Currently, any feedback provided by participants is ad hoc on their own volition. The VMLRP Program Office is proposing to collect data on the current and 5–10y projected status of a shortage area, and program processes, resources and customer service. Data will be used by VMLRP to improve internal processes and shortage area information and will be shared with SAHOs to aide them in future nominations of veterinarian shortage situations. Active solicitation by VMLRP for feedback will occur after participants complete year one of the service agreement. This timing enables VMLRP to respond to feedback as appropriate and provide information to SAHOs during a participant's service agreement period.

Method of Collection: Feedback questions will be solicited through a survey sent by email to participants as a pdf-fillable form or as a link to a web-based survey system. Completed surveys will be emailed to the VMLRP Program Office or stored on the web-based system. Completion of the survey is voluntary.

Frequency of Response: Once during the service agreement period.

Affected Public: VMLRP participants under service agreement.

Type of Respondents: Veterinarians.

Estimate of Burden:

Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
50	1	.33	16.5

(3) Close-Out Report

Need for and Use of the Information: Close-out reports serve as documentation for federal award programs to assess whether the program is meeting its intended outcomes. VMLRP proposes to collect data from participants on the services provided during their service award, their impact on the shortage situation, and their professional plans post-service agreement. The information collected will be reported in aggregate as part of the program's annual report and used to evaluate VMLRP processes, impacts and projected outcomes.

Method of Collection: Information will be solicited via email using a pdf-fillable form or as a link to a web-based survey system. Completed surveys will be emailed to the VMLRP Program Office or stored on the web-based system. Completion of the report is mandatory and a condition of the service agreement.

Frequency of Response: Once at the end of the service agreement period.

Affected Public: VMLRP participants under service agreement.

Type of Respondents: Veterinarians.

Estimate of Burden:

Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
50	1	.33	16.5

(4) Employer Feedback

Need for and Use of the Information. The VMLRP Program Office does not have a formal mechanism for program participants' employers to provide feedback to the program or to State Animal Health Officials (SAHOs) on the status of the shortage situation their employee is serving. Currently, any

feedback provided by employers is ad hoc on their own volition. The VMLRP Program Office is proposing to collect data on the current and 5–10y projected status of a shortage situation, as well as feedback on the impact their employee has had on the shortage situation. Data will be used by VMLRP to assess program impact and may be reported in aggregate in the program's annual reports. Shortage area information will be shared with SAHOs to aide them in future nominations of veterinarian shortage situations. Active solicitation by VMLRP for feedback will occur during the last quarter of the VMLRP participant's agreement period.

Method of Collection: Feedback will be solicited through a survey emailed to participants' employers as a pdf-fillable form or as a link to a web-based survey system. Completed surveys will be emailed to the VMLRP Program Office or stored on the web-based system. Completion of the survey is voluntary.

Frequency of Response: Once at the end of the service agreement period.

Affected Public: Employers of VMLRP participants.

Type of Respondents: Veterinarians.

Estimate of Burden:

Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
30	1	.25	7.5

(5) Post-Award Termination Survey

Need for and Use of the Information. One of the goals of the VMLRP is long-term mitigation of designated veterinarian shortage situations. At this time, it is unknown whether program participants continue providing services for their shortage situation after their service agreement ends. Data collected will be reported in aggregate as part of the program's annual report, used to assess factors associated with retention (remaining in the same area and providing the same services as described by the shortage situation), and help determine if shortage situations are being mitigated in the long-term.

Method of Collection: Questions on retention will be solicited through a survey emailed to participants as a pdf-fillable form or as a link to a web-based survey system. Completed surveys will be emailed to the VMLRP Program Office or stored on the web-based system. Completion of the survey is voluntary.

Frequency of Response: One, three and five years after service agreement end date.

Affected Public: Past VMLRP participants.

Type of Respondents: Veterinarians.

Estimate of Burden:

Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
150	1	.25	37.5

Total Estimate of Burden: The estimated annual reporting burden for all VMLRP collection is as follows:

Type of respondents	Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
Applicants:				
Veterinary Medicine Loan Repayment Program Application OMB0524–0047	602	1	2.25	1350
Current Participants subtotal				1350
State Animal Health Officials:				
Veterinary Medicine Loan Repayment Program Shortage Situation Nomination OMB0524–0046	60	4	2	480
State Animal Health Official subtotal				480
Current Participants:				
Service Log	150	260	.25	9750
Feedback Survey	50	1	.33	16.5
Close-out Report	50	1	.33	16.5
Current Participants subtotal				9783
Employers:				
Employer Feedback	30	1	.25	7.5
Employer subtotal				7.5
Past Participants:				
Post-Award Termination Survey	150	1	.25	37.5
Past Participants subtotal				37.5

Type of respondents	Number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual burden hours requested
GRAND TOTAL				11,658

Comments: Comments are invited on: (a) Whether the proposed record keeping requirement and collection of information are 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collecting the information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Robert Martin as directed above.

Done at Washington, DC, this 16 day of December 2015.

Catherine E. Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2015–32747 Filed 12–28–15; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Submission for OMB Review; Comment Request

December 22, 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.

Natural Resources and Conservation Service

Title: Volunteer Program—Earth Team.

OMB Control Number: 0578–0024.

Summary of Collection: Volunteers have been a valuable human resource to the Natural Resources Conservation Service (NRCS) since 1985. NRCS is authorize by the Federal Personnel Manual (FPM) Supplement 296–33, Subchapter 33, to recruit, train and accept, with regard to Civil Service classification law, rules, or regulations, the service of individuals to serve without compensation. Volunteers may assist in any agency program/project and may perform any activities which agency employees are allowed to do. Volunteers must be 14 years of age. NRCS will collect information using NRCS forms.

Need and Use of the Information: NRCS will collect information on the type of skills and type of work the volunteers are interested in doing. The collected information will be used to evaluate potential international volunteers and evaluate the effectiveness of the volunteer program. Without the information, NRCS would not know which individuals are interested in volunteering.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local, or Tribal Government.

Number of Respondents: 3,766.

Frequency of Responses: Reporting: Biennially.

Total Burden Hours: 488.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–32746 Filed 12–28–15; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for the Section 533 Housing Preservation Grants for Fiscal Year 2016

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS), an Agency within Rural Development, announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which requires the Agency to announce the opening and closing dates for receipt of pre-applications for HPG funds from eligible applicants.

DATES: The closing deadline for receipt of all pre-applications in response to this Notice is 5:00 p.m., local time for each Rural Development State Office on February 12, 2016. Rural Development State Office locations can be found at: *http://www.rd.usda.gov/contact-us/state-offices.* The application should be submitted to the Rural Development State Office where the project will be located. If submitting the pre-application in electronic format, the closing deadline for receipt is 5:00 p.m. Eastern Daylight Time on February 12, 2016. The application closing deadline

is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Jeaneane Shelton, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, USDA Rural Development, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone (202) 720–5443 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service) or via email at, *jeaneane.shelton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency Name: USDA Rural Housing Service.

Funding Opportunity Title: Housing Preservation Grants.

Announcement Type: Notice.

Catalog of Federal Domestic Assistance Number: 10.433.

Dates: February 12, 2016.

Paperwork Reduction Act

The reporting requirements contained in this Notice have been approved by the Office of Management and Budget under Control Number 0575–0115.

A. Program Description

The HPG program is a grant program, authorized under 42 U.S.C. 1490m and implemented at 7 CFR part 1944, subpart N, which provides qualified public agencies, private non-profit organizations including, but not limited to, faith-based and neighborhood partnerships, and other eligible entities, grant funds to assist low- and very low-income homeowners in repairing and rehabilitating their homes in rural areas. In addition, the HPG program assists rental property owners and cooperative housing complexes in rural areas in repairing and rehabilitating their units if they agree to make such units available to low- and very low-income persons.

B. Federal Award Information

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established at the National level. In accordance with 7 CFR 1944.652, coordination and leveraging of funding for repair and rehabilitation activities with housing and community development organizations or activities operating in the same geographic area are expected, but not required. You should contact the Rural Development State Office to determine the allocation. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for Fiscal Year (FY) 2016 HPG program funds. New HPG applications must be submitted for the renewal or supplementation of existing HPG repair and/or rehabilitation projects that will be completed with FY 2016 HPG funds.

For FY 2016, the amount of funding available for the HPG Program can be found at the following link: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Priorities such as Rural Economic Area Partnership Zones and other funds will be distributed under a formula allocation to states pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on pre-application scores. Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development Web site periodically for updated information regarding the status of funding authorized for this program.

The commitment of program dollars will be made to selected applicants that have fulfilled the necessary requirements for obligation.

C. Eligibility Information

1. *Eligible Applicants.* Eligible entities for these competitively awarded grants include state and local governments, non-profit corporations, which may include, but not be limited to faith-based and community organizations, Federally recognized Indian tribes, and consortia of eligible entities. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for FY 2016 HPG program funds. More eligibility requirements can be found at 7 CFR 1944.658, 1944.661, and 1944.662.

2. *Cost Sharing or Matching.* Pursuant to 7 CFR 1944.652, grantees are expected to coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations or activities operating in the same geographic area. While HPG funds may be leveraged with other resources, cost sharing or matching is not a requirement that the HPG applicant do so as the HPG applicant would not be denied an award of HPG funds if all other project selection criteria have been met.

3. *Other.* Awards made under this Notice are subject to the provisions contained in the Consolidated and Further Appropriations Act 2015, Pub.L. 113–235, sections 738 and 739 regarding corporate felony convictions and corporate Federal tax delinquencies. To comply with these provisions, only selected applicants that are or propose to be corporations will submit this form as part of their pre-application. Form AD–3030 can be found here: *http://www.ocio.usda.gov/document/ad3030.*

D. Application and Submission Information

1. *Address to Request Application Package:* Applicants wishing to submit a paper application in response to this Notice must contact the Rural Development State Office serving the State of the proposed HPG housing project in order to receive further information and copies of the paper application package. You may find the addresses and contact information for each State Office following this web link, *http://www.rd.usda.gov/contact-us/state-offices.* Rural Development will date and time stamp incoming paper applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt. You may access the electronic grant pre-application for Housing Preservation Grants at: *http://www.grants.gov.*

2. *Content and Form of Application:* 7 CFR part 1944, subpart N provides details on what information must be contained in the pre-application package. Entities wishing to apply for assistance should contact the Rural Development State Office to receive further information, the State allocation of funds, and copies of the pre-application package. Unless otherwise noted, applicants wishing to apply for assistance must make its statement of activities available to the public for comment. The applicant(s) must announce the availability of its statement of activities for review in a newspaper of general circulation in the project area and allow at least 15 days for public comment. The start of this 15-day period must occur no later than 16 days prior to the last day for acceptance of pre-applications by the U.S. Department of Agriculture (USDA)-Rural Development. Federally recognized Indian tribes, pursuant to 7 CFR 1944.674, are exempt from the

requirement to consult with local leaders including announcing the availability of its statement of activities for review in a newspaper.

All applicants will file an original and two copies of Standard Form (SF) 424, ''Application for Federal Assistance,'' and supporting information with the appropriate Rural Development State Office. A pre-application package, including SF–424, is available in any Rural Development State Office. All pre-applications shall be accompanied by the following information which Rural Development will use to determine the applicant's eligibility to undertake the HPG program and to evaluate the pre-application under the project selection criteria of 7 CFR 1944.679.

(a) A statement of activities proposed by the applicant for its HPG program as appropriate to the type of assistance the applicant is proposing, including:

(1) A complete discussion of the type of and conditions for financial assistance for housing preservation, including whether the request for assistance is for a homeowner assistance program, a rental property assistance program, or a cooperative assistance program;

(2) The process for selecting recipients for HPG assistance, determining housing preservation needs of the dwelling, performing the necessary work, and monitoring/inspecting work performed;

(3) A description of the process for identifying potential environmental impacts in accordance with 7 CFR 1944.672 and the provisions for compliance with Stipulation I, A–G of the Programmatic Memorandum of Agreement, also known as PMOA, (RD Instruction 2000–FF, available in any Rural Development State Office) in accordance with 7 CFR 1944.673(b);

(4) The development standard(s) the applicant will use for the housing preservation work; and, if not the Rural Development standards for existing dwellings, the evidence of its acceptance by the jurisdiction where the grant will be implemented;

(5) The time schedule for completing the program;

(6) The staffing required to complete the program;

(7) The estimated number of very low- and low-income minority and nonminority persons the grantee will assist with HPG funds; and, if a rental property or cooperative assistance program, the number of units and the term of restrictive covenants on their use for very low- and low-income;

(8) The geographical area(s) to be served by the HPG program;

(9) The annual estimated budget for the program period based on the financial needs to accomplish the objectives outlined in the proposal. The budget should include proposed direct and indirect administrative costs, such as personnel, fringe benefits, travel, equipment, supplies, contracts, and other cost categories, detailing those costs for which the grantee proposes to use the HPG grant separately from non-HPG resources, if any. The applicant budget should also include a schedule (with amounts) of how the applicant proposes to draw HPG grant funds, *i.e.,* monthly, quarterly, lump sum for program activities, etc.;

(10) A copy of an indirect cost proposal when the applicant has another source of Federal funding in addition to the Rural Development HPG program;

(11) A brief description of the accounting system to be used;

(12) The method of evaluation to be used by the applicant to determine the effectiveness of its program which encompasses the requirements for quarterly reports to Rural Development in accordance with 7 CFR 1944.683(b) and the monitoring plan for rental properties and cooperatives (when applicable) according to 7 CFR 1944.689;

(13) The source and estimated amount of other financial resources to be obtained and used by the applicant for both HPG activities and housing development and/or supporting activities;

(14) The use of program income, if any, and the tracking system used for monitoring same;

(15) The applicant's plan for disposition of any security instruments held by them as a result of its HPG activities in the event of its loss of legal status;

(16) Any other information necessary to explain the proposed HPG program; and

(17) The outreach efforts outlined in 7 CFR 1944.671(b).

(b) Complete information about the applicant's experience and capacity to carry out the objectives of the proposed HPG program.

(c) Evidence of the applicant's legal existence, including, in the case of a private non-profit organization, which may include, but not be limited to, faith-based and community organizations, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; and the names and addresses of the applicant's members, directors and officers. If other organizations are members of the applicant-organization, or the applicant is a consortium, pre-applications should be accompanied by the names, addresses, and principal purpose of the other organizations. If the applicant is a consortium, documentation showing compliance with paragraph (4)(ii) under the definition of ''organization'' in 7 CFR 1944.656 must also be included.

(d) For a private non-profit entity, which may include, but not be limited to, faith-based and community organizations, the most recent audited statement and a current financial statement dated and signed by an authorized officer of the entity showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt(s) owed by the applicant.

(e) A brief narrative statement which includes information about the area to be served and the need for improved housing (including both percentage and the actual number of both low-income and low-income minority households and substandard housing), the need for the type of housing preservation assistance being proposed, the anticipated use of HPG resources for historic properties, the method of evaluation to be used by the applicant in determining the effectiveness of its efforts.

(f) A statement containing the component for alleviating any overcrowding as defined by 7 CFR 1944.656.

(g) Applicant must submit an original and one copy of Form RD 1940–20, ''*Request for Environmental Information,*'' prepared in accordance with Exhibit F–1 of RD Instruction 1944–N (available in any Rural Development State Office).

(h) Applicant must also submit a description of its process for:

(1) Identifying and rehabilitating properties listed on or eligible for listing on the National Register of Historic Places;

(2) Identifying properties that are located in a floodplain or wetland;

(3) Identifying properties located within the Coastal Barrier Resources System; and

(4) Coordinating with other public and private organizations and programs that provide assistance in the rehabilitation of historic properties (Stipulation I, D, of the PMOA, RD

Instruction 2000–FF, available as an electronic document and in any Rural Development State Office).

(i) The applicant must also submit evidence of the State Historic Preservation Office's, (SHPO), concurrence in the proposal, or in the event of non-concurrence, a copy of SHPO's comments together with evidence that the applicant has received the Advisory Council on Historic Preservation's advice as to how the disagreement might be resolved, and a copy of any advice provided by the Council.

(j) The applicant must submit written statements and related correspondence reflecting compliance with 7 CFR 1944.674(a) and (c) regarding consultation with local government leaders in the preparation of its program and the consultation with local and state government pursuant to the provisions of Executive Order 12372.

(k) The applicant is to make its statement of activities available to the public for comment prior to submission to Rural Development pursuant to 7 CFR 1944.674(b). The application must contain a description of how the comments (if any were received) were addressed.

(l) The applicant must submit an original and one copy of Form RD 400–1, ''*Equal Opportunity Agreement,*'' and Form RD 400–4, ''*Assurance Agreement,*'' in accordance with 7 CFR 1944.676.

Applicants should review 7 CFR part 1944, subpart N for a comprehensive list of all application requirements.

3. *Address unique entity identifier and System for Award Management (SAM).* As part of the application, all applicants, except for individuals or agencies excepted under 2 CFR 25.110(d), must be: (1) Registered in the System for Award Management (SAM); (2) provide a valid unique entity identifier in its applications; and (3) maintain an active SAM registration with current information at all times during which it has an active Federal award or application. An award may not be made to the applicant until the applicant has complied with the unique entity identifier and SAM requirements.

4. Intergovernmental Review Intergovernmental Review. The HPG program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

5. Funding Restrictions. There are no limits on proposed direct and indirect costs. Expenses incurred in developing pre-applications will be at the applicant's risk.

6. Other Submission Requirements. To comply with the President's Management Agenda, the Department of Agriculture is participating as a partner in the Government-wide Grants.gov site. Housing Preservation Grants [Catalog of Federal Domestic Assistance #10.433] is one of the programs included at this Web site. If you are an applicant under the Housing Preservation Grant program, you may submit your pre-application to the Agency in either electronic or paper format. Please be mindful that the pre-application deadline for electronic format differs from the deadline for paper format. The electronic format deadline will be based on Eastern Standard Time. The paper format deadline is local time for each Rural Development State Office.

Users of Grants.gov will be able to download a copy of the pre- application package, complete it off line, and then upload and submit the application via the Grants.gov site. You may not email an electronic copy of a grant pre-application to USDA Rural Development; however, the Agency encourages your participation in Grants.gov.

The following are useful tips and instructions on how to use the Web site:

- 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. USDA Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a DUNS number.
- You may submit all documents electronically through the Web site, including all information typically included on the Application for Rural Housing Preservation Grants, and all necessary assurances and certifications.
- After you electronically submit your application through the Web site, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.
- RHS may request that you provide original signatures on forms at a later date.
- If you experience technical difficulties on the closing date and are unable to meet the 5:00 p.m. (Eastern Standard Time) deadline, print out your application and submit it to your State Office, you must meet the closing date and local time deadline.
- Please note that you must locate the downloadable application package for this program by the CFDA Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov.*

In addition to the electronic pre-application at the *http://www.grants.gov* Web site, all applicants must complete and submit the FY 2016 pre-application package, detailed later in this Notice, for Section 533 HPG. A copy of a suggested coversheet is included with this Notice. Applicants are encouraged to submit this pre-application coversheet electronically by accessing the Web site: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Click on the Forms & Resources tab to access the ''FY 2016 Pre-application for Section 533 Housing Preservation Grants (HPG).''

Applicants are encouraged but not required, to also provide an electronic copy of all hard copy forms and documents submitted in the pre-application/application package as requested by this Notice. The forms and documents must be submitted as read-only Adobe Acrobat PDF files on an electronic media such as CDs, DVDs or USB drives. For each electronic device that you submit, you must include a Table of Contents listing all of the documents and forms on that device. The electronic medium must be submitted to the local Rural Development State Office where the project will be located.

Please Note: If you receive a loan or grant award under this Notice, USDA reserves the right to post all information that is not protected by the Privacy Act submitted as part of the pre-application/application package on a public Web site with free and open access to any member of the public.

E. Application Review Information

1. *Criteria.* All paper applications for Section 533 funds must be filed with the appropriate Rural Development State Office and all paper or electronic applications must meet the requirements of this Notice and 7 CFR part 1944, subpart N. Pre-applications determined not eligible and/or not meeting the selection criteria will be notified by the Rural Development State Office.

2. *Review and Selection Process.* The Rural Development State Offices will utilize the following threshold project selection criteria for applicants in accordance with 7 CFR 1944.679:

(a) Providing a financially feasible program of housing preservation assistance. ''Financially feasible'' is defined as proposed assistance which will be affordable to the intended recipient or result in affordable housing for very low- and low-income persons.

(b) Serving eligible rural areas with a concentration of substandard housing for households with very low- and low-income.

(c) Being an eligible applicant as defined in 7 CFR 1944.658.

(d) Meeting the requirements of consultation and public comment in accordance with 7 CFR 1944.674.

(e) Submitting a complete pre-application as outlined in 7 CFR 1944.676.

3. *Scoring.* For applicants meeting all of the requirements listed above, the Rural Development State Offices will use weighted criteria in accordance with 7 CFR part 1944, subpart N as selection for the grant recipients. Each pre-application and its accompanying statement of activities will be evaluated and, based solely on the information contained in the pre-application, the applicant's proposal will be numerically rated on each criteria within the range provided. The highest-ranking applicant(s) will be selected based on allocation of funds available to the state.

(a) Points are awarded based on the percentage of very low-income persons that the applicant proposes to assist, using the following scale:

(1) More than 80%	20 points.
(2) 61% to 80%	15 points.
(3) 41% to 60%	10 points.
(4) 20% to 40%	5 points.
(5) Less than 20%	0 points.

(b) The applicant's proposal may be expected to result in the following percentage of HPG fund use (excluding administrative costs) to total cost of unit preservation. This percentage reflects maximum repair or rehabilitation with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches. Points are awarded based on the following percentage of HPG funds (excluding administrative costs) to total funds:

(1) 50% or less	20 points.
(2) 51% to 65%	15 points.
(3) 66% to 80%	10 points.
(4) 81% to 95%	5 points.
(5) 96% to 100%	0 points.

(c) The applicant has demonstrated its administrative capacity in assisting very low- and low-income persons to obtain adequate housing based on the following:

(1) The organization or a member of its staff has at least one or more years experience successfully managing and operating a rehabilitation or weatherization type program: 10 points.

(2) The organization or a member of its staff has at least one or more years experience successfully managing and operating a program assisting very low- and low-income persons obtain housing assistance: 10 points.

(3) If the organization has administered grant programs, there are no outstanding or unresolved audit or investigative findings which might impair carrying out the proposal: 10 points.

(d) The proposed program will be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (*i.e.,* rural areas contained in MSAs with less than 5,000 population) as defined in 7 CFR 1944.656: 10 points.

(e) The program will use less than 20 percent of HPG funds for administration purposes:

(1) More than 20%	Not eligible.
(2) 20%	0 points.
(3) 19%	1 point.
(4) 18%	2 points.
(5) 17%	3 points.
(6) 16%	4 points.
(7) 15% or less	5 points.

(f) The proposed program contains a component for alleviating overcrowding as defined in 7 CFR 1944.656: 5 points.

In the event more than one pre-application receives the same amount of points, those pre-applications will then be ranked based on the actual percentage figure used for determining the points. Further, in the event that pre-applications are still tied, then those pre-applications still tied will be ranked based on the percentage for HPG fund use (low to high). Further, for applications where assistance to rental properties or cooperatives is proposed, those still tied will be further ranked based on the number of years the units are available for occupancy under the program (a minimum of 5 years is required). For this part, ranking will be based from most to least number of years.

Finally, if there is still a tie, then a lottery system will be used. After the award selections are made, all applicants will be notified of the status of their applications by mail.

F. Federal Award Administration Information

1. *Federal Award Notices.* The Agency will notify, in writing, applicants whose pre-applications have been selected for funding. At the time of notification, the Agency will advise the applicant what further information and documentation is required along with a timeline for submitting the additional information. If the Agency determines it is unable to select the application for funding, the applicant will be so informed in writing. Such notification will include the reasons the applicant was not selected. The Agency will advise applicants, whose pre-applications did not meet eligibility and/or selection criteria, of their review rights or appeal rights in accordance with 7 CFR 1944.682.

2. *Administrative and National Policy Requirements.* Rural Development is encouraging applications for projects that will support rural areas where, according to the American Community Survey data by census tracts, at least 20 percent of the population is living in persistent poverty. This emphasis will support Rural Development's mission of improving the quality of life for Rural Americans and commitment to directing resources to those who most need them. A persistent poverty county is a classification for counties in the United States that have had a relatively high rate of poverty over a long period.

3. *Reporting.* Post-award reporting requirements can be found in the Grant Agreement.

G. Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and where applicable, political beliefs, marital status, familial or parental status, religion, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: December 14, 2015.

Tony J. Hernandez,

Administrator, Rural Housing Service.

Fiscal Year 2016 Pre-Application for Section 533 Housing Preservation Grants (HPG) Instructions

Applicants are encouraged, but not required, to submit this pre-application form electronically by accessing the Web site: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Click on the Forms & Resources tab to access the ''Fiscal Year 2016 Pre-application for Section 533 Housing Preservation Grants (HPG).'' Please note that electronic submittals are not on a secured Web site. If you do not wish to submit the form electronically by clicking on the Send Form button, you may still fill out the form, print it and submit it with your application package to the State Office. You also have the option to save the form, and submit it on an electronic media to the State Office.

Supporting documentation required by this pre-application may be attached to the email generated when you click the Send Form button to submit the form. However if the attachments are too numerous or large in size, the email box will not be able to accept them. In that case, submit the supporting documentation for this pre-application to the State Office with your complete application package under item IX.

Documents Submitted, indicate the supporting documents that you are submitting either with the pre-application or to the State Office.

I. Applicant Information

a. Applicant's Name:

____

b. Applicant's Address:

Address, Line 1: ____

Address, Line 2: ____

City: _________________________ **State:** ____________ **Zip:** ________

c. Name of Applicant's Contact Person:

____

d. Contact Person's Telephone Number: _______________

e. Contact Person's Email Address:

____

f. Entity Type: ☐ State Government ☐ Local Government

(Check One) ☐ Non-Profit Corporation ☐ Federally Recognized Indian Tribes

☐ Faith-Based and neighborhood partnership

☐ Community Organization

☐ Other consortia of an eligible entity

II. Project Information

a. Project Name:

____

b. Project Address:

Address, Line 1: ____

Address, Line 2: ____

City: __________________________ **State:** ___________ **Zip:** _______

c. Organization DUNS number: ______________

d. Grant Amount Requested: _______________

e. This grant request is for one of the following types of assistance:

☐ Homeowner assistance program

☐ Rental property assistance program

☐ Cooperative assistance program

f. In response to e. above, answer one of the following:

The number of low- and very low-income persons that the grantee will assist in the Homeowner assistance program: _________ OR

The number of units for low- and very low-income persons in the Rental property or Cooperative assistance program: _________

g. This proposal is for one of the following:

☐ Housing Preservation Grant (HPG) program (no set-aside)

☐ Set-aside for Grant located in a Rural Economic Area Partnership (REAP) zone

III. Low-income Assistance

Check the percentage of very low-income persons that this pre- application proposes to assist in relation to the total population of the project:

☐ More than 80 percent (20 points)

☐ 61 percent to 80 percent (15 points)

☐ 41 percent to 60 percent (10 points)

☐ 20 percent to 40 percent (5 points)

☐ Less than 20 percent (0 points)

Points: ____

IV. Percent of HPG Fund Use

Check the percentage of HPG fund use (excluding administrative costs) in comparison to the total cost of unit preservation. This percentage reflects maximum repair or rehabilitation results with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches.

☐ 50 percent or less of HPG Funds (20 points)

☐ 51 percent to 65 percent of HPG Funds (15 points)

☐ 66 percent to 80 percent of HPG Funds (10 points)

☐ 81 percent to 95 percent of HPG Funds (5 points)

☐ 96 percent to 100 percent of HPG Funds (0 points)

Points: ____

V. Administrative Capacity

The following three criteria demonstrate your administrative capacity to assist very low- and low-income persons to obtain adequate housing (30 points maximum).

a. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a rehabilitation or weatherization type of program? (10 points) Yes ___ No ___ **Points: ____**

b. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a program assisting very low- or low-income persons obtain housing assistance? (10 points) Yes ___ No ___

Points: ____

c. If this organization has administered grant programs, are there any outstanding or unresolved audit or investigative findings which might impair carrying out the proposal? (10 points for No) No ___ Yes ___ **Points: ____**

If Yes, please explain:

____

____

____

VI. Area Served

Will this proposal be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, and identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (i.e., rural areas

contained in MSAs with a population of less than 5,000) as defined in 7CFR 1944.656? (10 points)

Yes ___ No ___ **Points: ____**

VII. Percent of HPG Funds for Administration

Check the percentage of HPG funds that will be used for Administration purposes:

☐ More than 20 percent (Not eligible)

☐ 20 percent (0 points)

☐ 19 percent (1 point)

☐ 18 percent (2 points)

☐ 17 percent (3 points)

☐ 16 percent (4 points)

☐ 15 percent or less (5 points)

Points: ____

VIII. Alleviating Overcrowding

Does the proposed program contain a component for alleviating overcrowding as defined in 7 CFR 1944.656? (5 points) Yes ___ No ___ **Points: ____**

IX. Documents Submitted

Check if the following documents are being submitted electronically with this pre-application or will be mailed to the State Office with your complete pre-application package.

NOTE: You are only required to submit supporting documents for programs in which you will be participating as indicated in this pre-application. Points will be assigned for the items that you checked based on a review of the supporting documents.

Please refer to the NOSA for the complete list of documents that you are required to submit with your complete pre-application package.

Reference	Item	Submitted with this Pre-application	Submitted to State Office
III.	Low Income Assistance		
IV.	Percent of HPG Fund Use		
V.	Administrative Capacity		
VI.	Area Served		

VII	**Percent of HPG Funds for Administration**		
VIII.	**Alleviating Overcrowding**		

B. HPG 2016 Scoring

PLEASE NOTE: The scoring below is based on the responses that you have provided on this pre-application form and may not accord with the final score that the Agency assigns upon evaluating the supporting documentation that you submit. Your score may change from what you see here if the supporting documentation does not adequately support your answer or, if required documentation is missing.

	Scoring Items for HPG 2016	**Points Earned**
1.	Low Income Assistance (5, 10, 15, 20)	
2.	Percent of HPG Fund Use (5, 10, 15, 20)	
3.	Administrative Capacity (10, 20, 30)	
4.	Area Served (10)	

5.	Percent of HPG Funds for Administration (1, 2, 3, 4, 5)	
6.	Alleviating Overcrowding (5)	
	Total Score:	

Important

By submitting this electronic pre-application form and its supporting documents, you have completed one step of the application process.

You **must** also complete the electronic application at the http://www.grants.gov website.

Your complete package, with all forms and supporting documents as listed in the NOSA, must be submitted to the local Rural Development State Office where the project is located for your application to be processed.

[FR Doc. 2015–32784 Filed 12–28–15; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Wyoming Advisory Committee to the Commission will convene at 1:00 p.m. (MST) on Thursday, January 14, 2016, via teleconference. The purpose of the planning meeting is for the Advisory Committee to continue their discussion and plans to identify specific issues for future study.

Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–888–364–3109; Conference ID: 480871. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–888–364–3109, Conference ID: 480871. Members of the public are invited to submit written comments; the comments must be received in the regional office by Tuesday, February 16, 2016. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=283* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

Welcome and Introductions

Sleeter C. Dover, Chair

Discussion of Issues for Future Study

Wyoming State Advisory Committee Administrative Matters

Malee V. Craft, Regional Director and Designated Federal Official (DFO)

DATES: Thursday, January 14, 2016, at 1:00 p.m. (MST).

ADDRESSES: To be held via teleconference:

Conference Call Toll-Free Number: 1–888–364–3109, Conference ID: 480871.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Malee V. Craft, Regional Director, *mcraft@usccr.gov,* 303–866–1040.

Dated: December 23, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–32684 Filed 12–28–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–134–2015]

Approval of Subzone Status; Nine West Holdings, Inc.; West Deptford, New Jersey

On October 14, 2015, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the South Jersey Port Corporation, grantee of FTZ 142, requesting subzone status subject to the existing activation limit of FTZ 142, on behalf of Nine West Holdings, Inc. in West Deptford, New Jersey.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 63533, October 20, 2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 142D is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 142's 249-acre activation limit.

Dated: December 23, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–32782 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–83–2015]

Foreign-Trade Zone (FTZ) 183—Austin, Texas; Notification of Proposed Production Activity; Samsung Austin Semiconductor, LLC; Subzone 183B (Semiconductors); Austin, Texas

Samsung Austin Semiconductor, L.L.C. (Samsung), operator of Subzone 183B, submitted a notification of proposed production activity to the FTZ Board for its facility in Austin, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on December 14, 2015.

Samsung already has authority to produce semiconductor memory devices for export. The current request would add foreign-status hexamethyldisilazane to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material described in the submitted notification and subsequently authorized by the FTZ Board.

Export production under FTZ procedures could exempt Samsung from customs duty payments on the foreign-status hexamethyldisilazane (3.7% duty rate) and the materials and components in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is February 8, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: December 22, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–32779 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE377

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, January 14, 2016 at 9 a.m.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01950; phone: (978) 777–2500; fax: (978) 750–7911.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will receive an update from the Plan Development Team on witch flounder analysis for Framework Adjustment 55, for informational purposes only. The committee will also discuss and plan for 2016 Council priorities for groundfish. They will review and potentially provide input on draft guidance prepared by NMFS related to the evaluation of catch share programs. The committee will also review and discuss potential 5-year research priorities for groundfish. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 23, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–32716 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE308

Fisheries of the Northeastern United States; Northeast Multispecies Fishery Management Plan; Notice of Intent To Prepare an Environmental Impact Statement; Scoping Process; Request for Comments; Extension of Comment Period

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

ACTION: Notice; intent to prepare an environmental impact statement and initiate scoping process; request for comments; extension of comment period and announcement of additional public hearing.

SUMMARY: In the Notice of Intent (NOI) that published on Monday, November 23, 2015, the Council and NMFS announced the intention to prepare an environmental impact statement in accordance with the National Environmental Policy Act. This notice is to alert the interested public of an additional public hearing and to extend the written comment period from January 7, 2016, to January 20, 2016, to ensure adequate time for the public to comment on the NOI.

DATES: The deadline for written and electronic scoping comments on the NOI published on November 23, 2015 (80 FR 72951) is extended to January 20, 2016, by 5 p.m., local time.

ADDRESSES: Written scoping comments on Amendment 22 may be sent by any of the following methods:

• Email to the following address: *comments@nefmc.org;*

• Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; or

• Fax to (978) 465–3116.

Requests for copies of the Amendment 22 scoping document and other information should be directed to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465–0492. The scoping document is accessible electronically via the Internet at *http://s3.amazonaws.com/nefmc.org/a-22-whiting-Scoping-document-4.pdf.*

FOR FURTHER INFORMATION CONTACT: Thomas Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Extension of Comment Period

On November 23, 2015, NMFS published an NOI (80 FR 72951) with a comment period ending on January 7, 2016. The comment period is being extended to January 20, 2016, to allow the public additional time to comment.

Additional Public Hearing

The Council will take and discuss scoping comments on this amendment at an additional public meeting:

1. Wednesday, January 20, 2016, at 6:00 p.m. Hampton Inn, 2100 Post Road, Warwick, RI 02886; (401) 739–8888.

Special Accommodations

This meeting is accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least five days prior to this meeting date.

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

Dated: December 22, 2015.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–32668 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE363

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, January 13, 2016 at 9:30 a.m.

ADDRESSES: *Meeting address:* The meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01950; phone: (978) 777–2500; fax: (978) 750–7911.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee plans to receive a Herring Advisory Panel report. The committee will also review Amendment 8 to the Atlantic Herring Fishery Management Plan. They will also review information and analyses which addresses concerns related to the Acceptable Biological Catch control rule, and localized depletion in inshore waters. The committee plans to discuss the potential for using state port-side monitoring data to monitor the River herring/Shad catch caps. The committee will also discuss 5-year research priorities for Atlantic herring (2017–22). They also will discuss a future action to consider revising the haddock catch cap accountability measure. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 23, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–32715 Filed 12–28–15; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 21 January 2016, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.gov.* Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: December 18, 2015 in Washington, DC.

Thomas Luebke,

Secretary.

[FR Doc. 2015–32419 Filed 12–28–15; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2016 Diagnosis Related Group (DRG) Updates

AGENCY: Office of the Secretary, Department of Defense, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios, and the data necessary to update the FY 2016 rates.

DATES: *Effective Date:* The rates, weights, and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for discharges occurring on or after October 1, 2015.

ADDRESSES: Defense Health Agency, TRICARE, Medical Benefits and Reimbursement Section, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Sharon L. Seelmeyer, Medical Benefits and Reimbursement Section, TRICARE, telephone (303) 676–3690. Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461); October 21, 1988 (53 FR 41331); December 16, 1988 (53 FR 50515); May 30, 1990 (55 FR 21863); October 22, 1990 (55 FR 42560); and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed in this notice.

I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the TRICARE DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the current Medicare Grouper with certain modifications. For FY 2008, Medicare implemented their Medicare-Severity DRG (MS–DRG) based payment system. TRICARE, however, continued with the Centers for Medicare and Medicaid Services DRG-based (CMS–DRG) payment system for FY 2008. For FY 2009, the TRICARE/CHAMPUS DRG-based payment system shall be modeled on the MS–DRG system, with the following modifications.

The MS–DRG system consolidated the 43 pediatric CMS DRGs that were defined based on age less than or equal to 17 into the most clinically similar MS–DRGs. In their Inpatient Prospective Payment System final rule for MS–DRGs, Medicare stated for their population these pediatric CMS DRGs contained a very low volume of Medicare patients. At the same time, Medicare encouraged private insurers and other non-Medicare payers to make refinements to MS–DRGs to better suit the needs of the patients they serve. Consequently, TRICARE finds it appropriate to retain the pediatric CMS–DRGs for our population. TRICARE is also retaining the TRICARE-specific DRGs for neonates and substance use.

For FY09, TRICARE will use the MS–DRG v26.0 pre-MDC hierarchy, with the exception that MDC 15 is applied after DRG 011–012 and before MDC 24.

For FY10, there are no additional or deleted DRGs.

For FY 11, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 16, 2010. That is, DRG 009 is deleted; DRGs 014 and 015 are being added.

For FY 12, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 18, 2011 (76 FR 51476–51846). That is, DRG 015 is deleted; DRGs 016 and 017 are being added.

For FY 2013 there are no new, revised, or deleted DRGs.

For FY 2014 there are no new, revised, or deleted DRGs.

For FY 2015 the added, deleted, and revised DRGs are the same as those included in the CMS' final rule published on August 22, 2014 (79 FR 49880) with the exception of endovascular cardiac valve replacement for which CMS added DRGs 266/267 and TRICARE added DRGs 317/318 because the TRICARE Grouper already has DRGs 266/267 assigned to pediatric procedures.

For FY2016 the added, deleted, and revised DRGs are the same as those

included in the CMS' final rule published on August 17, 2015 (80 FR 49326) with the exception of cardiovascular procedure for which CMS added DRGs 268–272 and TRICARE added DRGs 275–279 because the TRICARE Grouper already has DRGs 268–271 assigned to pediatric procedures.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out-commuting wage index adjustment.

C. Revision of the Labor-Related Share of the Wage Index

TRICARE is adopting CMS' percentage of labor related share of the standardized amount. For wage index values greater than 1.0, the labor related portion of the Adjusted Standardized Amount (ASA) shall continue to equal 69.6 percent. For wage index values less than or equal to 1.0 the labor related portion of the ASA shall continue to equal 62 percent.

D. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS' August 17, 2015, final rule. For FY 2016, the market basket is 2.4 percent. Note: Medicare's FY 2016 market basket index adjusts according to hospitals' compliance with quality data and electronic health record meaningful use submissions. These adjustments do not apply to the TRICARE Program.

E. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a pass through basis), we will use the fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For FY 2016, the TRICARE fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for Indirect Medical Education (IDME) plus a fixed dollar amount. Thus, for FY 2016, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment (if applicable) plus $20,758 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

F. National Operating Standard Cost as a Share of Total Costs

The FY 2016 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.921. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost-to-charge ratios while CMS uses hospital specific cost-to-charge ratios.

G. Indirect Medical Education (IDME) Adjustment

Passage of the Medical Modernization Act of 2003 modified the formula multipliers to be used in the calculation of IDME adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's, however; the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The multiplier for the IDME adjustment factor for TRICARE for FY 2016 is 1.02.

H. Cost to Charge Ratio

TRICARE uses a national Medicare cost-to-charge ratio (CCR). For FY 2016, the Medicare CCR used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.2631. This is based on a weighted average of the hospital-specific Medicare CCRs (weighted by the number of Medicare discharges) after excluding hospitals not subject to the TRICARE DRG system (Sole Community Hospitals, Indian Health Service hospitals, and hospitals in Maryland). The Medicare CCR is used to calculate cost outlier payments, except for children's hospitals. The Medicare CCR has been increased by a factor of 1.0065 to include an additional allowance for bad debt. The 1.0065 factor reflects the provisions of the Middle Class Tax Relief and Job Creation Act of 2012. For children's hospital cost outliers, the CCR used is 0.2840.

I. Pricing of Claims

The final rule published on May 21, 2014 (79 FR 29085) set forth all final claims with discharge dates of October 1, 2014, or later and reimbursed under the TRICARE DRG-Based payment system, are to be priced using the rules, weights, and rates in effect as of the date of discharge. Prior to this, all final claims were priced using the rules, weights, and rates in effect as of the date of admission.

J. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.health.mil/rates.* The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: December 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–32655 Filed 12–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

National Commission on the Future of the Army; Notice of Federal Advisory Committee Meeting

AGENCY: Deputy Chief Management Officer, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The DoD is publishing this notice to announce a meeting of the National Commission on the Future of the Army (''the Commission''). The meeting will be closed to the public.

DATES: Date of the Closed Meeting: Wednesday, January 13, 2016, from 8:00 a.m. to 5:00 p.m.

ADDRESSES: Address of Closed Meeting, January 13, 2016: Rm 12110, 12th Floor, Zachary Taylor Building, 2530 Crystal Dr., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Don Tison, Designated Federal Officer, National Commission on the Future of the Army, 700 Army Pentagon, Room 3E406, Washington, DC 20310–0700, Email: *dfo.public@ncfa.ncr.gov.* Desk (703) 692–9099. Facsimile (703) 697–8242.

SUPPLEMENTARY INFORMATION: This meeting will be held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of Meetings:

During the closed meeting on Wednesday, January 13, 2016, the

Commission will review the comments from the OSD security review about the draft Commission report.

Agendas:

January 13, 2016—Closed Meeting: The Commission will hold a closed meeting to review the Commission's report for content after recommend edits from the OSD security review. All presentations and resulting discussion are classified.

Meeting Accessibility:

In accordance with applicable law, 5 U.S.C. 552b(c) and 41 CFR 102–3.155, the DoD has determined that the meeting scheduled for January 13, 2016 will be closed to the public. Specifically, the Assistant Deputy Chief Management Officer, with the coordination of the DoD FACA Attorney, has determined in writing that this meeting will be closed to the public because it will discuss matters covered by 5 U.S.C. 552b(c)(1).

Written Comments:

Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written comments to the Commission in response to the stated agenda of the closed meeting or the Commission's mission. The Designated Federal Officer (DFO) will review all submitted written statements. Written comments should be submitted to Mr. Donald Tison, DFO, via facsimile or electronic mail, the preferred modes of submission. Each page of the comment must include the author's name, title or affiliation, address, and daytime phone number. All comments received before Tuesday, January 12, 2016, will be provided to the Commission before the January 13, 2016, meeting. All contact information may be found in the **FOR FURTHER INFORMATION CONTACT** section.

Additional Information

The DoD sponsor for the Commission is the Deputy Chief Management Officer. The Commission is tasked to submit a report, containing a comprehensive study and recommendations, by February 1, 2016 to the President of the United States and the Congressional defense committees. The report will contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions it may consider appropriate in light of the results of the study. The comprehensive study of the structure of the Army will determine whether, and how, the structure should be modified to best fulfill current and anticipated mission requirements for the Army in a manner consistent with available resources.

Dated: December 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–32665 Filed 12–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the Secretary of the Navy Advisory Panel (''the Panel'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d).

The Panel is a discretionary Federal advisory committee that provides the Secretary of Defense and the Deputy Secretary of Defense, through the Secretary of the Navy, independent advice and recommendations on critical matters concerning the Department of the Navy.

The Panel's focus will include Department of the Navy administration and management, recruitment and training, equipment acquisition and maintenance, military and civilian manpower systems, basing and support infrastructure, and logistical support. The Panel will also focus on research and development matters confronting the U.S. Navy and the U.S. Marine Corps and on matters pertaining to preserving the history and heritage of the Naval Services.

The Panel shall be composed of no more than 15 members. The members will be eminent authorities in the fields of science, research, finance, history, engineering, business, and industry.

The appointment of Panel members will be authorized by the Secretary of Defense or the Deputy Secretary of Defense, and administratively certified by the Secretary of the Navy, for a term of service of one-to-four years, and their appointments will be renewed on an annual basis in accordance with DoD policies and procedures. Members of the Panel who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members. Panel members who are full-time or permanent part-time Federal officers or employees will serve as regular government employee (RGE) members. No member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service on the Panel, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time.

All members of the Panel are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

Except for reimbursement of official Panel-related travel and per diem, Panel members serve without compensation.

The Secretary of the Navy has the delegated authority to appoint the Panel's Chair from among the membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense.

The DoD, as necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel.

Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Navy, as the DoD Sponsor.

Such subcommittees shall not work independently of the Panel and shall report all their recommendations and advice solely to the Panel for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. If a majority of Panel members are appointed to a particular subcommittee, then that subcommittee may be required to operate pursuant to the same notice and openness requirements of FACA which govern the Panel's operations.

Pursuant to Secretary of Defense policy, the Secretary of the Navy is authorized to administratively certify the appointment of subcommittee members if the Secretary of Defense or

the Deputy Secretary of Defense has previously authorized the individual's appointment to the Panel or another DoD advisory committee. If the Secretary of Defense or the Deputy Secretary of Defense has not previously authorized the appointment of the individual to the Panel or another DoD advisory committee, then the individual's subcommittee appointment must first be authorized by the Secretary of Defense or the Deputy Secretary of Defense and subsequently administratively certified by the Secretary of the Navy.

Subcommittee members, with the approval of the Secretary of Defense, will be appointed for a term of service of one-to-four years, subject to annual renewals; however, no member shall serve more than two consecutive terms of service on the subcommittee. Subcommittee members, if not full-time or part-time Federal officers or employees, will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will serve as RGE members. With the exception of reimbursement for travel and per diem as it pertains to official travel related to the Panel or its subcommittees, Panel subcommittee members shall serve without compensation.

The Secretary of Defense authorizes the Secretary of the Navy to appoint the chair and vice chair of any appropriately approved subcommittees from among the subcommittee membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense.

Each subcommittee member is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees operate under the provisions of the FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

Currently, DoD has approved the following two permanent subcommittees to the Panel:

(a) The Naval Research Advisory Committee shall be composed of not more than seven members and shall provide independent advice and recommendations on scientific, technical, research, and development matters confronting the U.S. Navy and the U.S. Marine Corps. Pursuant to 10 U.S.C. 5024(a), the subcommittee shall consist of civilians preeminent in the fields of science, research, and development work, and one member must be from the field of medicine. The estimated number of meetings is four per year.

(b) The Secretary of the Navy's Advisory Subcommittee on Naval History shall be composed of not more than 15 members and shall provide independent advice and recommendations on matters pertaining to preserving the heritage and legacy of the Naval Services and disseminating their rich history to the Service and the American public. Advisory topics may include professional standards, methods, program priorities, cooperative relationships in Marine Corps and Navy's historical research and publication programs, museums, archives, archeology, libraries, manuscript collections, rare book collections, art collections, preservation, and curatorial activities. The subcommittee shall consist of civilians who have broad managerial experience, vision, and understanding in one or more of the following areas: Military and maritime history, archives, museology, art, library science, and information technology. The estimated number of meetings is one per year.

The Panel's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and will be appointed in accordance with established DoD policies and procedures.

The Panel's DFO is required to be in attendance at all Panel and subcommittee meetings for the duration of each and every meeting. However, in the absence of the Panel's DFO, a properly approved Alternate DFO, duly appointed to the Panel according to DoD policies and procedures, will attend the entire duration of all of the Panel or subcommittee meeting.

The DFO, or the Alternate DFO, will call all of the Panel and its subcommittee meetings; prepare and approve all meeting agendas; adjourn any meeting, when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures; and chair meetings when directed to do so by the official to whom the Panel reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Panel.

All written statements shall be submitted to the DFO for the Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Panel's DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Panel. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: December 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–32671 Filed 12–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Vietnam War Commemoration Advisory Committee; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Vietnam War Commemoration Advisory Committee. This meeting is open to the public.

DATES: The public meeting of the Vietnam War Commemoration Advisory Committee (hereafter referred to as ''the Committee'') will be held on Friday, January 15, 2016. The meeting will begin at 8:30 a.m. and end at 12:30 p.m.

ADDRESSES: 1331 F Street NW., Suite 1000, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Committee's Designated Federal Officer: The committee's Designated Federal Officer is Mr. Michael Gable, Vietnam War Commemoration Advisory Committee, 1101 Wilson Blvd., Suite 810, Arlington, VA 22209, *michael.l.gable.civ@mail.mil,* 703–697–4811. For meeting information please contact Mr. Michael Gable, *michael.l.gable.civ@mail.mil,* 703–697–4811, Mr. Mark Franklin, *mark.r.franklin.civ@mail.mil,* 703–697–4849, or Ms. Scherry Chewning, *scherry.l.chewning.civ@mail.mil,* 703–697–4908.

SUPPLEMENTARY INFORMATION:

This meeting is being held under the provisions of the Federal Advisory

Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Committee will convene and receive a series of updates on the Vietnam War Commemoration. The mission of the Committee is to provide the Secretary of Defense, through the Director of Administration and Management (DA&M), independent advice and recommendations regarding major events and priority of efforts during the commemorative program for the 50th Anniversary of the Vietnam War, in order to achieve the objectives for the Commemorative Program.

Availability of Materials for the Meeting: A copy of the agenda for the Committee may be obtained from the Commemoration's Web site at *http://vietnamwar50th.com.* Copies will also be available at the meeting.

Meeting Agenda

8:30 a.m.–8:40 a.m. Convene with Committee Chairman Remarks

8:40 a.m.–12:30 p.m. Committee Meeting/Agenda items

- Commemoration Program Update
- Initial Discussion on Topics for Committee Recommendations
- Developing a National Voice
- Activities 2018–2025
- Closing Event
- Future Commemorations and Federal Advisory Committee Usage
- Closing remarks

12:30 p.m. Adjourn

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. All members of the public who wish to attend the public meeting must contact Mr. Michael Gable, Mr. Mark Franklin or Ms. Scherry Chewning at the number listed in the **FOR FURTHER INFORMATION CONTACT** section. Please come prepared to present one form of photo identification to gain access to Ft Myer.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Mark Franklin or Ms. Scherry Chewning at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Commemoration about its mission and topics pertaining to this public meeting.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Commemoration for their consideration prior to the meeting. Written comments should be submitted via email to the address for the DFO given in the **FOR FURTHER INFORMATION CONTACT** section in either Adobe Acrobat or Microsoft Word format. Please note that since the Commemoration operates under the provisions of the Federal Advisory Committee Act, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Commemoration's Web site.

Dated: December 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–32703 Filed 12–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0145]

Agency Information Collection Activities; Comment Request; National Longitudinal Transition Study 2012 Phase II

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previous information collection.

DATES: Interested persons are invited to submit comments on or before February 29, 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–0145. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Yumiko Sekino, (202) 219–2046.

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: National Longitudinal Transition Study 2012 Phase II.

OMB Control Number: 1850–0882.

Type of Review: A reinstatement of a previous information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 6440.

Total Estimated Number of Annual Burden Hours: 3953.

Abstract: The National Longitudinal Transition Study 2012 (NLTS 2012) is the third in a series of studies being conducted by the U.S. Department of Education (ED), with the goal of describing the characteristics, secondary school experiences, transition, and outcomes of youth who receive special

education services under IDEA. Phase II of NLTS 2012 will utilize high school and post-high school administrative records data to collect information in three broad areas important to understanding outcomes for youth with disabilities: (1) high school course-taking and outcomes, (2) post-secondary outcomes, and (3) employment and earnings outcomes. Phase II collected information will build on a survey of a nationally representative set of students with and without IEPs from Phase I of the study to address the following questions:

- To what extent do youth with disabilities who receive special education services under IDEA make progress through high school compared with other youth, including those identified for services under Section 504 of the Rehabilitation Act? For students with disabilities, has high school course taking and completion rates changed over the past few decades?
- Are youth with disabilities achieving the post-high school outcomes envisioned by IDEA, and how do their college, training, and employment rates compare with those of other youth?
- How do these high school and postsecondary experiences and outcomes vary by student characteristics, including their disability category, age, sex, race/ethnicity, English Learner status, income status, and type of high school attended (including regular public school, charter school, career/technical school, special education school, or other State or Federally-operated institution)?

Dated: December 23, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–32688 Filed 12–28–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Macroeconomic Impacts of LNG Exports Studies

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of availability of the 2014 EIA LNG Export Study and the 2015 LNG Export Study, and request for comments.

Lake Charles Exports, LLC	[FE Docket No. 11–59–LNG].
Gulf Coast LNG Export, LLC	[FE Docket No. 12–05–LNG].
Jordan Cove Energy Project, L.P.	[FE Docket No. 12–32–LNG].
LNG Development Company, LLC (d/b/a Oregon LNG)	[FE Docket No. 12–77–LNG].
Southern LNG Company, L.L.C.	[FE Docket No. 12–100–LNG].
Gulf LNG Liquefaction Company, LLC	[FE Docket No. 12–101–LNG].
CE FLNG, LLC	[FE Docket No. 12–123–LNG].
Golden Pass Products LLC	[FE Docket No. 12–156–LNG].
Lake Charles LNG Export Company, LLC	[FE Docket No. 13–04–LNG].
Freeport-McMoRan Energy LLC	[FE Docket No. 13–26–LNG].
Venture Global Calcasieu Pass, LLC	[FE Docket No. 13–69–LNG].
Eos LNG LLC	[FE Docket No. 13–116–LNG].
Barca LNG LLC	[FE Docket No. 13–118–LNG].
Magnolia LNG, LLC	[FE Docket No. 13–132–LNG].
Delfin LNG LLC	[FE Docket No. 13–147–LNG].
Waller LNG Services, LLC	[FE Docket No. 13–153–LNG].
Gasfin Development USA, LLC	[FE Docket No. 13–161–LNG].
Louisiana LNG Energy LLC	[FE Docket No. 14–29–LNG].
Venture Global Calcasieu Pass, LLC	[FE Docket No. 14–88–LNG].
SCT&E LNG, LLC	[FE Docket No. 14–98–LNG].
Downeast LNG, Inc.	[FE Docket No. 14–173–LNG].
Venture Global Calcasieu Pass, LLC	[FE Docket No. 15–25–LNG].
G2 LNG LLC	[FE Docket No. 15–45–LNG].
Texas LNG Brownsville LLC	[FE Docket No. 15–62–LNG].
Strom Inc.	[FE Docket No. 15–78–LNG].
Cameron LNG, LLC	[FE Docket No. 15–90–LNG].
Port Arthur LNG, LLC	[FE Docket No. 15–96–LNG].
Corpus Christi Liquefaction, LLC	[FE Docket No. 15–97–LNG].
Flint Hills Resources, LP	[FE Docket No. 15–168–LNG).

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of the availability of two studies examining the cumulative impacts of liquefied natural gas (LNG) exports in the above-referenced proceedings and invites the submission of comments regarding those studies. DOE commissioned the studies to inform DOE's decisions on applications seeking authorization to export LNG from the lower-48 states to non-free trade agreement countries.[1] The first study, performed by the U.S. Energy Information Administration (EIA) and originally published in October 2014, assessed how specified scenarios of increased natural gas exports could affect domestic energy markets (2014 EIA LNG Export Study). At DOE's request, this study was an update of EIA's January 2012 study of LNG export scenarios using baseline cases from EIA's 2014 *Annual Energy Outlook*. The second study was performed by the Center for Energy Studies at Rice University's Baker Institute and Oxford Economics, under contract to DOE (2015 LNG Export Study). This 2015 LNG Export Study is a scenario-based assessment of the macroeconomic impact of levels of U.S. LNG exports sourced from the lower-48 states in volumes ranging from 12 to 20 billion cubic feet per day (Bcf/d) of natural gas under a range of assumptions, including U.S. resource endowment, U.S. natural gas demand, international LNG market dynamics, and other factors. These two studies are posted on the DOE/FE Web site at: *http://www.energy.gov/fe/2015-*

[1] The studies did not consider the impact of exports of Alaska natural gas production. Because there is no natural gas pipeline interconnection between Alaska and the lower-48 states, the macroeconomic consequences of exporting LNG from Alaska are likely to be discrete and separate from those of exporting from the lower-48 states.

lng-study. DOE may use the 2014 EIA LNG Export Study and the 2015 LNG Export Study to inform its decisions in the listed proceedings and for other purposes. Comments submitted in compliance with the instructions in this notice will be placed in the administrative record for all of the above-listed proceedings and need only be submitted once.

DATES: Comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, February 12, 2016. DOE will not accept reply comments.

ADDRESSES:

Electronic Filing of Comments Using Online Form

http://www.energy.gov/fe/2015-lng-study

Regular Mail

U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (*e.g.*, FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Robert Smith, U.S. Department of Energy (FE–1), Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7241

Edward Myers or Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397; (202) 586–9793

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 3 of the Natural Gas Act, 15 U.S.C. 717b, exports of natural gas, including LNG, must be authorized by DOE/FE.[2] Applications that seek authority to export natural gas to countries with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries) are presumed to be in the public interest unless, after opportunity for hearing, DOE finds that the authorizations would not be consistent with the public interest.

Previously, in August 2012, DOE/FE had authorized one non-FTA LNG export authorization—to Sabine Pass Liquefaction, LLC, for a volume of LNG equivalent to 2.2 Bcf/d of natural gas—and had several other non-FTA export applications pending before it.[3] DOE/FE therefore determined that further study of the economic impacts of LNG exports was warranted to better inform its public interest review under section 3 of the NGA. Accordingly, on December 11, 2012, DOE gave notice of the availability of the 2012 LNG Export Study.[4] DOE commissioned that Study, consisting of two separate parts, of the economic impacts of exporting LNG to non-FTA nations up to 12 billion cubic feet per day (Bcf/d). The 2012 LNG Export Study was comprised of the following:

- An analysis performed by the Energy Information Administration (EIA) and originally published in January 2012, entitled *Effect of Increased Natural Gas Exports on Domestic Energy Markets* (2012 EIA Study), examining the impact of two prescribed levels of assumed natural gas exports (at 6 Bcf/d and 12 Bcf/d) under numerous scenarios and cases based on projections from EIA's 2011 *Annual Energy Outlook,* which were the most recent EIA projections available at the time; and
- An evaluation performed by NERA Economic Consulting (NERA), a private contractor retained by DOE, entitled *Macroeconomic Impacts of Increased LNG Exports From the United States* (NERA Study), which incorporated EIA's case study output using EIA's National Energy Modeling System model into NERA's general equilibrium model of the U.S. economy, with an emphasis on the energy sector and natural gas in particular. NERA analyzed the potential macroeconomic impacts of LNG exports under a range of global natural gas supply and demand scenarios.

DOE/FE invited public comment on the 2012 LNG Export Study, and received comments representing a diverse range of interests and perspectives.

To date, DOE/FE has issued 12 final long-term authorizations, in response to 14 applications, granting long-term authority to export LNG and compressed natural gas (CNG) to non-FTA countries in a cumulative volume of exports totaling 10.008 Bcf/d of natural gas.[5] DOE/FE considered the comments received on the 2012 LNG Export Study in its review of each of those applications (except for the first application—Sabine Pass Liquefaction, LLC in FE Docket No. 10–111–LNG—which was granted at approximately the same time that DOE commenced the 2012 LNG Export Study).[6] Additionally, DOE/FE has explained that, in deciding whether to grant a non-FTA export application, it considers in its decision-making the cumulative impacts of the total volume of all final non-FTA export authorizations.[7] DOE/FE has further stated that it will assess the cumulative impacts of each succeeding request for export authorization on the public interest with due regard to the effect on domestic natural gas supply and demand fundamentals.[8]

The 29 proceedings identified above involve applications submitted by the named parties seeking authorization to export LNG from the lower-48 states to non-FTA countries. In light of the volume of long-term LNG and CNG exports to non-FTA countries authorized to date, DOE/FE determined that a study of the economic impacts of LNG exports is again warranted. Therefore, on May 29, 2014, DOE announced plans to undertake economic studies in order to gain a better understanding of how potentially higher levels of U.S. LNG exports—between 12

[2] The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00–006.02 (issued November 17, 2014).

[3] *See, e.g., Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 2961–A, FE Docket No. 10–111–LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations (Aug. 7, 2012).

[4] U.S. Dep't of Energy, 2012 LNG Export Study, Notice of Availability and Request for Comments, 77 FR 73,627 (Dec. 11, 2012).

[5] *See Air Flow North America Corp.,* DOE/FE Order No. 3753, FE Docket No. 14–206–LNG, Final Opinion and Order Granting Long-Term, Multi Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Clean Energy Fuels Corp. LNG Production Facility in Willis, Texas, and Exported by Vessel to Non-Free Trade Agreement Nationals in Central America, South America, the Caribbean, or Africa, at 24–25 (Dec. 4, 2015) (identifying the 12 final non-FTA export authorizations issued to date, including the first authorization granted to Sabine Pass Liquefaction, LLC).

[6] *See supra* n.3; *see also, e.g., Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 3669, FE Docket Nos. 13–30–LNG, 13–42–LNG, & 13–121–LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, at 94–149 (June 26, 2015) (''Comments on the 2012 LNG Export Study and DOE/FE Analysis'').

[7] *Id.* at 211–12.

[8] *Id.* at 212.

and 20 Bcf/d of natural gas—would affect the public interest.

Specifically, for the 2014 EIA LNG Export Study, DOE/FE asked EIA to evaluate the impact of increased natural gas demand, reflecting possible exports of U.S. natural gas, on domestic energy markets using the modeling analysis presented in the *Annual Energy Outlook 2014* as a starting point. Second, for the 2015 LNG Export Study, DOE/FE engaged the Center for Energy Studies at Rice University's Baker Institute and Oxford Economics for an external analysis of the economic impact of this increased range of LNG exports and other effects that LNG exports might have on the U.S. natural gas market.

The purpose of this Notice is to enter the 2014 EIA LNG Export Study and the 2015 LNG Export Study in the administrative record of the 29 listed non-FTA export proceedings and to invite comments on these two studies, as applied to each proceeding. The 2014 EIA LNG Export Study, the 2015 LNG Export Study, and the comments that DOE/FE receives in response to this Notice will help to inform DOE's determination of the public interest in each case.

The 2014 EIA LNG Export Study

EIA prepared a report entitled *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* in response to the May 29, 2014 request from DOE/FE for an update of the EIA's January 2012 study of LNG export scenarios. DOE/FE asked EIA to assess how specified scenarios of increased exports of LNG from the lower-48 states would affect domestic energy markets, focusing on consumption, production, and prices. The DOE/FE scenarios posit total LNG exports sourced from the lower-48 states of 12 Bcf/d, 16 Bcf/d, and 20 Bcf/d, with these exports phased in at a rate of 2 Bcf/d each year beginning in 2015. DOE/FE requested that EIA consider the specified lower-48 states LNG export scenarios in the context of baseline cases from EIA's *2014 Annual Energy Outlook 2014,* which reflect varying perspectives on domestic natural gas supply, the growth rate of the U.S. economy, and natural gas use for electricity generation.

The 2015 LNG Export Study

The Center for Energy Studies at Rice University's Baker Institute and Oxford Economics were jointly commissioned to undertake a scenario-based assessment of the macroeconomic impact of alternative levels of U.S. LNG exports under a range of assumptions concerning U.S. resource endowment (natural gas supply), U.S. natural gas demand, and the international market environment.

A comprehensive set of scenarios was prepared to understand the economic impact of higher U.S. LNG exports under a range of circumstances for domestic and international gas markets. This scenario approach was chosen to enable conclusions that are independent of any particular set of starting conditions for the U.S. or international natural gas markets, and to highlight the impact of increasing U.S. LNG exports under alternative domestic and international conditions. The authors considered sets of circumstances that would result in different international demand pull for U.S. sourced LNG. The variants considered were international conditions sufficient to support 12 Bcf/d and 20 Bcf/d of U.S. LNG exports.

Invitation to Comment

DOE invites comments on the 2014 EIA LNG Export Study and/or the 2015 LNG Export Study to help inform DOE in its public interest determinations of the authorizations sought in the 29 non-FTA export applications identified above. Comments must be limited to the methodology, results, and conclusions of these studies on the factors evaluated. These factors include the potential impact of LNG exports on domestic energy consumption, production, and prices; the macroeconomic factors identified in the two studies, including Gross Domestic Product, consumption, U.S. economic sector analysis, and U.S. LNG export feasibility analysis; and any other factors included in the analyses. In addition, comments may be directed toward the feasibility of various scenarios used in both analyses. While this invitation to comment covers a broad range of issues, the Department may disregard comments that are not germane to the present inquiry. Due to the complexity of the issues raised in these studies, interested parties will be provided 45 days from the date of publication of this Notice in which to submit their comments.

Public Comment Procedures

DOE is not establishing a new proceeding or docket by today's issuance, and the submission of comments in response to this Notice will not make commenters parties to any of the 29 listed LNG export proceedings. Persons with an interest in the outcome of one or more of those proceedings have been given an opportunity to intervene in and/or protest those applications by complying with the procedures established in the respective notices of application published in the **Federal Register**.[9] The record in those 29 proceedings will include all comments received in response to this Notice. Comments will be reviewed on a consolidated basis for purposes of hearing, and decisions will be issued on a case-by-case basis. In addition to the procedures established by this Notice, all comments must meet the requirements specified by the regulations in 10 CFR part 590, as supplemented below.

Comments may be submitted using one of the following supplemental methods:

(1) Submitting the comments using the online form at *http://www.energy.gov/fe/2015-lng-study;*

(2) Mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or

(3) Hand delivering an original and three paper copies of the filing to the Office of Regulation and International

[9] Notices of application in 28 of 29 proceedings were published in the **Federal Register** as follows: *Lake Charles Exports, LLC,* FE Docket No. 11–59–LNG, 76 FR 34212 (June 13, 2011); *Gulf Coast LNG Export, LLC,* FE Docket No. 12–05–LNG, 77 FR 32962 (June 4, 2012); *Jordan Cove Energy Project, L.P.,* FE Docket No. 12–32–LNG, 77 FR 33446 (June 6, 2012); *LNG Development Co., LLC (d/b/a Oregon LNG),* FE Docket No. 12–77–LNG, 77 FR 55197 (Sept. 7, 2012); *Southern LNG Co, L.L.C.,* FE Docket No. 12–100–LNG, 77 FR 63806 (Oct. 17, 2012); *Gulf LNG Liquefaction Co., LLC,* FE Docket No. 12–101–LNG, 77 FR 66454 (Nov. 5, 2012); *CE FLNG, LLC,* FE Docket No. 12–123–LNG, 77 FR 72840 (Dec. 6, 2012); *Golden Pass Products LLC,* FE Docket No. 12–156–LNG, 77 FR 72837 (Dec. 6, 2012); *Lake Charles LNG Export Co., LLC (formerly Trunkline LNG Export, LLC),* FE Docket No. 13–04–LNG, 78 FR 17189 (Mar. 20, 2013); *Freeport-McMoRan Energy LLC,* FE Docket No. 13–26–LNG, 78 FR 34084 (June 6, 2013); *Venture Global Calcasieu Pass, LLC,* FE Docket No. 13–69–LNG, 79 FR 30109 (May 27, 2014); *Eos LNG LLC,* FE Docket No. 13–116–LNG, 78 FR 75337 (Dec. 11, 2013); *Barca LNG LLC,* FE Docket No. 13–118–LNG, 78 FR 75339 (Dec. 11, 2013); *Magnolia LNG, LLC,* FE Docket No. 13–132–LNG, 79 FR 15980 (Mar. 24, 2014); *Delfin LNG LLC,* FE Docket No. 13–147–LNG, 79 FR 16782 (Mar. 26, 2014); *Waller LNG Svs., LLC,* FE Docket No. 13–153–LNG, 79 FR 41685 (July 17, 2014); *Gasfin Development USA, LLC,* FE Docket No. 13–161–LNG, 79 FR 44439 (July 31, 2014); *Louisiana LNG Energy LLC,* FE Docket No. 14–29–LNG, 79 FR 57896 (Sept. 26, 2014); *Venture Global Calcasieu Pass, LLC,* FE Docket No. 14–88–LNG, 79 FR 66707 (Nov. 10, 2014); *SCT&E LNG, LLC,* FE Docket No. 14–98–LNG, 79 FR 75796 (Dec. 19, 2014); *Downeast LNG, Inc.,* FE Docket No. 14–173–LNG, 80 FR 13532 (Mar. 16, 2015); *Venture Global Calcasieu Pass, LLC,* FE Docket No. 15–25–LNG, 80 FR 36977 (June 29, 2015); *G2 LNG LLC,* FE Docket No. 15–45–LNG, 80 FR 44091 (July 24, 2015); *Texas LNG Brownsville LLC,* FE Docket No. 15–62–LNG, 80 FR 46966, (August 6, 2015); *Strom Inc.,* FE Docket No. 15–78–LNG, 80 FR 51793 (Aug. 26, 2015); *Cameron LNG, LLC,* FE Docket No. 15–90–LNG, 80 FR 46970 (Aug. 6, 2015); *Port Arthur LNG, LLC,* FE Docket No. 15–96–LNG, 80 FR 51795 (Aug. 26, 2015); *Corpus Christi Liquefaction, LLC,* FE Docket No. 15–97–LNG, 80 FR 51790 (Aug. 26, 2015). The Notice of application for Flint Hills Resources, LP is currently pending in FE Docket No. 15–168–LNG.

Engagement at the address listed in **ADDRESSES**.

For administrative efficiency, DOE/FE prefers comments to be filed electronically using the online form (method 1). However, for those commenters lacking access to the Internet, comments may be filed in hard copy using one of the other two methods identified above. All comments must include a reference to the ''2014 EIA LNG Export Study'' and/or ''2015 LNG Export Study'' in the title line.

The 2014 EIA LNG Export Study and 2015 LNG Export Study are available for inspection and copying in the Division of Natural Gas Regulation docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The two studies and any comments filed in response to this Notice will be available electronically at the following DOE/FE Web site: *http://www.energy.gov/fe/2015-lng-study*.

Issued in Washington, DC, on December 18, 2015.

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

[FR Doc. 2015–32590 Filed 12–28–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Information Collection Extension With Changes; Notice and Request for Comments.

SUMMARY: The EIA, pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years with the Office of Management and Budget (OMB), Form FE–746R, ''Natural Gas Imports and Exports.'' 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 29, 2016. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Send comments to Benjamin Nussdorf. To ensure receipt of the comments by the due date, submission by email (*benjamin.nussdorf@hq.doe.gov*) is recommended. The mailing address is U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375, Attn: Benjamin Nussdorf. Alternatively, Mr. Nussdorf may be contacted by telephone at (202) 586–7893 or by fax at (202) 586–6050.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Benjamin Nussdorf at the contact information given above. Forms and instructions are also available on the Internet at: *http://energy.gov/fe/services/natural-gas-regulation/guidelines-filing-monthly-reports*.

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1901–0294;

(2) *Information Collection Request Title:* Natural Gas Import and Export Application;

(3) *Type of Request:* Revision;

(4) *Purpose:* The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

DOE's Office of Fossil Energy (FE) is delegated the authority to regulate natural gas imports and exports under section 3 of the Natural Gas Act of 1938, 15 U.S.C. 717b. In order to carry out its delegated responsibility, FE requires those persons seeking to import or export natural gas to file an application providing basic information on the scope and nature of the proposed import/export activity. Once an importer or exporter receives authorization from FE, they are required to submit monthly reports of all import and export transactions. Form FE–746R collects critical information on U.S. natural gas trade including: Name of importer/exporter; country of origin/destination; international point of entry/exit; name of supplier; volume; price; transporter; geographic market served; and duration of supply contract on a monthly basis. The data, published in *Natural Gas Imports and Exports,* are used to ensure compliance with the terms and conditions of the authorizations. In addition, the data are used to monitor North American gas trade, which, in turn, enables the Federal government to perform market and regulatory analyses; improve the capability of industry and the government to respond to any future energy-related supply problems; and keep the general public informed of international natural gas trade;

(4a) *Proposed Changes to Information Collection:*

FE proposes to add the following reporting sections for the collection and identification of new types of natural gas transactions related to:

(a) Exports/imports of compressed natural gas by vessel;

(b) Exports/imports of compressed natural gas by rail;

(c) Exports/imports of compressed natural gas by waterborne transport;

(d) Exports/imports of liquefied natural gas by rail;

(e) Exports/imports of liquefied natural gas by waterborne transport;

(f) Other exports and imports of natural gas by rail, truck, vessel, and waterborne transport;

(g) Re-export of liquefied natural gas by vessel; and

(h) Exports/Imports of liquefied natural gas by vessel in International Standards Organization (ISO) containers;

(5) *Annual Estimated Number of Respondents:* 371;

(6) *Annual Estimated Number of Total Responses:* 4,662;

(7) *Annual Estimated Number of Burden Hours:* 14,266; and

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* There are no additional costs associated with the surveys other than the burden hours. The information is maintained in the normal course of business. The cost of burden hours to the respondents is estimated to be $1,026,724 (14,266 burden hours times $71.97 per hour). Therefore, other than the cost of burden hours, FE estimates that there are no additional costs for generating, maintaining and providing the information.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b) and Section 3 of the Natural Gas Act of 1938, codified at 15 U.S.C. 717b.

Issued in Washington, DC, on December 22, 2015.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2015–32721 Filed 12–28–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7551–002]

Zapalac, Will; Notice of Filing

Take notice that on December 21, 2015, Will Zapalac submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA) [1] and Part 45 of the Federal Energy Regulatory Commission's (Commission) [2] Rules of Practice and Procedure.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 11, 2016.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32695 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 825d(b) (2012).

[2] 18 CFR part 45 (2015).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–22–000]

Lotus Energy Group, LLC v. ISO New England Inc.; Notice of Complaint

Take notice that on December 22, 2015, pursuant to Rule 206 [1] of the Federal Energy Regulatory Commission's (Commission) Rules of Practice, Lotus Energy Group, LLC (Complainant) filed a formal complaint against ISO New England Inc. (Respondent), alleging that Respondent's application of existing New Resource Offer Floor Price rules to two merchant combustion turbine generating facilities currently being developed by Complainant is unjust and unreasonable.

Complainant certifies that copies of the complaint were served on the contacts for Respondent as listed on the Commission's list of Corporate Officials. In addition, Complainant also served all parties listed on the service list in Docket No. ER16–308–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 21, 2016.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32694 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.206 (2011).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10253–032]

Pelzer Hydro Company, LLC; Consolidated Hydro Southeast, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor New License.

b. *Project No.:* P–10253–032.

c. *Date filed:* November 30, 2015.

d. *Applicant:* Pelzer Hydro Company, LLC and Consolidated Hydro Southeast, LLC.

e. *Name of Project:* Lower Pelzer Hydroelectric Project.

f. *Location:* On the Saluda River, in Anderson and Greenville Counties, South Carolina. The project does not occupy lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Beth E. Harris, P.E., Regional Operations Manager, Enel Green Power North America, Inc., 11 Anderson St., Piedmont, SC 29674; (864) 846–0042; *Beth.Harris@Enel.com*

i. *FERC Contact:* Sean Murphy, (202) 502–6145 or *sean.murphy@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2016

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–10253–032.

m. The application is not ready for environmental analysis at this time.

n. *The Lower Pelzer Hydroelectric Project consists of:* (a) a granite masonry dam with 310-foot-long overflow spillway section surmounted with four-foot-high flashboards, a 40-foot-long non-overflow section incorporating two gates and openings, a 110-foot-long powerhouse, and a 236-foot-long non-overflow section; (b) a reservoir with a surface area of 80 acres and a storage capacity of 400 acre-feet at an elevation of 693 feet m.s.l.; (c) a 600 foot-long tailrace; (d) four 750-kVA synchronous generators and a 300-kVA synchronous generator for a total generating capacity of 3,300 kW; (e) 3.3-kVA generator leads; (f) a 3-mile-long 3.3-kVA overhead transmission line; and (g) appurtenant facilities.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance.	August 2016.
Issue Scoping Document 1 for comments.	October 2016.
Comments on Scoping Document 1due.	December 2016.
Issue Scoping Document 2.	February 2017.
Issue notice of ready for environmental analysis.	March 2017.
Commission issues EA	October 2017.
Comments on EA due ..	November 2017.
Commission issues final EA.	January 2018.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32697 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–35–000]

First ECA Midstream LLC; Notice of Application

Take notice that on December 18, 2015, First ECA Midstream LLC (FECAM), filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), and Parts 157 and 284 of the Commission's Regulations, for a certificate of public convenience and necessity to own, operate as an interstate pipeline, and maintain an existing approximately 16 mile, 4–16 inch diameter natural gas pipeline located in Clearfield and Elk Counties, Pennsylvania. Also, FECAM requests Blanket Certificates and Waivers of the tariff requirements, related accounting, and other regulatory requirements. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Benjamin M. Sullivan, First ECA Midstream LLC, 500 Corporate Landing, Charleston, West Virginia 25311, telephone (304) 925–6100, fax (304) 925–3285, email: *bsullivan@eca.com*; or Randall S. Rich, Pierce Atwood LLP, 900 17th Street NW., Suite 350, Washington, DC 20006, phone (202) 530–6424, email: *rrich@pierceatwood.com*.

The existing pipeline currently is used solely for the gathering of natural gas for delivery to the interstate pipeline system of Dominion Transmission, Inc. (DTI) and National Fuel Gas Supply Corporation (NFG). FECAM requests Commission's approval of using the pipeline for the purpose of transporting natural gas in interstate commerce. The existing pipeline not only will continue to deliver natural gas to DTI and NFG, but also will receive natural gas from DTI. The existing pipeline will transport certain of natural gas received from DTI to a power plant operated by NRG REMA LLC (REMA), in Shawville, Pennsylvania. FECAM will construct measurement and regulating facilities to receive gas from DTI and a tap for delivery gas to the power plant's line pursuant to the blanket certificate. FECAM, REMA, and their affiliates have entered into an agreement for the firm

transportation of 152,000 dekatherms per day of natural gas on the existing pipeline for an initial term of 10 years.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: 5:00 p.m. Eastern Time on January 12, 2016. .

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32692 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10254–026]

Pelzer Hydro Company, LLC; Consolidated Hydro Southeast, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor New License.

b. *Project No.:* P–10254–026.

c. *Date filed:* November 30, 2015.

d. *Applicant:* Pelzer Hydro Company, LLC and Consolidated Hydro Southeast, LLC.

e. *Name of Project:* Upper Pelzer Hydroelectric Project.

f. *Location:* On the Saluda River, in Anderson and Greenville Counties, South Carolina. The project does not occupy lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Beth E. Harris, P.E., Regional Operations Manager, Enel Green Power North America, Inc., 11 Anderson St., Piedmont, SC 29674; (864) 846–0042; *Beth.Harris@Enel.com.*

i. *FERC Contact:* Sean Murphy, (202) 502–6145 or *sean.murphy@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2016.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–10254–026.

m. The application is not ready for environmental analysis at this time.

n. *The Upper Pelzer Hydroelectric Project consists of:* (a) A granite masonry dam composed of a 150-foot-long non-overflow section, a 280-foot-long overflow spillway section

surmounted by 4-foot-high flashboards, and a 75-foot-long gated intake section; (b) a reservoir with a surface area of 25 acres and a storage capacity of 200 acre-feet at water surface elevation 718.7 feet msl; (c) a 260-foot-long by 50-foot-wide forebay; (d) a concrete powerhouse containing two generating units rated at 750 kW each for a total of 1,500 kW; (e) a mill building containing one generating unit rated at 450 kW; (f) a tailrace extending from the powerhouse and a tailrace extending from the mill building; (g) 3.3-kV generator leads; and (h) appurtenant facilities.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance.	August 2016.
Issue Scoping Document 1 for comments.	October 2016.
Comments on Scoping Document 1due.	December 2016.
Issue Scoping Document 2.	February 2017.
Issue notice of ready for environmental analysis.	March 2017.
Commission issues EA	October 2017.
Comments on EA due ..	November 2017.
Commission issues final EA.	January 2018.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32698 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–050; ER13–1351–023; ER10–2330–048; ER10–2319–041; ER10–2317–041.
Applicants: J.P. Morgan Ventures Energy Corporation, BE Alabama LLC, BE CA LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.
Description: Notice of Non-Material Change in Status of the J.P. Morgan Sellers.
Filed Date: 12/22/15.
Accession Number: 20151222–5155.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER10–2437–003.
Applicants: Arizona Public Service Company.
Description: Triennial Market Power Update of Arizona Public Service Company.
Filed Date: 12/22/15.
Accession Number: 20151222–5183.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–611–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2015–12–22_NIPSCO–IMPA WDS and NOTIA to be effective 12/23/2015.
Filed Date: 12/22/15.
Accession Number: 20151222–5046.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–612–000.
Applicants: Greeley Energy Facility, LLC.
Description: Baseline eTariff Filing: Baseline New to be effective 2/20/2016.
Filed Date: 12/22/15.
Accession Number: 20151222–5091.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–613–000.
Applicants: Tilton Energy, LLC.
Description: § 205(d) Rate Filing: Tilton Energy LLC Revised MBR Tariff per 35.13(a)(2)(iii) to be effective 12/31/9998.
Filed Date: 12/22/15.
Accession Number: 20151222–5117.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–614–000.
Applicants: Michigan Power Limited Partnership.
Description: § 205(d) Rate Filing: Michigan Power Limited Partnership Revised MBR Tariff per 35.13(a)(2)(iii) to be effective 12/31/9998.
Filed Date: 12/22/15.
Accession Number: 20151222–5118.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–615–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Notice of Termination of Amended and Restated Facilities Construction Agreement designated as SA 1376 of Midcontinent Independent System Operator, Inc.
Filed Date: 12/22/15.
Accession Number: 20151222–5150.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–616–000.
Applicants: Orion Solar I, LLC.
Description: Baseline eTariff Filing: Filing of Co-Tenancy Agreement to be effective 2/21/2016.
Filed Date: 12/22/15.
Accession Number: 20151222–5159.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–617–000.
Applicants: Orion Solar II, LLC.
Description: Baseline eTariff Filing: Filing of Co-Tenancy Agreement to be effective 2/21/2016.
Filed Date: 12/22/15.
Accession Number: 20151222–5160.
Comments Due: 5 p.m. ET 1/12/16.

Docket Numbers: ER16–618–000.
Applicants: GWF Energy LLC.
Description: § 205(d) Rate Filing: AltaGas San Joaquin Energy Inc. Notice of Succession to be effective 12/23/2015.
Filed Date: 12/22/15.
Accession Number: 20151222–5191.
Comments Due: 5 p.m. ET 1/12/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–15–000.
Applicants: KCP&L Greater Missouri Operations Company.
Description: Application for Authorization of Issuance of Short-Term Debt Securities Under Section 204 of the Federal Power Act of KCP&L Greater Missouri Operations Company.
Filed Date: 12/22/15.
Accession Number: 20151222–5167.
Comments Due: 5 p.m. ET 1/12/16.

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 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32691 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2531–075]

Brookfield White Pine Hydro LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2531–075.

c. *Date Filed:* December 18, 2015.

d. *Applicant:* Brookfield White Pine Hydro LLC (White Pine Hydro).

e. *Name of Project:* West Buxton Hydroelectric Project.

f. *Location:* The existing project is located on the Saco River in the Towns of Buxton, Hollis, and Standish, within York and Cumberland Counties, Maine. No federal lands are occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Frank Dunlap, Licensing Specialist, Brookfield White Pine Hydro LLC, 150 Main Street, Lewiston, ME 04240; Telephone—(207) 755–5603; Email—*Frank.Dunlap@BrookfieldRenewable.com.* OR Kelley Maloney, Manager of licensing and Compliance, Brookfield White Pine Hydro LLC, 150 Maine Street, Lewiston, ME 04240; Telephone—(207) 755–5606.

i. *FERC Contact:* Allan Creamer, (202) 502–8365, or *allan.creamer@ferc.gov.*

j. This application is not ready for environmental analysis (EA) at this time.

k. *Project Description:* The West Buxton Project consists of: (1) A 585-foot-long by 30-foot-high concrete gravity dam with a crest elevation of 173.8 feet (United States Geological Survey or USGS datum), consisting of (i) two overflow sections topped with three inflatable rubber dam sections that have a crest elevation of 178.1 feet (USGS datum) when fully inflated, (ii) a gated section containing a 20-foot-wide by 15-foot-high vertical lift gate, (iii) two 40-foot-wide by 11-foot-high stanchion sections, (iv) an 11-foot-wide log sluice section, and (v) an intake structure comprised of two vertical lift gates regulating the flow of water to the lower powerhouse and five gate openings (two sealed by stoplogs) controlling water flow to the upper powerhouse; (2) a 118-acre impoundment at a normal pool elevation of 177.8 feet (USGS datum); (3) a 105 feet long by 39 feet wide upper powerhouse integral with the dam, containing five horizontal axis Francis turbine generating units that total 3,812 kW; (4) a 241.5-foot-long concrete conduit leading from the intake structure to a 74-foot-long by 30 to 45-foot wide surge chamber, and then to the lower powerhouse; (5) a 51.2 feet long by 45.5 feet wide lower powerhouse, containing one 4,000 kW vertical axis Kaplan turbine generating unit; (6) two 38-kV transmission lines, connecting the upper and lower powerhouses to the non-project West Buxton switching station; and (7) appurtenant facilities.

White Pine Hydro operates the project in a run-of-river mode, in accordance with the 1997 Saco River Instream Flow Agreement, which provides that outflow approximate inflow from the upstream Bonny Eagle Project No. 2529 and act to minimize impoundment level fluctuations. White Pine Hydro also operates the project with a minimum outflow of 768 cfs, or inflow, whichever is less, in accordance with the project's current water quality certificate. The project generates an annual average of 34,007 MWh.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866)–208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Procedural Schedule: The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Notice of Acceptance/Notice of Ready for Environmental Analysis.	February 2016.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	April 2016.
Commission issues EA	August 2016.
Comments on EA	September 2016.
Modified Terms and Conditions.	November 2016.
Commission Issues Final EA, if necessary.	February 2017.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32696 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–44–000]

Sage Grouse Energy Project, LLC; Notice Rejecting Request for Extension of Time

December 22, 2015.

On December 3, 2015, the Commission issued an order denying a complaint filed by Sage Grouse Energy Project, LLC (Sage Grouse) against PacifiCorp under Rule 206(a) of the Commission's Rules of Practice and Procedure.[1] On December 16, 2015, Sage Grouse filed a motion for extension of time and waiver, asking the Commission to grant a 30-day extension of time for Sage Grouse to determine whether to file a request for rehearing of the December 3 Order.

Pursuant to section 313(a) of the Federal Power Act,[2] an aggrieved party must file an application for rehearing within thirty days after the issuance of the Commission's order. Moreover, the courts and the Commission have repeatedly recognized that the time period by which a party may file an application for rehearing of a

[1] *Sage Grouse Energy Project, LLC,* 153 FERC ¶ 61,272 (2015) (December 3 Order).

[2] 16 U.S.C. 825l(a) (2012).

Commission order is statutorily established at 30 days and that the Commission has no discretion to extend that deadline.[3] Because the 30-day rehearing deadline is a statutory deadline, it cannot be extended, and Sage Grouse's request for a 30-day extension must therefore be rejected.

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32693 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

[3] *See, e.g., City of Campbell* v. *FERC,* 770 F.2d 1180, 1183 (D.C. Cir. 1985) (''The 30-day time requirement of the [FPA] is as much a part of the jurisdictional threshold as the mandate to file for a rehearing.''); *Boston Gas Co.* v. *FERC,* 575 F.2d 975, 977–98, 979 (1st Cir. 1978) (describing identical rehearing provision of Natural Gas Act as ''a tightly structured and formal provision. Neither the Commission or the courts are given any form of jurisdictional discretion.''); *see also PJM Interconnection, L.L.C.,* 138 FERC ¶ 61,160 (2012) (rejecting request for clarification as untimely request for rehearing); *La. Energy and Power Auth.,* 117 FERC ¶ 61,258 (2006); *Midwest Indep. Transmission Sys. Operator, Inc.,* 112 FERC ¶ 61,211, at P 10 (2005); *Texas-New Mexico Power Co.,* 107 FERC ¶ 61,316, at P 22 (2004); *Cal. Indep. Sys. Operator Corp.,* 105 FERC ¶ 61,322, at P 9 (2003); *Am. Elec. Power Serv. Corp.,* 95 FERC ¶ 61,130, at 61,411–12 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM15–11–000]

Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) will hold a Commission staff-led technical conference on Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance (GMD) Events on issues identified in the Notice of Proposed Rulemaking (NOPR) and subsequent public comments in the above-captioned docket on March 1, 2016. The conference will begin at 9:00 a.m. and end at approximately 5:00 p.m. (Eastern Time). The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The technical conference will facilitate a structured dialogue on GMD-related topics, including but not limited to: (1) The benchmark GMD event(s); (2) vulnerability assessments; and (3) monitoring of related parameters. The technical conference will be led by Commission staff, with prepared remarks to be presented by invited panelists, which must be submitted to the Commission in advance of the conference. A subsequent notice providing an agenda and details on the topics for discussion will be issued in advance of the conference. Commissioners may attend and participate.

There is no fee for attendance. However, members of the public are encouraged to preregister online at: *https://www.ferc.gov/whats-new/registration/03-01-16-form.asp.*

Those wishing to participate in panel discussions should submit nominations no later than close of business on Wednesday, January 6, 2016 online at: *https://www.ferc.gov/whats-new/registration/03-01-16-speaker-form.asp.*

This event will be webcast and transcribed. Transcripts of the conference will be available for a fee from Ace-Federal Reporters, Inc. (202–347–3700).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For more information about the technical conference, please contact: Sarah McKinley, Office of External Affairs, 202–502–8368 *sarah.mckinley@ferc.gov.*

Dated: December 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32699 Filed 12–28–15; 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 rate filings:

Docket Numbers: ER13–1356–002.
Applicants: Duke Energy Florida, LLC.
Description: Compliance filing [including Pro Forma sheets] and Waiver Request of Duke Energy Florida, LLC.
Filed Date: 12/21/15.
Accession Number: 20151221–5379.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER14–2022–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Request to Terminate Waiver effective February 1, 2016 of Midcontinent Independent System Operator, Inc.
Filed Date: 12/21/15.
Accession Number: 20151221–5389.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–599–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised Service Agreement No. 4184; Queue No. Z2–106 to be effective 12/9/2015.
Filed Date: 12/21/15.
Accession Number: 20151221–5274.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–600–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Service Agreement No.4346; Queue No. AA2–066 to be effective 11/24/2015.
Filed Date: 12/21/15.
Accession Number: 20151221–5270.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–601–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2015–12–21_Revisions to Section 19.1.1.2—Pre-Certified TSRs to be effective 2/1/2016.
Filed Date: 12/21/15.
Accession Number: 20151221–5272.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–602–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised Interconnection Service Agreement No. 3808, Queue No. AA1–083 to be effective 5/6/2017.
Filed Date: 12/21/15.
Accession Number: 20151221–5278.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–603–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised WMPA SA No. 4187, Queue No. Z2–099/AA2–086 to be effective 11/24/2015.
Filed Date: 12/21/15.
Accession Number: 20151221–5298.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–604–000.
Applicants: Nevada Power Company.
Description: Compliance filing: Market-Based Rate Tariff, Volume No. 11 Amendments ER15–2281 to be effective 12/1/2015.
Filed Date: 12/21/15.
Accession Number: 20151221–5299.
Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–605–000.

Applicants: Sierra Pacific Power Company.

Description: Compliance filing: Market-Based Rate Tariff Volume No. 7 to be effective 12/1/2015.

Filed Date: 12/21/15.

Accession Number: 20151221–5308.

Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–606–000.

Applicants: PacifiCorp.

Description: Compliance filing: Amendment to Market-Based Rate Tariff—EIM Compliance Filing to be effective 12/1/2015.

Filed Date: 12/21/15.

Accession Number: 20151221–5310.

Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–607–000.

Applicants: 67RK 8me LLC.

Description: § 205(d) Rate Filing: SFA to be effective 12/22/2015.

Filed Date: 12/21/15.

Accession Number: 20151221–5311.

Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–608–000.

Applicants: 65HK 8me LLC.

Description: § 205(d) Rate Filing: 65HK 8me LLC Hayworth SFA to be effective 12/22/2015.

Filed Date: 12/21/15.

Accession Number: 20151221–5312.

Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–609–000.

Applicants: 87RL 8me LLC.

Description: § 205(d) Rate Filing: 87RL 8me LLC Woodmere SFA to be effective 12/22/2015.

Filed Date: 12/21/15.

Accession Number: 20151221–5313.

Comments Due: 5 p.m. ET 1/11/16.

Docket Numbers: ER16–610–000.

Applicants: Northern Indiana Public Service Company.

Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 1/4/2016.

Filed Date: 12/21/15.

Accession Number: 20151221–5314.

Comments Due: 5 p.m. ET 1/11/16.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR15–12–001.

Applicants: North American Electric Reliability Corporation.

Description: Compliance Filing of North American Electric Reliability Corporation in Accordance with the Commission's November 2, 2015 Order.

Filed Date: 12/18/15.

Accession Number: 20151218–5315.

Comments Due: 5 p.m. ET 1/8/16.

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 22, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–32689 Filed 12–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Arizona Project—Rate Order No. WAPA–172

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final transmission service formula rates.

SUMMARY: The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–172 and Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3, placing transmission service formula rates for the Central Arizona Project (CAP) of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis, or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay required investment within the allowable periods.

DATES: Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3 are effective on the first day of the first full billing period beginning on or after January 1, 2016, and will be in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through December 31, 2020, or until the rate schedules are superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Murray, Vice President of Power Marketing, Desert Southwest Customer Service Regional Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2555, email *jmurray@wapa.gov.*

SUPPLEMENTARY INFORMATION: An FRN was published on July 24, 2015 (80 FR 44100) announcing the proposed rates for transmission service and initiating a public consultation and comment period. On July 29, 2015, Western notified all CAP customers and interested parties of the rate adjustment and provided a copy of the published FRN. On August 27, 2015, Western held a public information forum in Phoenix, Arizona, explained the proposed rates and potential changes to the proposed rates, answered questions, and provided handouts. On September 24, 2015, Western held a public comment forum in Phoenix, Arizona, to give the public an opportunity to comment for the record. No comments were received at the forum.

Previous Rate Schedules CAP–FT2, CAP–NFT2, and CAP–NITS2 for Rate Order No. WAPA–124 [1] were approved by FERC for a 5-year period through December 31, 2010. These Rate Schedules were extended through December 31, 2012, under Rate Order No. WAPA–153,[2] and extended again through December 31, 2015, under Rate Order No. WAPA–158.[3] Rate Schedules CAP–FT2, CAP–NFT2, and CAP–NITS2 are being superseded by Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3. Under Rate Schedule CAP–FT2, the rate for firm point-to-point transmission service is $13.56 per kilowatt year (kW-year). The provisional rate for firm point-to-point transmission service under Rate Schedule CAP–FT3 is $14.88/kW-year, which represents an increase of 10 percent when compared with the existing rate. Under Rate Schedule CAP–NFT2, the rate for non-firm point-to-point transmission service is 1.55 mills per kilowatt hour (mills/kWh). The provisional rate for non-firm point-to-point transmission service under Rate Schedule CAP–NFT3 is 1.70 mills/kWh, which represents an increase of 10 percent when compared with the existing rate. There will be no changes to the rate formula under CAP–NITS3.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and

[1] Rate Order No. WAPA–124 was approved by FERC on a final basis on June 29, 2006, in Docket No. EF06–5111–000 (115 FERC ¶ 62,326).

[2] 76 FR 548 (January 5, 2011).

[3] 78 FR 18335 (March 26, 2013).

(3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing Department of Energy procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00A and 00–001.00F, and in compliance with 10 CFR part 903 and 18 CFR part 300, I hereby confirm, approve, and place provisional rates for transmission service under Rate Order No. WAPA–172 into effect on an interim basis. New Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3 will be submitted promptly to FERC for confirmation and approval on a final basis.

Dated: December 21, 2015.

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the matter of: Western Area Power Administration Rate Adjustment for the Central Arizona Project

Rate Order No. WAPA–172

ORDER CONFIRMING, APPROVING, AND PLACING THE CENTRAL ARIZONA PROJECT TRANSMISSION SERVICE FORMULA RATES INTO EFFECT ON AN INTERIM BASIS

These rates were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western Area Power Administration's (Western) Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: Administrator for the Western Area Power Administration.

Capacity: The electric capability of a transformer, transmission circuit, or other equipment, expressed in kilowatts (kW).

CAP: Central Arizona Project, one of three related water development projects that make up the Colorado River Basin Project.

Customer: An entity with a contract or service agreement that receives service from Western's Desert Southwest Region.

DOE: United States Department of Energy.

DOE Order RA 6120.2: A DOE order outlining power marketing administration financial reporting and ratemaking procedures.

Desert Southwest Region: The Desert Southwest Customer Service Region of Western.

FERC: Federal Energy Regulatory Commission.

Firm: A type of product and/or service that is available at the time requested by the customer.

Formula Rates: A rate which is based upon a formula calculated yearly.

FRN: **Federal Register** notice.

Kilovolt (kV): Electrical unit of measure of potential difference that equals 1,000 volts.

Kilowatt (kW): Electrical unit of capacity that equals 1,000 watts.

Kilowatt hour (kWh): Electrical unit of energy that equals 1,000 watts in 1 hour.

Kilowatt month (kW-month): Electrical unit of the monthly amount of capacity.

Kilowatt year (kW-year): Electrical unit of the yearly amount of capacity.

Mill: A monetary denomination of the United States that equals one tenth of a cent or one thousandth of a dollar.

Mills per kilowatt hour (mills/kWh): A unit of charge.

Non-firm: A type of product and/or service not always available at the time requested by the customer.

O&M: Operation and Maintenance.

Proposed Rate: A rate that has been recommended by Western to the Deputy Secretary of Energy for approval.

Provisional Rate: A rate that has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary of Energy.

Reclamation: United States Department of Interior, Bureau of Reclamation.

Western: Western Area Power Administration.

Effective Date

The new provisional rates will take effect on the first day of the first full billing period beginning on or after January 1, 2016, and will remain in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through December 31, 2020, or until the rate schedules are superseded.

Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process were:

1. An FRN was published on July 24, 2015 (80 FR 44100) announcing the proposed rates for transmission service, initiating a public consultation and comment period, and setting forth the dates and locations of public information and public comment forums.

2. On July 29, 2015, Western notified all CAP customers and interested parties of the rate adjustment and provided a copy of the published FRN.

3. On August 27, 2015, Western held a public information forum in Phoenix, Arizona. Western explained the proposed rates and potential changes to the proposed rates, answered questions, and provided handouts.

4. On September 24, 2015, Western held a public comment forum in Phoenix, Arizona, to give the public an opportunity to comment for the record. There were no comments received at this forum.

5. Western created a CAP rate adjustment Web site to provide interested parties with information about this rate adjustment process. The Web site is located at *https://www.wapa.gov/regions/DSW/Rates/Pages/central-arizona-rates.aspx*

6. On October 6, 2015, Western provided answers to a list of questions concerning the proposed rates and posted the answers on the CAP rate adjustment Web site.

Project Description

The CAP is one of three related water development projects that make up the Colorado River Basin Project. The others are the Dixie and the Upper Basin projects. The CAP was developed for Arizona and western New Mexico; the Dixie Project for southeastern Utah; and the Upper Basin Project for Colorado and New Mexico.

Congress authorized the Colorado River Basin Project in 1968 to improve water resources in the Colorado River Basin. Segments of the 1968 authorization allowed Federal participation in the Navajo Generating Station (Navajo), which has three coal-fired steam electric generating units with a combined capacity of 2,250 MW. Construction of the plant, located near Lake Powell at Page, Arizona, began in 1970 and generation began in 1976.

The 24.3 percent Federal Share of Navajo, or 546,750 kW, is used to power the pumps that move Colorado River water through CAP canals. Surplus generation is currently marketed under the Navajo Power Marketing Plan adopted on Dec. 1, 1987. Surplus Navajo short-term firm and non-firm transmission service will be marketed at the CAP 115/230-kV transmission rate during the term of the rate schedules.

Existing and Provisional Rates

The existing rates for point-to-point transmission service consist of a firm rate and a non-firm rate. The existing rate for firm point-to-point transmission service under Rate Schedule CAP–FT2 is $13.56/kW-year. The existing rate for non-firm point-to-point transmission service under Rate Schedule CAP–NFT2 is 1.55 mills/kWh. The existing rates under Rate Schedules CAP–FT2, CAP–NFT2, and CAP–NITS2 expire December 31, 2015.

The provisional rates will supersede the existing rates and become effective on an interim basis on the first day of the first full billing period beginning on or after January 1, 2016. The provisional rate for firm point-to-point transmission service under Rate Schedule CAP–FT3 is $14.88/kW-year. The provisional rate for non-firm point-to-point transmission service under Rate Schedule CAP–NFT3 is 1.70 mills/kWh. The provisional rates will result in a rate increase of 10 percent when compared to the existing rates. A comparison of the existing and provisional rates for transmission service follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES CENTRAL ARIZONA PROJECT

Transmission service	Existing rates	Provisional rates (effective 1/1/16)	Change
Firm Point-to-Point	$13.56/kW-year	$14.88/kW-year	10%
Non-firm Point-to-Point	1.55 mills/kWh	1.70 mills/kWh	10%

Certification of Rates

Western's Administrator certified that the provisional rates for CAP transmission service under Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3 are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

Transmission Rate Discussion

According to Reclamation law, Western must establish rates which provide sufficient revenue to recover annual O&M, purchase power, transmission service and other costs, interest expense, and repay investments. Western calculates the rates each year to determine if the existing rates will provide adequate revenue to repay all power system costs within the required time. Repayment criteria are based on existing law and applicable policies, including DOE Order RA 6120.2. To meet the cost recovery criteria outlined in DOE Order RA 6120.2, a rate calculation was completed to demonstrate that sufficient revenues will be collected under the provisional rates to meet future obligations.

The existing rates are insufficient and do not provide adequate revenue to cover costs due primarily to the replacement of the aging ED2-Saguaro line. Construction of this line started in 2015, and the costs will be spread over a 5-year period.

A secondary factor for the rate increase is a decrease in projected sales of long-term firm point-to-point transmission service. The provisional rates include the reduction in the sales forecast for 115/230-kV transmission service over the 5-year cost evaluation period.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents that Western used to develop the provisional rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009–5313. Many of these documents and supporting information are available on Western's Web site at *https://www.wapa.gov/regions/DSW/Rates/Pages/central–arizona–rates.aspx.*

RATEMAKING PROCEDURE REQUIREMENTS

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969, (42 U.S.C. 4321, *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The interim rates confirmed, approved, and placed into effect herein, together with supporting documents, will be submitted to FERC for confirmation and final approval.

ORDER

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3 to become effective on the first day of the first full-billing period beginning on or after January 1, 2016, and to remain in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through December 31, 2020, or until the rate schedules are superseded.

Dated: December 21, 2015

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy

Rate Schedule CAP–FT3

SCHEDULE 7 to Tariff

(Supersedes Schedule CAP–FT2)

UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION

DESERT SOUTHWEST CUSTOMER SERVICE REGION CENTRAL ARIZONA PROJECT

FIRM POINT-TO-POINT TRANSMISSION SERVICE

Effective:

The first day of the first full billing period beginning on or after January 1, 2016, through December 31, 2020, or until superseded by another rate schedule, whichever occurs earlier.

Applicable:

The transmission customer will compensate the Central Arizona Project (CAP) each month for Reserved Capacity under the applicable Firm Point-To-Point Transmission Service Agreement and the formula rate described herein.

Formula Rate:

$$\text{Firm Point-To-Point Transmission Rate} = \frac{\text{Annual Transmission Revenue Requirement (\$)}}{\text{Firm Transmission Capacity Reservations + Network Integration Transmission Service Capacity (kW)}}$$

A recalculated rate will go into effect every January 1 based on the above formula and updated financial and operational data. Western will notify the transmission customer annually of the recalculated rate on or before December 1. Discounts may be offered from time-to-time in accordance with Western's Open Access Transmission Tariff.

Character and Conditions of Service:

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract or service agreement over the CAP 115/230-kV transmission system.

Adjustment for Reactive Power:

There shall be no entitlement to transfer of reactive kilovolt amperes at delivery points, except when such transfers may be mutually agreed upon by the parties and contracting officer or their authorized representatives.

Billing:

Billing determinants for the formula rate above will be as specified in the contract or service agreement. Billing will occur monthly under the formula rate.

Adjustment for Losses:

Losses incurred for service under this rate schedule will be accounted for as agreed to by the parties in accordance with the contract or service agreement. If losses are not fully provided by a Transmission Customer, charges for financial compensation may apply.

Unreserved Use:

Western will assess a charge for any unreserved use of the transmission system. Unreserved use occurs when a customer uses transmission service that it has not reserved or uses transmission service in excess of its reserved capacity. Unreserved use may also include a customer's failure to curtail transmission when requested.

The charge assessed for unreserved use is two times the maximum allowable rate for the service at issue as follows: The penalty for a single hour of unreserved use is based on the daily short-term rate. The penalty for more than one assessment of unreserved use for any given duration (*e.g.,* daily) increases to next longest duration (*e.g.,* weekly). The penalty for multiple instances of unreserved use (*e.g.,* more than one hour) within a day is based on the daily short-term rate. The penalty for multiple instances of unreserved use isolated to one calendar week is based on the weekly short-term rate. The penalty for multiple instances of unreserved use during more than one week in a calendar month is based on the monthly short-term rate.

A customer that exceeds its reserved capacity at any point of receipt or point of delivery, or a customer that uses transmission service at a point of receipt or point of delivery that it has not reserved, is required to pay for all ancillary services provided by the Western Area Lower Colorado (WALC) Balancing Authority and associated with the unreserved use. The customer will pay for ancillary services based on the amount of transmission service used and not reserved.

Rate Schedule CAP–NFT3

SCHEDULE 7 to Tariff

(Supersedes Schedule CAP–NFT2)

UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION

DESERT SOUTHWEST CUSTOMER SERVICE REGION CENTRAL ARIZONA PROJECT

NON-FIRM POINT-TO-POINT TRANSMISSION SERVICE

Effective:

The first day of the first full billing period beginning on or after January 1, 2016, through December 31, 2020, or until superseded by another rate schedule, whichever occurs earlier.

Applicable:

The transmission customer will compensate the Central Arizona Project (CAP) each month for Non-Firm Point-To-Point Transmission Service under the applicable agreement and the formula rate described herein.

Formula Rate:

Maximum Non-Firm Point-To-Point Transmission Rate = Firm Point-To-Point Transmission Rate

A recalculated rate will go into effect every January 1 based on the above formula and updated financial and operational data. Western will notify the transmission customer annually of the recalculated rate on or before December 1. Discounts may be offered from time-to-time in accordance with Western's Open Access Transmission Tariff.

Character and Conditions of Service:

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract or service agreement over the CAP 115/230-kV transmission system.

Adjustment for Reactive Power:

There shall be no entitlement to transfer of reactive kilovolt amperes at delivery points, except when such transfers may be mutually agreed upon by the parties and contracting officer or their authorized representatives.

Billing:

Billing determinants for the formula rate above will be as specified in the service agreement. Billing will occur monthly under the formula rate.

Adjustment for Losses:

Losses incurred for service under this rate schedule will be accounted for as agreed to by the parties in accordance with the contract or service agreement. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Navajo Transmission Service (500-kV):

Western will market excess transmission service from the Navajo (500-kV) portion of the CAP on a short-term basis at the formula rate described herein.

Rate Schedule CAP–NITS3
ATTACHMENT H to Tariff
(Supersedes Schedule CAP–NITS2)

UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION

DESERT SOUTHWEST CUSTOMER SERVICE REGION CENTRAL ARIZONA PROJECT

NETWORK INTEGRATION TRANSMISSION SERVICE

Effective:

The first day of the first full billing period beginning on or after January 1, 2016, through December 31, 2020, or until superseded by another rate schedule, whichever occurs earlier.

Applicable:

The transmission customer will compensate the Central Arizona Project (CAP) each month for Network Integration Transmission Service (NITS) under the applicable agreement and the formula rate described herein.

Formula Rate:

$$\text{Monthly Charge} = \frac{\text{Annual Transmission Revenue Requirement for Network Integration Transmission Service}}{12} \times \text{Transmission Customers Load-Ratio Share}$$

A recalculated Annual Transmission Revenue Requirement for Network Integration Transmission Service will go into effect every January 1 based on the above formula and updated financial and load data. Western will notify the transmission customer annually of the recalculated annual revenue requirement on or before December 1.

Billing:

Billing determinants for the formula rate above will be as specified in the service agreement. Billing will occur monthly under the formula rate.

Adjustment for Losses:

Losses incurred for service under this rate schedule will be accounted for as agreed to by the parties in accordance with the contract or service agreement. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

[FR Doc. 2015–32792 Filed 12–28–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0275; FRL–9940–68–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Hydrochloric Acid Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Hydrochloric Acid Production (40 CFR part 63, subpart NNNNN) (Renewal)'' (EPA ICR No. 2032.08, OMB Control No. 2060–0529) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0275, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202)

564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as the specific requirements at 40 CFR part 63, subpart NNNNN. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Hydrochloric acid production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart NNNNN).

Estimated number of respondents: 87 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 113,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $12,200,000(per year), includes $754,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase in burden hours to the respondent as compared to the most recently approved ICR. The increase is due to industry growth in the past three years, resulting in additional number of respondents that are subject to this standard. The growth in respondent universe also results in an increase in the number of responses and total O&M costs. In addition, there is an increase in burden costs to both the respondent and the Agency due to an adjustment in labor rates. This ICR uses the most recent labor rates from the Bureau of Labor Statistics in calculating the labor costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32728 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0526; FRL–9940–70–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Aluminum, Copper and Other Non-Ferrous Metals Foundries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Aluminum, Copper and Other Non-ferrous Metals Foundries (40 CFR part 63, subpart ZZZZZZ) (Renewal)'' (EPA ICR No. 2332.04, OMB Control No. 2060–0630) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0526, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as the specific requirements at 40 CFR part 63, subpart ZZZZZZ. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Aluminum, copper, and other non-ferrous foundries.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart ZZZZZZ).

Estimated number of respondents: 318 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 11,900 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,200,000 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase in the respondent labor hours in this ICR compared to the previous ICR. This is due to assuming all sources

will have to re-familiarize with regulatory requirements each year. This also results in an increase in labor costs for the respondents. In addition, there is an increase in labor costs for both the respondents and the Agency due to an increase in labor rates.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32731 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0208; FRL—9940–74–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Pulp and Paper Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Pulp and Paper Production (40 CFR part 63, subpart S) (Renewal)'' (EPA ICR No. 2452.03, OMB Control No. 2060–0681) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the *Federal Register* (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–00208, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Respondents are owners or operators of facilities that produce pulp, paper, or paperboard by employing kraft, soda, sulfite, semi-chemical, or mechanical pulping processes using wood; or any process using secondary or non-wood fiber and that emits 10 tons per year or more of any hazardous air pollutant (HAP) or 25 tons per year or more of any combination of HAPs. Affected sources are all the hazardous air pollutant emission points or the HAP emission points in the pulping and bleaching system for mechanical pulping processes using wood and any process using secondary or non-wood fiber.

Form Numbers: None.

Respondents/affected entities: Owners and operators of pulp and paper mills that are major sources of HAP emissions.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart S).

Estimated number of respondents: 114 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 52,304 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,939,270 (per year), includes $841,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This ICR covers the burden resulting from the 2012 RTR. OMB Control Number 2060–0387 (EPA ICR Number 1657.07) covers the burden in the previously existing rule. That ICR is currently being renewed to cover the burden under both of these series. In preparing that ICR renewal, EPA will removed any duplicate items so that it only reflects current requirements.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32733 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OCEA–2011–0274; FRL—9940–69–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for the Wood Building Products Surface Coating Industry (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for the Wood Building Products Surface Coating Industry (40 CFR part 63, subpart QQQQ) (Renewal)'' (EPA ICR No. 2034.06, OMB Control No. 2060–0510) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OCEA–2011–0274, to (1) EPA online using *www.regulations.gov* (our

preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Owners and operators of wood building products surface coating facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 63, subpart A, as well as the specific requirements at 40 CFR part 63, subpart QQQQ. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Wood building products surface coating facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart QQQQ).

Estimated number of respondents: 232 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 75,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $7,880,000 (per year), includes $278,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a small adjustment increase in the respondent and Agency labor hours in this ICR compared to the previous ICR. There is also a decrease in the total O&M costs. This is not due to program changes; rather, the changes occurred because we are rounding total values in this ICR to three significant figures.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32729 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0774, FRL–9940–25]

Alpha-Chlorohydrin, Registration Review Proposed Interim Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decision for alpha-chlorohydrin and opens a public comment period on this proposed interim decision. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before February 29, 2016.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the Table by one of the following methods:

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

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

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

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

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the Table.

For general information on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the Table.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim registration review decision for the pesticide shown in the following table, and opens a 60-day public comment period on this proposed interim decision.

TABLE—REGISTRATION REVIEW PROPOSED INTERIM DECISIONS

Registration review case name and No.	Pesticide docket ID No.	Chemical review manager, telephone number, email address
Alpha-chlorohydrin (Case 4120)	EPA–HQ–OPP–2015–0726	Matthew Manupella, *manupella.matthew@epa.gov,* (703) 347–0411.

Alpha-chlorohydrin (Proposed Interim Decision). The registration review docket for alpha-chlorohydrin (EPA–HQ–OPP–2015–0726) is opening in December 2015. The only registered use for alpha-chlorohydrin is as a tamper-proof bait station/bait application delivery system for elimination of Norway rats. Alpha-chlorohydrin is approved for use in and around the indoors of commercial/industrial facilities and sanitary sewers. The label states not to use the product in any facility where children may be present, and there are no outdoor uses permitted. EPA is also publishing a draft human health risk assessment and a draft ecological problem formulation at the time of the docket opening for a 60-day public comment period. In this alpha-chlorohydrin proposed interim decision, the Agency has determined that no additional data are required and no changes to the affected registration or its labeling are currently required. At this time, EPA is making no human health or environmental safety findings associated with the Endocrine Disruptor Screening Program (EDSP) screening of alpha-chlorohydrin, nor is it making an endangered species finding. EPA's registration review decision for alpha-chlorohydrin will depend upon the result of an EDSP Federal Food, Drug and Cosmetic Act (FFDCA) section 408(p) determination, and Endangered Species Assessment (ESA) determination.

The registration review docket for a pesticide generally includes earlier documents related to the registration review of the case. In the case of alpha-chlorohydrin the Agency expedited the registration review and is opening the docket with the proposed interim decision and supporting documents.

The registration review program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decision and to involve the public. Section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136a(g)) required EPA to establish by regulation procedures for reviewing pesticide registrations, originally with a goal of reviewing each pesticide's registration every 15 years to ensure that a pesticide continues to meet the FIFRA standard for registration. The Agency's final rule to implement this program was issued in August 2006 and became effective in October 2006, and appears at 40 CFR part 155, subpart C. The Pesticide Registration Improvement Act of 2003 (PRIA) was amended and extended in September 2007. FIFRA, as amended by PRIA in 2007, requires EPA to complete registration review decisions by October 1, 2022, for all pesticides registered as of October 1, 2007.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decisions. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticide included in the Table. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a ''Response to Comments Memorandum'' in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *http://www2.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 16, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–32751 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0528; FRL–9940–67–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Synthetic Fiber Production Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Synthetic Fiber Production Facilities (40 CFR part 60, subpart HHH) (Renewal)'' (EPA ICR No. 1156.13, OMB Control No. 2060–0059) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0528, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: Owners and operators of synthetic fiber production facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A, as well as the applicable specific standards found at 40 CFR part 60, subpart HHH. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Synthetic fiber production plants with a solvent-spun, synthetic fiber process that produce more than 500 megagrams (Mgs) of fiber per year.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart HHH).

Estimated number of respondents: 22 (total).

Frequency of response: Initially, semiannually, and quarterly.

Total estimated burden: 1,880 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $335,000 (per year), includes $165,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no significant change in burden in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is a slight increase in labor hours due to adding the assumption that all respondents must spend one hour annually reviewing the regulatory requirements. There is also an increase in labor costs for as a result of using updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32682 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0505; FRL–9940–72–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Secondary Aluminum Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Secondary Aluminum Production (40 CFR part 63, subpart RRR) (Renewal)'' (EPA ICR No. 1894.08, OMB Control No. 2060–0433) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0505, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: Owners and operators of secondary aluminum production facilities are required to comply with reporting and record keeping

requirements for the general provisions of 40 CFR part 63, subpart A, as well as the applicable specific standards found at 40 CFR part 63, subpart RRR. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Secondary aluminum production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart RRR).

Estimated number of respondents: 161 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 12,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $5,340,000 (per year), includes $4,110,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is primarily a result of updating the number of sources. A recent industry analysis conducted during development of the 2015 final rule indicates a substantial decrease in both the number of major and area source facilities subject to the rule from the estimates used in the previous ICR renewal.

Note this ICR merges the burden from EPA ICR Number 2453.01, the ICR for the 2015 final rule. Therefore, this ICR reflects additional burden items not present in the previous renewal. In addition, this ICR revises bag leak detector costs per comments received from the Aluminum Association. These changes result in an overall increase in the capital and O&M costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32683 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0672; FRL–9940–28]

Pesticide Product Registration; Receipt of an Application for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on this application.

DATES: Comments must be received on or before January 28, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received an application to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on this application. Notice of receipt of this application does not imply a decision by the Agency on this application.

EPA Registration Numbers: 400–461; 400–466; and 400–467. *Docket ID number:* EPA–HQ–OPP–2014–0672. *Applicant:* MacDermid Agricultural Solutions, Inc., 245 Freight Street, Waterbury, CT 06702–1818. *Active Ingredient:* Diflubenzuron. *Product type:* Insecticide. *Proposed uses:* Carrot; Peach; Plum; Tree nut; Pepper/eggplant; Cottonseed; and Alfalfa. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 16, 2015.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–32750 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0228; FRL–9940–71–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after May 14, 2007 (40 CFR part 60, subpart Ja) (Renewal)'' (EPA ICR No. 2263.05, OMB Control No. 2060–0602) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 32116) on June 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 28, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0228, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A, as well as the specific requirements at 40 CFR part 60, subpart Ja. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Petroleum refineries constructed, reconstructed, or modified after May 14, 2007.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Ja).

Estimated number of respondents: 150 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 64,300 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $22,100,000 (per year), includes $15,700,000 annualized capital and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the number of responses, capital costs, and O&M costs as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in the burden and cost estimates for the renewal of this ICR occurred because we assumed that all refineries are now in full compliance with the rule initial flare compliance requirements since the standard has been in effect for more than three years. The active ICR reflects those burdens and costs associated with the initial activities for refineries that included purchasing monitoring equipment, conducting performance test(s) and establishing recordkeeping systems. This ICR renewal addresses the burden and costs for existing refineries to comply with the ongoing compliance requirements, including continuously monitoring of pollutants and the submission of semiannual reports.

There is an increase in the respondent labor hours since we assumed all respondents are now required to comply with the flare ongoing rule requirements each year compared to one third per year in the active ICR. In addition, the labor burden calculation in the renewal includes additional hours associated with managerial and clerical work since the active ICR did not break down these types of labor costs, which also contribute to labor burden increase.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–32730 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2015–0245;F FRL–9940–73–OA]

Notification of Teleconferences of the Science Advisory Board; Hydraulic Fracturing Research Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces four public teleconferences of the SAB Hydraulic Fracturing Research Advisory Panel as part of the peer review of the EPA draft report, *Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, (May, 2015 External Review Draft, EPA/600/R–15/047).*

DATES: The public teleconferences will be held on the following dates: Monday, February 1, 2016 from 11:00 a.m. to 6:00

p.m. (Eastern Time); Tuesday, February 2, 2016 from 11:00 a.m. to 6:00 p.m. (Eastern Time); Monday, March 7, 2016 from 11:00 a.m. to 6:00 p.m. (Eastern Time); and Thursday, March 10, 2016 from 12:00 p.m. to 6:00 p.m. (Eastern Time).

ADDRESSES: The teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding these public teleconferences may contact Edward Hanlon, Designated Federal Officer, by telephone: (202) 564–2134 or email at *hanlon.edward@epa.gov.* The SAB mailing address is: U.S. EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information about the SAB, including information concerning the SAB teleconferences announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.*

Technical Contact for EPA's Draft Report: Any technical questions concerning EPA's draft report should be directed to Dr. Jeffrey Frithsen, National Center for Environmental Assessment, Office of Research and Development, U.S. EPA, 1200 Pennsylvania Avenue NW., Mail Code 8601P, Washington, DC 20460, telephone (703) 347–8623 or via email at *frithsen.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Hydraulic Fracturing Research Advisory Panel will hold four public teleconferences as part of the peer review of the EPA draft report, *Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, (May, 2015 External Review Draft, EPA/600/R–15/047).*

The EPA's Office of Research and Development (ORD) has developed a draft assessment report concerning the relationship between hydraulic fracturing and drinking water in the United States. The purpose of the report, *Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, (May, 2015 External Review Draft, EPA/600/R–15/047),* is to synthesize available scientific literature and data to assess the potential for hydraulic fracturing for oil and gas to impact the quality or quantity of drinking water resources, and identify factors affecting the frequency or severity of any potential impacts. As noticed in 80 FR 32111–32113, the SAB Hydraulic Fracturing Research Advisory Panel held a face-to-face meeting on October 28–30, 2015 to conduct a peer review of the agency's draft report. As noticed in 80 FR 69652–69653, the SAB Hydraulic Fracturing Research Advisory Panel held a public teleconference on December 3, 2015, to complete agenda items from the October 28–30, 2015, Panel meeting.

The purpose of the February 1, 2016, public teleconference is for the SAB Hydraulic Fracturing Research Advisory Panel to discuss its draft report regarding its peer review of the agency's draft report. If the SAB Staff Office determines that there will be insufficient time during the February 1, 2016, teleconference for the Panel to complete discussion on its draft report or to accommodate the members of the public who registered in advance to provide oral public comments, the teleconference on February 2, 2016, will be held to provide additional time for the Panel's discussions or for oral public comments. The purpose of the March 7, 2016, teleconference is for the SAB Hydraulic Fracturing Research Advisory Panel to further discuss its draft report regarding its peer review of the agency's draft report. If the SAB Staff Office determines that there will be insufficient time during the March 7, 2016, teleconference for the Panel to complete discussion on its draft report or to accommodate the members of the public who registered in advance to provide oral public comments, the teleconference on March 10, 2016, will be held to provide additional time for the Panel's discussions or for oral public comments.

Availability of Meeting Materials: Additional background on this SAB activity, the teleconference agendas, draft panel report, and other materials for the teleconferences will be posted on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/f7a9db9abbac015785257e540052dd54!OpenDocument&Highlight=0,hydraulic,fracturing* in advance of the teleconferences.

Procedures for Providing Public Input: Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Interested members of the public may submit relevant information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information.

Throughout the Panel review process, there will be opportunities for the public to provide comments. For example, the public was invited to provide comments to the Docket on the EPA's charge questions to the SAB and the draft EPA report and provide oral statements to the Panel during the Panel teleconferences and meeting, and will have opportunity to provide comments to the Docket on the draft EPA report and the SAB Panel's draft report, provide oral statements to the Panel during upcoming Panel teleconferences, and provide oral and written comments in preparation for quality review of the SAB Panel's draft report by the Chartered SAB. Members of the public wishing to provide written comments may submit them to the EPA Docket electronically via *www.regulations.gov,* by email, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the written statements section of this notice. Members of the public wishing to provide oral statements to the SAB Panel should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting to present an oral statement at a public teleconference will be limited to three minutes per speaker. To be placed on the public speaker list for the February 1, 2016, teleconference, interested parties should notify Mr. Edward Hanlon, DFO, by email no later than January 25, 2016. To be placed on the public speaker list for the March 7, 2016 teleconference, interested parties should notify Mr. Edward Hanlon, DFO, by email no later than February 29, 2016. *Written Statements:* Written statements for the February 1, 2016, teleconference should be received in the EPA Docket by January 21, 2016, so that the information may be made available to the SAB Panel sufficiently in advance of the teleconference for the Panel's consideration. Written statements for the March 7, 2016, teleconference should be received in the EPA Docket by February 22, 2016, so that the

information may be made available to the SAB Panel sufficiently in advance of the teleconference for the Panel's consideration.

Written statements should be identified by Docket ID No. EPA–HQ–OA–2015–0245 and submitted to the Docket at *www.regulations.gov* by one of the following methods:

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

• *EMail: Docket_OEI@epa.gov:* Include the docket number in the subject line of the message.

• *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 28221T), Docket ID No. EPA–HQ–OA–2015–0245, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. The phone number is (202) 566–1752.

• *Hand Delivery:* The OEI Docket is located in the EPA headquarters Docket Center, Room 3334, EPA West Building, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

• *Fax:* (202) 566–9744

Public comments submitted after January 21, 2016 for the February 1, 2016, teleconference will be marked late, and should be submitted to the Docket by email, mail, hand delivery or fax (see detailed instructions above). Public comments submitted after February 22, 2016 for the March 7, 2016, teleconference will be marked late, and should be submitted to the Docket by email, mail, hand delivery or fax (see detailed instructions above). Consistent with SAB Staff Office general practice, comments received after January 21, 2016 for the February 1, 2016, teleconference, and after February 22, 2016 for the March 7, 2016, teleconference, will be made available to the SAB Panel as soon as practicable.

It is EPA's policy to include all comments received in the public docket without change and to make the comments available on-line at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *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 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 comments due to technical difficulties and cannot contact you for clarification, the SAB Panel may not be able to consider your comments. Electronic files should avoid the use of special characters and any form of encryption and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

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 at *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Edward Hanlon at the phone number or email address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: December 22, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–32738 Filed 12–28–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2015–3015]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 94–08 Notification and Assignment by Insured to Financial Institution of Medium Term Export Credit Insurance Policy.

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 of information is necessary, pursuant to 12 U.S.C. Sec. 635(a)(1), to determine where insurance proceeds should be sent and to determine which exporters require lender financing of their insured receivables.

Ex-Im Bank's exporter policy holders, along with the financial institution providing it with financing, provide this form to Ex-Im Bank. The form transfers the duties and obligations of the insured exporter to the financial institution. It also provides certifications to the financial institution and Ex-Im Bank that the financed export transaction results in a valid, enforceable, and performing debt obligation. Exporter policy holders need this form to obtain financing for their medium term export sales.

The form can be viewed at *http://www.exim.gov/sites/default/files/pub/pending/eib94-08.pdf.*

DATES: Comments should be received on or before January 28, 2016 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048–0040.

SUPPLEMENTARY INFORMATION: *Titles and Form Number:* EIB 94–08 Notification and Assignment by Insured to Financial Institution of Medium Term Export Credit Insurance Policy.

OMB Number: 3048–0040.

Type of Review: Regular.

Need and Use: The form transfers the duties and obligations of the insured exporter to the financial institution. It also provides certifications to the financial institution and Ex-Im Bank that the financed export transaction results in a valid, enforceable, and performing debt obligation. Exporter policy holders need this form to obtain financing for their medium term export sales.

Affected Public: This form affects entities involved in the export of U.S. goods and services.
Annual Number of Respondents: 50.
Estimated Time per Respondent: 10 minutes.
Annual Burden Hours: 8.3 hours.
Frequency of Reporting or Use: As needed.
Government Expenses:
Reviewing time per year: 12 hours.
Average Wages per Hour: $42.50.
*Average Cost per Year (time * wages):* $510.
Benefits and Overhead: 20%.
Total Government Cost: $612.

Bonita Jones-McNeil,

Program Analyst, Agency Clearance Officer.

[FR Doc. 2015–32714 Filed 12–28–15; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2015–3016]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 99–14 Export-Import Bank Trade Reference 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. This collection of information is necessary, pursuant to 12 U.S.C. Sec. 635 (a) (1), to determine whether or not a company has a good payment history.

This form will enable Ex-Im Bank to make a credit decision on a foreign buyer credit limit request submitted by a new or existing policy holder. Additionally, this form is used by those Ex-Im Bank policy holders granted delegated authority to commit the Bank to a foreign buyer credit limit.

The form can be viewed at *http://www.exim.gov/sites/default/files/pub/pending/eib99–14.pdf.*

DATES: Comments should be received on or before January 28, 2016 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048–0042.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 99–14 Export-Import Bank Trade Reference form.

OMB Number: 3048–0042.

Type of Review: Regular.

Need and Use: This form provides essential credit information used by Ex-Im Bank credit officers when analyzing requests for export credit insurance/financing support, both short-term (360 days and less) and medium-term (longer than 360 days), for the export of their U.S. goods and services. Additionally, this form is an integral part of the short term Multi-Buyer export credit insurance policy for those policy holders granted foreign buyer discretionary credit limit authority (DCL). Multi-Buyer policy holders given DCL authority may use this form as the sole source or one piece among several sources of credit information for their internal foreign buyer credit decision which, in turn, commits Ex-Im's insurance.

Affected Public: This form affects entities involved in the export of U.S. goods and services.
Annual Number of Respondents: 6,500.
Estimated Time per Respondent: 15 minutes.
Annual Burden Hours: 1,625 hours.
Frequency of Reporting or Use: As needed.
Government Expenses:
Reviewing time per year: 1,625 hours.
Average Wages per Hour: $42.50.
Average Cost per Year: $69,062.
(time * wages)
Benefits and Overhead: 20%.
Total Government Cost: $82,875.

Bonita Jones-McNeil,

Program Analyst, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 2015–32717 Filed 12–28–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. *Report title:* Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies and the Annual Report of Merchant Banking Investments Held for an Extended Period.

Agency form number: FR Y–12, FR Y12A, respectively.

OMB control number: 7100–0300.

Frequency: FR Y–12: quarterly or semi-annually, FR Y–12A: annually.

Reporters: Bank holding companies (BHCs), financial holding companies (FHCs) and savings and loan holding companies (SLHCs).

Estimated annual reporting hours: FR Y–12: 1,650 hours, FR Y–12A: 133 hours.

Estimated average hours per response: FR Y–12: 16.5 hours, FR Y–12A: 7 hours.

Number of respondents: FR Y–12: 28, FR Y–12A: 19.

General description of report: This collection of information is mandatory and authorized to be collected from BHCs and FHCs pursuant to Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)(1)(A)) and from SLHCs pursuant to section 10 of the Home Owners Loan Act (12 U.S.C. 1467a(b)). Overall, the Federal Reserve does not consider the data collected on the FR Y–12 to be confidential. However, a holding company may request

confidential treatment pursuant to sections (b)(4) of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). The Federal Reserve considers the data collected on the FR Y–12A to be confidential pursuant to sections (b)(4) and (b)(8) of FOIA (5 U.S.C. 552(b)(4) and (b)(8)).

Abstract: The FR Y–12 collects information from certain domestic BHCs and SLHCs on their equity investments in nonfinancial companies. The FR Y–12 data serve as an important risk-monitoring device for institutions active in this business line by allowing supervisory staff to monitor an institution's activity between review dates. They also serve as an early warning mechanism to identify institutions whose activities in this area are growing rapidly and therefore warrant special supervisory attention. The FR Y–12A is filed annually by institutions that hold merchant banking investments that are approaching the end of the holding period permissible under Regulation Y. The FR Y–12A data continue to be a useful tool for examiners to monitor institutions that have merchant banking investments that are approaching holding period limitations.

Current Actions: On October 22, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 64000) requesting public comment for 60 days on the extension, without revision, of the FR Y–12 and FR Y–12A. The comment period for this notice expired on December 21, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

2. *Report title:* Bank Secrecy Act Suspicious Activity Report (BSA–SAR).

Agency form number: FR 2230.

OMB control number: 7100–0212.

Frequency: On occasion.

Reporters: State member banks (SMBs), BHCs and their nonbank subsidiaries, Edge and agreement corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve.

Estimated annual reporting hours: 159,071 hours.

Estimated average hours per response: 1.5 hours.

Number of respondents: 5,489.

General description of report: The BSA–SAR is required by law, pursuant to authority contained in the following statutes: 12 U.S.C. 248(a)(1), 3105(c)(2), 3106(a), and 625 of the International Banking Act, 12 U.S.C. 1844(c) of the Bank Holding Company Act, and 12 U.S.C. 1818(s) of the Federal Deposit Insurance Act. The obligation to file a SAR is set forth in the Board's rules, and is mandatory for SMBs (12 CFR 208.62(c)); entities subject to the Bank Holding Company Act and their nonbank subsidiaries (12 CFR 225.4(f)); Edge and agreement corporations (12 CFR 211.5(k)); and U.S. branches, agencies, and representative offices of foreign banks (12 CFR 211.24(f)). BSA–SARs are exempt from FOIA disclosure by 31 U.S.C. 5319, which specifically provides that SARS ''are exempt from disclosure under section 552 of title 5'', and FOIA exemption 3, 5 U.S.C. 552(b)(3) (matters ''specifically exempted from disclosure by statute'').

Abstract: Since 1996, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Department of the Treasury's Financial Crimes Enforcement Network have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file SARs. Law enforcement agencies use the information submitted on the reporting form to initiate investigations and the Federal Reserve uses the information in the examination and oversight of supervised institutions.

Current Actions: On October 22, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 64000) requesting public comment for 60 days on the extension, without revision, of the Bank Secrecy Act Suspicious Activity Report. The comment period for this notice expired on December 21, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

3. *Report title:* Domestic Branch Notification.

Agency form number: FR 4001.

OMB control number: 7100–0097.

Frequency: On occasion.

Reporters: SMBs.

Estimated annual reporting hours: 131 hours.

Estimated average hours per response: 30 minutes for expedited notifications and 1 hour for nonexpedited notifications.

Number of respondents: 60 expedited and 101 nonexpedited.

General description of report: Section 9(3) of the Federal Reserve Act, (12 U.S.C. 321), requires that SMBs obtain prior Federal Reserve approval before establishing a domestic branch. This requirement is implemented by the provisions of Section 208.6 of the Board's Regulation H, (12 CFR 208.6). The obligation of SMBs to request prior approval of the appropriate supervising Reserve Bank in order to establish a domestic branch is mandatory. The individual respondent information in the notification is not considered confidential.

Abstract: The Federal Reserve Act and Regulation H require an SMB to seek prior approval of the Federal Reserve System before establishing or acquiring a domestic branch. Such requests for approval must be filed as notifications at the appropriate Reserve Bank for the SMB. Due to the limited information that an SMB generally has to provide for branch proposals, there is no formal reporting form for a domestic branch notification. An SMB is required to notify the Federal Reserve by letter of its intent to establish one or more new branches and provide with the letter evidence that public notice of the proposed branch(es) has been published by the SMB in the appropriate newspaper(s). The Federal Reserve uses the information provided to fulfill its statutory obligation to review any public comment on proposed branches before acting on the proposals and otherwise to supervise SMBs.

Current Actions: On October 22, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 64000) requesting public comment for 60 days on the extension, without revision, of the Domestic Branch Notification. The comment period for this notice expired on December 21, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

4. *Report title:* Disclosure Requirements in Connection With Subpart H of Regulation H (Consumer Protections in Sales of Insurance).

Agency form number: Reg H–7.

OMB control number: 7100–0298.

Frequency: On occasion.

Reporters: State member banks.

Estimated annual reporting hours: 13,372 hours.

Estimated average hours per response: 1.5 minutes

Number of respondents: 849.

General description of report: Section 305 of the Gramm-Leach-Bliley Act of 1999 requires that the Federal Reserve and the other federal banking agencies issue joint regulations applicable to retail sales practices, solicitations, advertising, or offers of insurance by depository institutions. (12 U.S.C. 1831x) Subpart H of the Federal Reserve's Regulation H, Consumer Protection in Sales of Insurance, implements section 305 on behalf of the

Federal Reserve, and provides for the disclosures outlined above. (12 CFR part 208, subpart H) The obligation of SMBs to make these disclosures is mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality normally arises.

Abstract: Subpart H of Regulation H was adopted pursuant to section 305 of the Gramm-Leach-Bliley Act of 1999, which required the federal banking agencies to issue joint regulations governing retail sales practices, solicitations, advertising, and offers of insurance by, on behalf of, or at the offices of insured depository institutions. The insurance consumer protection rules in Regulation H require depository institutions to prepare and provide certain disclosures to consumers. Covered persons are required to make certain disclosures before the completion of the initial sale of an insurance product or annuity to a consumer and at the time a consumer applies for an extension of credit in connection with which and insurance product or annuity is solicited, offered, or sold.

Current Actions: On October 22, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 64000) requesting public comment for 60 days on the extension, without revision, of the Disclosure Requirements in Connection With Subpart H of Regulation H. The comment period for this notice expired on December 21, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

Board of Governors of the Federal Reserve System, December 23, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–32700 Filed 12–28–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 132 3115]

Oracle Corporation; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 20, 2016.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/oracleconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of Oracle Corporation,—Consent Agreement; File No. 132 3115'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/oracleconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Oracle Corporation,—Consent Agreement; File No. 132 3115'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Andrea Arias (202) 326–2715 or Jacqueline Conner (202) 326–2844, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 21, 2015), on the World Wide Web at: *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 20, 2016. Write ''In the Matter of Oracle Corporation,—Consent Agreement; File No. 132 3115'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/oracleconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''In the Matter of Oracle

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Corporation,—Consent Agreement; File No. 132 3115'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 20, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order applicable to Oracle Corporation (''Oracle'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Oracle is a Delaware corporation that, among other things, develops the Java computing platform, which is used to power applications that, for example, allow consumers to play online games, chat with people online, calculate mortgage interest, and view images in 3D. Consumers primarily use the Java Platform, Standard Edition (''Java SE''). When an update to Java SE was available, a consumer would typically receive a prompt to update the software. When the consumer proceeded to install the update, the consumer would encounter a series of installation screens, which stated that ''Java provides safe and secure access to the world of amazing Java content,'' and that Java SE updates and a consumer's ''system'' would have ''the latest . . . security improvements.'' During the Java SE update process, however, Oracle did not inform consumers that Java SE updates automatically removed only the most recent prior iteration of Java SE installed on the consumer's computer, even if the consumer had multiple iterations of Java SE installed, and that the update would not remove any iteration released prior to Java SE iteration 6 update 10. As such, after the update process, consumers could still have additional older, insecure iterations of Java SE installed on their computers, which attackers targeted to obtain consumers' personal information through malware designed to exploit vulnerabilities (''exploit kits'').

The Commission's complaint alleges that Oracle violated Section 5(a) of the FTC Act by failing to disclose that, in numerous instances, updating Java SE would not delete or replace all older iterations of Java SE on a consumer's computer, and as a result, a consumer's computer could still have iterations of Java SE installed that are vulnerable to security risks. This fact would be material to consumers' decisions whether to take further action after ''updating'' Java SE to protect their computers, in light of Oracle's representations to consumers that by updating Java SE, users would ensure that Java SE on their computers had the latest security improvements.

The complaint further alleges that, by failing to inform consumers that the Java SE update process did not remove all prior iterations of the software, Oracle left some consumers vulnerable to a serious, well-known, and reasonably foreseeable security risk that attackers would target these computers through exploit kits, resulting in the theft of personal information. Consumers with insecure iterations of Java SE on their computers were vulnerable to exploit kits targeting Java SE vulnerabilities while browsing infected Web sites or clicking on nefarious links. Attackers used exploit kits targeting Java SE vulnerabilities to install key loggers that captured consumers' usernames and passwords, which could be used to log into a consumer's PayPal, bank, and credit card accounts. Other Java SE exploit kits may have resulted in the unauthorized acquisition and transmission of sensitive personal information for the purpose of targeted spear-phishing campaigns.

The proposed order contains provisions designed to prevent Oracle from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits Oracle from misrepresenting (1) the privacy or security of the covered software on a consumer's computer, including but not limited to the effect on privacy or security of any installation or update of the covered software; and (2) how to uninstall older iterations of the covered software.

Part II of the proposed order requires Oracle to ensure that during any installation or update of any iteration of Java SE released after the date of service of the order, Oracle:

(1) clearly and conspicuously discloses to the consumer all iterations of Java SE 1.4.2 or later, other than any iteration(s) released within the last quarter, currently installed on the consumer's computer;

(2) clearly and conspicuously explains that there may be risks to the security of the consumer's computer if the consumer chooses not to remove any iterations of Java SE older than the iteration(s) released within the last quarter currently installed on the consumer's computer; and

(3) clearly and conspicuously discloses which iterations of Java SE 1.4.2 or later, other than any iteration(s) released within the last quarter, that remain installed following installation or update of Java SE, and clearly and conspicuously provides instructions describing how consumers can effectively uninstall these iterations.

Part III of the proposed order requires Oracle to notify consumers who downloaded, installed, or updated Java SE that, in some instances, they may have older, insecure iterations of Java SE on their computers; and provide instructions to such consumers on how to remove these older iterations. In addition, for three (3) years, Oracle must provide an uninstall tool that allows consumers to uninstall iterations of Java SE 1.4.2 or later; a page on their primary Web site that explains how to uninstall older, insecure iterations of Java SE; and free support through an electronic form to help consumers with their update and/or uninstall issues.

Parts IV through VIII of the proposed order are standard reporting and compliance provisions. Part IV requires Oracle to retain documents relating to its compliance with the order for a five-year period. Part V requires dissemination of the order now and in the future to all current and future principals, officers, directors, and managers, and to persons with managerial or supervisory responsibilities relating to Parts I–III of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Oracle submit a

compliance report to the FTC within 90 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–32634 Filed 12–28–15; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–FTR–2015–01; Docket 2015–0002; Sequence 1]

2016 Privately Owned Vehicle (POV) Mileage Reimbursement Rates; 2016 Standard Mileage Rate for Moving Purposes

AGENCY: Office of Government-Wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of FTR Bulletin 16–02, Calendar Year (CY) 2016 Privately Owned Vehicle (POV) Mileage Reimbursement Rates and Standard Mileage Rate for Moving Purposes (Relocation Allowances).

SUMMARY: The General Services Administration (GSA) uses the single standard mileage rate established by the Internal Revenue Service (IRS) as the mileage rate for privately owned automobiles (POA). In addition, the IRS' mileage rate for medical or moving purposes is used to determine the POA rate when a Government-furnished automobile is authorized. This IRS rate also establishes the standard mileage rate for moving purposes as it pertains to official relocation. Finally, GSA's annual privately owned airplane and motorcycle mileage reimbursement rate reviews have resulted in new CY 2016 rates. GSA conducts independent airplane and motorcycle studies that evaluate various factors, such as the cost of fuel, the depreciation of the original vehicles costs, maintenance and insurance, and/or by applying consumer price index data. FTR Bulletin 16–02 establishes the new CY 2016 POV mileage reimbursement rates for official temporary duty and relocation travel ($0.54 for POAs, $0.19 for POAs when a Government furnished automobile is authorized, $1.17 for privately owned airplanes, $0.51 for privately owned motorcycles, and $0.19 for moving purposes), pursuant to the process discussed above. This notice of subject bulletin is the only notification to agencies of revisions to the POV mileage rates for official travel and relocation other than the changes posted on GSA's Web site.

DATES: *Effective:* December 29, 2015.

Applicability: This notice applies to travel and relocation performed on or after January 1, 2016 through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, please contact Mr. Cy Greenidge, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202–219–2349, or by email at *travelpolicy@gsa.gov.* Please cite Notice of FTR Bulletin 16–02.

SUPPLEMENTARY INFORMATION:

Change in Standard Procedure

GSA posts the POV mileage reimbursement rates, formerly published in 41 CFR Chapter 301, solely on the internet at *www.gsa.gov/mileage.* Also, posted on this site is the standard mileage rate for moving purposes. This process, implemented in FTR Amendment 2010–07, 75 FR 72965 (November 29, 2010), FTR Amendment 2007–03, 72 FR 35187 (June 27, 2007), and FTR Amendment 2007–06, 72 FR 70234 (December 11, 2007), ensures more timely updates regarding mileage reimbursement rates by GSA for Federal employees who are on official travel or relocating. Notices published periodically in the **Federal Register**, such as this one, and the changes posted on the GSA Web site, now constitute the only notification to Federal agencies of revisions to the POV mileage reimbursement rates and the standard mileage reimbursement rate for moving purposes.

Dated: December 23, 2015.

Alexander J. Kurien,

Deputy Associate Administrator, Office of Asset and Transportation Management, Office of Government-wide Policy.

[FR Doc. 2015–32745 Filed 12–28–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2015–0055; Sequence 51]

Submission for OMB Review; High Global Warming Potential Hydrofluorocarbons

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning High Global Warming Potential Hydrofluorocarbons. A notice was published in the **Federal Register** at 80 FR 26883, on May 11, 2015. Sixteen comments were received.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for OMB control number ''9000–0191; High Global Warming Potential Hydrofluorocarbons.'' Select the link ''Submit a Comment'' that corresponds with ''9000–0191; High Global Warming Potential Hydrofluorocarbons.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''9000–0191; High Global Warming Potential Hydrofluorocarbons'' on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., Washington, DC 20405.

Instructions: Please submit comments only and cite Information Collection

''9000–0191; High Global Warming Potential Hydrofluorocarbons,'' in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, Federal Acquisition Policy Division, at 703–795–6328 or email *charles.gray@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

DoD, GSA, and NASA published a proposed rule at 80 FR 26883 on May 11, 2015, to implement Executive branch policy in the President's Climate Action Plan to procure, when feasible, alternatives to high GWP HFCs. FAR Case 2014–026, High Global Warming Potential Hydrofluorocarbons, proposed to modify FAR provision 52.223–11, Ozone-Depleting Substances, and 52.223–12, Refrigeration Equipment and Air Conditioners, to address high global warming potential (GWP) hydrofluorocarbons (HFCs).

For equipment and appliances that normally contain 50 or more pounds of HFCs or HFC blends, the clauses will now include requirements to track by type, equipment/application, contract, agency, and location, the amount in pounds of HFCs or HFC blends contained in such equipment and appliances delivered to the Government; or added or taken out of such equipment and appliances that will be maintained, repaired, or disposed under the contract. The contractor is required to report the information annually to a centralized Government Web site.

B. Annual Reporting Burden

To estimate the number of respondents affected by the reporting requirement in FAR 52.223–11 and 52.223–12, the Government reviewed the number of contracts awarded or orders issued for the Federal Supply Code Categories that would most commonly be used for the bulk materials, products used for maintenance, and equipment containing HFCs:

Respondents: 3,172.
Responses per respondent: 1.
Total annual responses: 3,172.
Hours per response: 8.
Total Burden Hours: 25,376.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control Number ''9000–0191, High Global Warming Potential Hydrofluorocarbons,'' in all correspondence.

William Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–32674 Filed 12–28–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children And Families

[CFDA Number: 93.564]

Announcement of the Award of a Single-Source Expansion Supplement Grant to the Wisconsin Department for Children and Families in Madison, WI

AGENCY: Office of Child Support Enforcement, ACF, HHS

ACTION: Notice of the award of a single-source expansion supplement grant to the Wisconsin Department of Children and Families to support the evaluation of the Child Support Noncustodial Parent Employment Demonstration.

SUMMARY: The Administration for Children and Families (ACF), Office of Child Support Enforcement, Division of Program Innovation announces the award of a cooperative agreement in the amount of $700,000 to the Wisconsin Department for Children and Families in Madison, WI to support the evaluation of the Child Support Noncustodial Parent Employment Demonstration.

In FY 2012, the Office of Child Support Enforcement (OCSE) competitively awarded a cooperative agreement to the Wisconsin Department of Children and Families to conduct a 5-year evaluation of OCSE's national demonstration called Child Support Noncustodial Parent Employment Demonstration (CSPED) under Funding Opportunity Announcement (FOA) number HHS–2012–ACF–OCSE–FD–0537. Under this FOA, a total of $4.5 million of 1115 funds were made available to the Wisconsin Department of Children and Families to conduct this evaluation.

The award of $700,000 the Wisconsin Department of Children and Families is required to cover the unanticipated costs of conducting the CSPED evaluation. The CSPED evaluation includes an impact evaluation using random assignment, an implementation study and a benefit-cost analysis. The evaluator is also providing evaluation-related technical assistance to the grantees implementing CSPED. A baseline and 12 month follow-up survey are being conducted. Administrative data from multiple sources are also being collected and evaluated. A grants management information system was developed for grantees to use to conduct random assignment, enroll individuals into the project, and document service delivery.

DATES: The period of support for this supplement is September 30, 2015 through September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine Sorensen, Office of Child Support Enforcement, 330 C Street SW., Washington, DC 20201. Telephone: 202–401–5099; Email: *Elaine.sorensen@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: OCSE originally anticipated that there would be eight implementation sites in the CSPED demonstration and developed the Funding Opportunity Announcement for the evaluation of this demonstration accordingly. However, 8 grantees with 25 implementation sites were approved and awarded funding by OCSE to be part of CSPED under a separate funding announcement (HHS–2012–ACF–OCSE–FD–0297). This expansion of the number of implementation sites in CSPED has increased the costs of conducting the CSPED evaluation. Furthermore, random assignment was delayed in some sites and enrollment has been slower than expected in other sites. These delays have also increased the costs of the CSPED evaluation. Another

factor that has increased the costs of the evaluation is that OCSE is using the grants management information system developed for the grantees to monitor their enrollment and service delivery, which requires additional programming and customized reports. Finally, OCSE has asked for an internal memo describing preliminary impact findings which was not included in the FOA.

As a consequences of these unanticipated costs, the $700,000 supplemental grant will be used for the following activities: (1) Conduct the day-to-day operation of the evaluation, including all costs involved in ensuring continued compliance with human subject research requirements; (2) conduct research and analyze information from the multiple implementation sites; (3) conduct the baseline and follow-up surveys; (4) maintain and provide evaluation-related technical assistance to OCSE and the grantees for the grants management information system; and (5) complete an internal memo describing interim impact findings.

Statutory Authority: Section 1115 of the Social Security Act authorizes funds for experimental, pilot, or demonstration projects that are likely to assist in promoting the objectives of Part D of Title IV.

Christopher Beach,

Senior Grants Policy Specialist, Office of Administration.

[FR Doc. 2015–32702 Filed 12–28–15; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Developmental Disabilities Protection and Advocacy Statement of Goals and Priorities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration on Intellectual and Developmental Disabilities (AIDD), Administration for Community Living (ACL) is announcing an opportunity to comment on the proposed collection of information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow for public comment in response to the notice. This notice collects comments on the information collection requirements relating to an existing collection: Developmental Disabilities Protection and Advocacy Statement of Goals and Priorities (0985–0034).

DATES: Submit written comments on the collection of information by January 28, 2016.

ADDRESSES: Submit written comments on the collection of information by email to *OIRA_submission@omb.eop.gov* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Clare Barnett, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, One Massachusetts Avenue NW., Room 4204, Washington, DC 20201, 202–357–3426.

SUPPLEMENTARY INFORMATION: Federal statute and regulation require each State Protection and Advocacy (P&A) System annually prepare for public comment a Statement of Goals and Priorities (SGP) for the P&A for Developmental Disabilities (PADD) program for each coming fiscal year. Following the required public input for the coming fiscal year, the P&A is required by Federal statute and regulation to submit the final version of the SGP to the Administration on Intellectual and Developmental Disabilities (AIDD). AIDD reviews the SGP for compliance and will aggregate the information in the SGPs into a national profile of programmatic emphasis for P&A Systems in the coming year to provide an overview of program direction, and permit AIDD to track accomplishments against goals and formulate areas of technical assistance and compliance with Federal requirements.

ACL estimates the burden of this collection of information as follows:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PADD SGP	57	1	16	912

Estimated Total Annual Burden Hours: 2,508

Dated: December 22, 2015.

Kathy Greenlee,

Administrator & Assistant Secretary for Aging.

[FR Doc. 2015–32667 Filed 12–28–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1318]

Electroconvulsive Therapy Devices for Class II Intended Uses: Draft Guidance for Industry, Clinicians, and FDA Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Electroconvulsive Therapy (ECT) Devices for Class II Intended Uses: Draft Guidance for Industry, Clinicians, and FDA Staff.'' The purpose of this guidance is to make recommendations for 510(k) submissions and complying with special controls being proposed to support reclassification of ECT Devices into Class II (special controls) for severe major depressive episode (MDE) associated with Major Depressive Disorder (MDD) or Bipolar Disorder (BPD) in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 28, 2016.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Electroconvulsive Therapy (ECT) Devices for Class II Intended Uses: Draft Guidance for Industry, Clinicians, and FDA Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request. You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–D–1318 for ''Electroconvulsive Therapy (ECT) Devices for Class II Intended Uses: Draft Guidance for Industry, Clinicians and FDA Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:
Peter G. Como, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G242, Silver Spring, MD 20993–0002, 301–796–6919.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document provides draft recommendations for 510(k) submissions and complying with special controls being proposed to support reclassification of ECT Devices into Class II (special controls) for severe MDE associated with MDD or BPD in patients 18 years of age and older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition. An ECT device is an electrical device used for treating severe psychiatric disturbances by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head. This draft guidance is being issued in conjunction with a **Federal Register** notice announcing the proposal to reclassify this device type for this intended use. This guidance is issued for comment purposes only.

FDA is issuing a proposed administrative order to reclassify ECT devices for the treatment of severe MDE associated with MDD or BPD in patients 18 years of age or older who are treatment-resistant or who require a rapid response due to the severity of their psychiatric or medical condition, which are currently Class III devices, into Class II (special controls) subject to premarket notification. FDA is proposing this reclassification under the Federal Food, Drug and Cosmetic Act (FD&C Act) based on new information pertaining to the device. This guidance is intended to provide recommendations on how to comply with the special controls proposed in 21 CFR 876.5540(b)(1) and indicate what information is suggested for submission to FDA in a 510(k) to demonstrate that the special controls have been met.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on ECT devices for Class II intended uses. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An

alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Electroconvulsive Therapy (ECT) Devices for Class II Intended Uses: Draft Guidance for Industry, Clinicians, and FDA Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1823 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 807 subpart E have been approved under OMB control number 0910–0120; the collection of information in 21 CFR 801 has been approved under OMB control number 0910–0485; and the collection of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

Dated: December 18, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32591 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0242]

Agency Information Collection Activities: Proposed Collection; Comment Request; Current Good Manufacturing Practice for Positron Emission Tomography Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection contained in FDA's regulations on current good manufacturing practice (CGMP) for positron emission tomography (PET) drugs.

DATES: Submit either electronic or written comments on the collection of information by February 29, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–0242 for ''Agency Information Collection Activities: Proposed Collection; Comment Request; Current Good Manufacturing Practice for Positron Emission Tomography Drugs.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520) Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice for Positron Emission Tomography Drugs (OMB Control Number 0910–0667)—Extension

Positron emission tomography is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug product. FDA's CGMP regulations at 21 CFR part 212 are intended to ensure that PET drug products meet the requirements of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) regarding safety, identity, strength, quality, and purity. The CGMP requirements for PET drugs are issued under the provisions of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). These CGMP requirements are designed to take into account the unique characteristics of PET drugs, including their short half-lives and the fact that most PET drugs are produced at locations that are very close to the patients to whom the drugs are administered.

The CGMP regulations are intended to ensure that approved PET drugs meet the requirements of the FD&C Act as to safety, identity, strength, quality, and purity. The regulations address the following matters: Personnel and resources; quality assurance; facilities and equipment; control of components, in-process materials, and finished products; production and process controls; laboratory controls; acceptance criteria; labeling and packaging controls; distribution controls; complaint handling; and recordkeeping.

The CGMP regulations establish several recordkeeping requirements and a third-party disclosure requirement for the production of PET drugs. In making our estimates of the time spent in complying with these information collection requirements, we relied on communications we have had with PET producers, visits by our staff to PET facilities, and our familiarity with both PET and general pharmaceutical manufacturing practices. The estimated annual recordkeeping and third-party disclosure burden is based on there being approximately 129 PET drug production facilities.

As explained in this document, Table 1 provides an estimate of the annual recordkeeping burdens and Table 2 provides an estimate of the annual third-party disclosure burdens associated with this collection.

I. Investigational and Research PET Drugs

Section 212.5(b)(2) provides that for investigational PET drugs produced under an investigational new drug (IND) and research PET drugs produced with approval of a Radioactive Drug Research Committee (RDRC), the requirement under the FD&C Act to follow current good manufacturing practice is met by complying with the regulations in part 212 or with USP 32 Chapter 823. We believe that PET production facilities producing drugs under INDs and RDRCs are currently substantially complying with the recordkeeping requirements of USP 32 Chapter 823 (see section 121(b) of the Modernization Act), and accordingly, we do not estimate any recordkeeping burden for this provision.

II. Batch Production and Control Records

Sections 212.20(c) through (e), 212.50(a) through (c), and 212.80(c) set forth requirements for batch and production records as well as written control records. We estimate that it would take approximately 20 hours annually for each PET production facility to prepare and maintain written production and control procedures and to create and maintain master batch records for each PET drug produced. We also estimate that there will be a total of approximately 221 PET drugs produced, with a total recordkeeping burden of approximately 4,420 hours. We estimate that it would take a PET production facility an average of 30 minutes to complete a batch record for each of approximately 501 batches. Our estimated burden for completing batch records is approximately 32,320 hours.

III. Equipment and Facilities Records

Sections 212.20(c), 212.30(b), 212.50(d), and 212.60(f) contain requirements for records dealing with equipment and physical facilities. We estimate that it would take approximately 1 hour to establish and maintain these records for each piece of equipment in each PET production facility. We estimate that the total burden for establishing procedures for these records would be approximately 1,939 hours. We estimate that recording maintenance and cleaning information would take approximately 5 minutes a day for each piece of equipment, with a total recordkeeping burden of approximately 40,238 hours.

IV. Records of Components, Containers, and Closures

Sections 212.20(c) and 212.40(a), (b), and (e) contain requirements on records regarding receiving and testing of components, containers, and closures. We estimate that the annual burden for establishing these records would be approximately 259 hours. We estimate that each facility would receive approximately 36 shipments annually and would spend approximately 10 minutes per shipment entering records. The annual burden for maintaining these records would be approximately 773 hours.

V. Process Verification

Section 212.50(f)(2) requires that any process verification activities and results be recorded. Because process verification is only required when results of the production of an entire batch are not fully verified through finished-product testing, we believe that process verification will be a very rare

occurrence, and we do not estimate any recordkeeping burden for documenting process verification.

VI. Laboratory Testing Records

Sections 212.20(c), 212.60(a), (b), and (g), 212.61(a) through (b), and 212.70(a), (b), and (d) set out requirements for documenting laboratory testing and specifications referred to in laboratory testing, including final release testing and stability testing. Each PET drug production facility will need to establish procedures and create forms for the different tests for each product they produce. We estimate that it will take each facility an average of 1 hour to establish procedures and create forms for one test. The estimated annual burden for establishing procedures and creating forms for these records is approximately 3,232 hours, and the annual burden for recording laboratory test results is approximately 10,730 hours.

VII. Sterility Test Failure Notices

Section 212.70(e) requires PET drug producers to notify all receiving facilities if a batch fails sterility tests. We believe that sterility test failures might occur in only 0.05 percent of the batches of PET drugs produced each year. Therefore, we have estimated in Table 2 that each PET drug producer will need to provide approximately 0.25 sterility test failure notice per year to receiving facilities. The notice would be provided using email or facsimile transmission and should take no more than 1 hour.

VIII. Conditional Final Releases

Section 212.70(f) requires PET drug producers to document any conditional final releases of a product. We believe that conditional final releases will be fairly uncommon, but for purposes of the PRA, we estimated that each PET production facility would have one conditional final release a year and would spend approximately 1 hour documenting the release and notifying receiving facilities. The estimate of one conditional final release per year per facility is an appropriate average number because many facilities may have no conditional final releases while others might have only a few.

IX. Out-of-Specification Investigations

Sections 212.20(c) and 212.71(a) and (b) require PET drug producers to establish procedures for investigating products that do not conform to specifications and conduct these investigations as needed. We estimate that it will take approximately 1 hour annually to record and update these procedures for each PET production facility. We also estimate, for purposes of the PRA, that 36 out-of-specification investigations would be conducted at each facility each year and that it would take approximately 1 hour to document the investigation, which results in an annual burden of 4,654 hours.

X. Reprocessing Procedures

Sections 212.20(c) and 212.71(d) require PET drug producers to establish and document procedures for reprocessing PET drugs. We estimate that it will take approximately 1 hour a year to document these procedures for each PET production facility. We do not estimate a separate burden for recording the actual reprocessing, both because we believe it would be an uncommon event and because the recordkeeping burden has been included in our estimate for batch production and control records.

XI. Distribution Records

Sections 212.20(c) and 212.90(a) require that written procedures regarding distribution of PET drug products be established and maintained. We estimate that it will take approximately 1 hour annually to establish and maintain records of these procedures for each PET production facility. Section 212.90(b) requires that distribution records be maintained. We estimate that it will take approximately 15 minutes to create an actual distribution record for each batch of PET drug products, with a total burden of approximately 16,160 hours for all PET producers.

XII. Complaints

Sections 212.20(c) and 212.100 require that PET drug producers establish written procedures for dealing with complaints, as well as document how each complaint is handled. We estimate that establishing and maintaining written procedures for complaints will take approximately 1 hour annually for each PET production facility and that each facility will receive approximately one complaint a year and will spend approximately 30 minutes recording how the complaint was dealt with.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of recordkeepers	No. of records per recordkeeper	Total annual records	Average burden per record-keeping	Total hours
Batch Production and Control Records 212.20(c), 212.20(e); 212.50(a), 212.50(b).	129	1.71	221	20	4,420
Batch Production and Control Records 212.20(d) and (e); 212.50(c); 212.80(c).	129	501	64,640	0.5 (30 mins.)	32,320
Equipment and Facilities Records 212.20(c); 212.30(b); 212.50(d), 212.60(f).	129	15	1,939	1	1,939
Equipment and Facilities Records 212.30(b), 212.50(d); 212.60(f).	129	3,758	484,800	0.083 (5 mins.)	40,238
Records of Components, Containers, and Closures 212.20(c); 212.40(a), 212.40(b).	129	2	259	1	259
Records of Components, Containers, and Closures 212.40(e).	129	36	4,654	0.166 (10 mins.)	773
Laboratory Testing Records 212.20(c); 212.60(a), 212.60(b), 212.61(a); 212.70(a), 212.70(b), 212.70(d).	129	25	3,232	1	3,232
Laboratory Testing Records 212.60(g); 212.61(b); 212.70(d)(2), 212.70(d)(3).	129	501	64,640	0.166 (10 min.)	10,730
Conditional Final Releases 212.70(f)	129	1	129	1	129
Out-of-Specification Investigations 212.20(c); 212.71(a).	129	36	4,654	1	4,654
Reprocessing Procedures 212.71(b)	129	1	129	1	129

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	No. of recordkeepers	No. of records per recordkeeper	Total annual records	Average burden per record-keeping	Total hours
Reprocessing Procedures 212.20(c); 212.71(d).	129	1	129	1	129
Reprocessing Procedures 212.20(c); 212.90(a).	129	1	129	1	129
Distribution Records 212.90(b)	129	501	64,640	0.25 (15 mins.)	16,160
Complaints 212.20(c); 212.100(a)	129	1	129	1	129
Complaints 212.100(b), 212.100(c)	129	1	129	0.5 (30 mins.)	65
Total					115,435

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section	No. of respondents	Annual frequency of disclosure	Total annual disclosures	Hours per disclosure	Total hours
Sterility Test Failure Notices 212.70(e)	129	0.25	32	1	32

[1] There are no capital costs or operating and maintenance costs associated with this information collection.

Dated: December 22, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32685 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1021]

Medical Device User Fee and Modernization Act; Notice to Public of Web Site Location of Fiscal Year 2016 Proposed Guidance Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the Web site location where the Agency will post two lists of guidance documents that the Center for Devices and Radiological Health (CDRH or the Center) intends to publish in Fiscal Year (FY) 2016. In addition, FDA has established a docket, where interested persons may comment on the priority of topics for guidance, provide comments and/or propose draft language for those topics, suggest topics for new or different guidance documents, comment on the applicability of guidance documents that have issued previously, and provide early input to support guidances that will be developed.

DATES: Although you can comment on any guidance at any time, submit either electronic or written comments by February 29, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–1021 for ''Medical Device User Fee and Modernization Act; Notice to Public of Web site Location of Fiscal Year 2016 Proposed Guidance Development.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The

Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Erica Takai, Center for Devices and Radiological Health, Food and Drug Administration,10903 New Hampshire Ave., Bldg. 66, rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

During negotiations on the Medical Device User Fee Amendments of 2012 (MDUFA III), Title II, Food and Drug Administration Safety and Innovation Act (Pub. L. 112–114), FDA agreed to meet a variety of quantitative and qualitative goals intended to help get safe and effective medical devices to market more quickly. Among these commitments included:

- Annually posting a list of priority medical device guidance documents that the Agency intends to publish within 12 months of the date this list is published each fiscal year (the ''A-list'') and
- annually posting a list of device guidance documents that the Agency intends to publish, as the Agency's guidance-development resources permit each fiscal year (the ''B-list'').

FDA invites interested persons to submit comments on any or all of the guidance documents on the lists as explained in 21 CFR 10.115(f)(5). FDA has established the docket number (FDA–2012–N–1021) where comments on the FY 2016 lists, draft language for guidance documents on those topics, suggestions for new or different guidances, and relative priority of guidance documents may be submitted and shared with the public (see **ADDRESSES**). FDA believes this docket is an important tool for receiving information from interested persons and will update these lists annually on FDA's Web site at the beginning of each fiscal year from 2013 to 2017. FDA anticipates that feedback from interested persons, will allow CDRH to better prioritize and more efficiently draft guidances.

In addition to posting the lists of prioritized device guidance documents, FDA has committed to updating its Web site in a timely manner to reflect the Agency's review of previously published guidance documents; including, the deletion of guidance documents that no longer represent the Agency's interpretation of or policy on a regulatory issue and notation of guidance documents that are under review by the Agency.

Fulfillment of these commitments will be reflected through the issuance of updated guidance on existing topics, removal of guidances that that no longer reflect FDA's current thinking on a particular topic, and annual updates to the A-list and B-list announced in this notice.

II. CDRH Guidance Development Initiative

On June 5, 2014, CDRH held a public workshop to provide stakeholders (*e.g.,* industry, academia, public health advocacy groups, and other interested persons) an opportunity to actively engage with Center representatives about the guidance development process, provide transparency into guidance priority development, promote dialogue on guidance process improvements, and generate ideas for assessing the impact of guidance (Ref. 1). The workshop also provided a forum to discuss best practices and public participation in guidance development. CDRH carefully considered the comments and suggestions provided by stakeholders.

At the 2014 workshop, stakeholders requested that draft guidance documents be more clearly identified as ''draft'' to indicate to CDRH stakeholders and staff that they are not for implementation. CDRH revised its templates for new draft guidance documents by adding the watermark ''DRAFT'' to all pages in order to more conspicuously mark the guidance as not for implementation. CDRH implemented the use of the new templates effective August 6, 2014, and continues to use these templates.

Stakeholders also recommended that CDRH's guidance documents Web page (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*) list draft guidances separately from those that had been finalized. CDRH revised its guidance document Web page to include a left navigation item for ''Draft Guidance.'' In addition, CDRH removed draft guidance documents from the office guidance document lists and separated the link to ''Recent Medical Device Guidance Documents'' into two separate links: ''Recent Medical Device Final Guidance Documents'' and ''Recent Medical Device Draft Guidance Documents.''

CDRH is aware of draft guidance documents yet to be finalized. Therefore, in order to assure the timely completion or re-issuance of draft guidances in FY 2015, CDRH committed to performance goals for current and future draft guidance documents. For draft guidance documents issued after October 1, 2014, CDRH committed to finalize, withdraw, reopen the comment period or issue another draft guidance on the topic for 80 percent of the documents within 2 years of the close of the comment period and for the remaining 20 percent, within 5 years. In FY 2015, CDRH has withdrawn 14 of 20 draft guidances issued prior to October 1, 2009, and has been continuing to work towards finalizing the remaining draft guidances. Furthermore, in FY 2016, CDRH will finalize, withdraw, or reopen the comment period for 50 percent of existing draft guidances issued prior to October 1, 2010, CDRH expects to renew or modify, as appropriate, these performance goals in FY 2017 and subsequent years.

A. Earlier Stakeholder Involvement in Guidance Development

At the 2014 workshop, stakeholders also expressed a desire to be involved earlier in the guidance development process. CDRH representatives discussed various ways in which the Center currently encourages participation by external stakeholders in the guidance development process. In the case of emerging technologies, CDRH uses ''leapfrog'' guidances to provide initial recommendations regarding the type of information that would be appropriate in the review of these emerging technologies. Input from external stakeholders help CDRH

formulate its initial thinking on the data necessary to support marketing approval, clearance, or oversight of these devices. In FY 2015, CDRH issued two leapfrog draft guidances, ''Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices'' (Ref. 2) and Radiation Biodosimetry Devices (Ref. 3). For the Premarket Studies of Implantable MIGS Device guidance document, early stakeholder input was obtained through discussions with glaucoma specialists identified by the American Glaucoma Society through the Network of Experts (*http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDRH/ucm289534.htm*), as well as through a workshop cosponsored with the American Glaucoma Society on February 26, 2014 (Ref. 4). In addition, early stakeholder feedback was obtained at a public workshop for the Radiation Biodosimetry Devices guidance document (Ref. 5).

Additionally, in FY 2015, in anticipation of guidance documents expected to be developed, CDRH sought stakeholder input regarding Patient Matched Instrumentation for Orthopedics, Medical Devices Intended for Aesthetic Use, and Dual 510(k) and Clinical Laboratory Improvement Amendments Act (CLIA) Waiver by Application. The feedback received has been considered in the development of these guidances and CDRH has included the Dual 510(k) and CLIA Waiver by Application guidance and Patient Matched Instrumentation for Orthopedics on the FY2016 B-List.

CDRH is posing the following questions to interested persons for consideration and comment, so that relevant future draft guidances on these technologies can be as complete and useful as possible. We will carefully consider the comments received in the development of new guidance documents and incorporate the information where appropriate. CDRH believes that public input during guidance development and after a draft guidance is issued on the topic will lead to a comprehensive and informed final guidance on the Agency's policy for the technologies and processes in the following list:

1. Electromagnetic Compatibility (EMC) of Electrically-Powered Medical Devices

EMC assessment is a vital part of ensuring that risks associated with performance degradation of electrically-powered medical devices associated with electromagnetic interference are adequately addressed. CDRH recently published a short draft guidance entitled ''Information to Support a Claim of Electromagnetic Compatibility (EMC) of Electrically-Powered Medical Devices'' (Ref. 6) to provide a framework for promoting consistent submission and review of EMC information in premarket submissions. In addition, CDRH plans to also draft a more detailed guidance on this topic guidance to provide more comprehensive information and transparency to stakeholders regarding the information necessary to support an EMC claim. FDA invites comments on the following questions:

a. There has been increasing use of electromagnetic emitters (*e.g.,* radio-frequency identification, electronic article surveillance gates, metal detectors) in the environments where medical devices operate. What methods are used to determine EMC of devices exposed to these common emitters?

b. Given that basic safety, as defined in the IEC 60601–1 family of standards, does not include effectiveness, how is device performance evaluated differently than device safety for EMC? Specifically, are pass/fail criteria chosen such that they will address both performance and safety for each EMC test? Alternatively, are safety and performance tested separately?

c. When networks (wired or wireless) are determined to be necessary for device performance, how are they included as a system when tested for EMC?

d. The use of ''third party'' components can significantly affect the EMC of the medical device system. How are device systems evaluated for EMC when off-the-shelf components such as smartphones, tablets, or PCs are intended to be used in the device system?

e. Medical devices, like most electronic products, go through various design changes that can affect the EMC of the device system. The changes or modifications can occur after initial EMC testing. What factors and methods are used to determine how device changes or modifications (*e.g.,* software, firmware, hardware) will affect EMC and how is it determined when partial or complete EMC re-testing of a device is needed?

f. The use of magnetic resonance (MR) imaging technology on medical device users and patients is increasing. MR imaging incorporates very strong magnetic and electric fields that can have very significant effects on the safety and effectiveness of medical devices, especially electrically active devices. How is MR safety and compatibility addressed for electrically active medical devices intended for use in the MR environment? How is MR safety addressed (*e.g.* labeling or other) for electrically active medical devices not intended for use in the MR environment?

g. Several medical device EMC consensus standards specify the information to be conveyed to the user regarding device EMC. Is this information sufficient? If not, what additional type of information is typically provided to help the user manage the risks associated with medical device EMC and how is this information conveyed?

2. Utilizing Animal Studies To Evaluate the Safety of Organ Preservation Devices and Solutions

While the national transplant waiting list continues to grow, rates of donation and transplant remain stagnant. On average, 22 people die each day waiting for a transplant. The dire deficit in organ transplants has propelled a new wave of innovation in perfusion-based organ preservation technologies. With such innovation also comes the challenge of demonstrating that these new technologies, when evaluated in animal models, are sufficiently safe for early clinical experience.

After animal organs undergo preservation using a new organ transport device or solution, there are generally two models to assess post-reperfusion injury: (1) An in vivo model in which the organ is transplanted into a surrogate recipient animal and (2) an ex vivo model in which the organ is reperfused under simulated transplant conditions. FDA intends to develop guidance to provide recommendations for utilizing both in vivo and ex vivo models to evaluate emerging organ preservation technologies. Prior to drafting our recommendations in a future guidance document, FDA invites comments on the following questions:

a. What are the potential limitations of an ex vivo model in assessing reperfusion injury, and how can these limitations be mitigated? In addition to markers for cell injury and function, histology, and the use of allogeneic blood during reperfusion, what measures can be taken to improve the data generated in an ex vivo model?

b. In an in vivo model, what are strategies to limit confounding factors, such as immunological responses and hemodynamic instability, from affecting the assessment of device-related reperfusion injury?

c. Is there a perceived hierarchy of evidence regarding data obtained from an ex vivo model and those obtained from an in vivo model? Or rather, is it

more judicious to view the two models as complements of each other?

d. What role does the risk of the device play in the utilization of in vivo and ex vivo models? Regarding specific experimental parameters (*e.g.,* length of preservation, total ischemic time), under what circumstances is it appropriate to test the worst-case scenario?

e. What are the organ-specific challenges in developing in vivo and ex vivo models to assess reperfusion injury?

f. What approaches would improve the in vivo and ex vivo study designs to ensure the generation of sufficient, meaningful data while limiting the number of animals used in such studies?

B. Stakeholder Feedback To Enhance the CDRH Guidance Program

In addition, to enhance the CDRH guidance program, CDRH invites interested persons to comment on the following questions:

a. The cover page of each guidance document includes contact information for questions regarding the guidance, and a list of CDRH Offices that have generally contributed to the drafting of the guidance. Is the list of CDRH Offices involved in the drafting of the guidance informative? What other administrative information should be included on the cover page?

b. CDRH is committed to the continual improvement of the quality of guidance documents and we are seeking to identify examples of quality guidance documents. Are there specific guidance documents published in the past 5 years that were particularly informative and helpful that could serve as models for future guidance documents? Please provide the title of the guidance documents and briefly describe what specific aspects were informative and helpful?

c. Has the enhanced Guidance Document Search feature on the FDA Web site (*http://www.fda.gov/RegulatoryInformation/Guidances/default.htm*) improved searchability of guidances? Are there any suggestions for how the search feature could be improved?

C. Applicability of Previously-Issued Final Guidance

CDRH has issued over 1,000 guidance documents to provide stakeholders with the Agency's thinking on numerous topics. Each guidance reflected the Agency's current position at the time that it was issued. However, the guidance program has issued these guidances over a period greater than 20 years, raising the question of how current do previously issued final guidances remain? CDRH has resolved to address this concern through a staged review of previously issued final guidances in collaboration with stakeholders.

At the Web site where CDRH has posted the ''A-list'' and ''B-list'' for FY 2016, CDRH has also posted a list of final guidance documents that issued in 2006, 1996, 1986, and 1976.[1]

The Center is interested in external feedback on whether any of these final guidances should be revised or withdrawn. In addition, for guidances that are recommended for revision, information explaining the need for revision, such as, the impact and risk to public health associated with not revising the guidance, would also be helpful as the Center considers potential action with respect to these guidances. CDRH intends to provide these lists of previously-issued final guidances annually through FY 2025 so that by 2025, FDA and stakeholders will have assessed the applicability of all guidances older than 10 years. For instance, in the annual notice for FY 2017, CDRH expects to provide a list of the final guidance documents that issued in 2007, 1997, 1987, and 1977; the annual notice for FY 2018 is expected to provide a list of the final guidance documents that issued in 2008, 1998, 1988, and 1978, and so on. CDRH will consider the comments received from this retrospective review when determining priorities for updating guidance documents, and will revise these as resources permit. During FY 2015, CDRH received comments regarding guidances issued in 2005, 1995, and 1985, and is considering further actions on specific guidances in response to comments received.

Under the Good Guidance Practices regulation at § 10.115(f)(4), the public may, at any time, suggest that CDRH revise or withdraw an already existing guidance document. The suggestion should clearly explain why the guidance document should be revised or withdrawn and, if applicable, how it should be revised. Interested persons are requested to examine the list of previously issued final guidances provided by CDRH on the annual agenda Web site but feedback on any guidance is appreciated.

[1] The retrospective list of final guidances does not include: (1) Documents that are not guidances but were inadvertently categorized as guidance such as scientific publications, advisory opinions, and interagency agreements; (2) guidances actively being revised by CDRH; and (3) special controls documents.

III. Web Site Location of Guidance Lists

This notice announces the Web site location of the document that provides the A and B lists of guidance documents, which CDRH is intending to publish during FY 2016. To access these two lists, visit FDA's Web site at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm467223.htm.* We note that the topics on this and past guidance priority lists may be removed or modified based on current priorities. The Agency is not required to publish every guidance on either list if the resources needed would be to the detriment of meeting quantitative review timelines and statutory obligations. In addition, the Agency is not precluded from issuing guidance documents that are not on either list.

FDA and CDRH priorities are subject to change at any time. Topics on this and past guidance priority lists may be removed or modified based on current priorities. CDRH's experience in guidance development has shown that there are many reasons that CDRH staff may not complete the entire agenda of guidances it undertakes. Staff is frequently diverted from guidance development to other priority activities. In addition, at any time new issues may arise to be addressed in guidance that could not have been anticipated at the time the annual list is generated. These may involve newly identified public health issues.

IV. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Center for Devices and Radiological Health Guidance Development and Prioritization; Public Workshop; Requests for Comments, available at *http://www.fda.gov/medicaldevices/newsevents/workshopsconferences/ucm394821.htm.*
2. Premarket Studies of Implantable Minimally Invasive Glaucoma Surgical (MIGS) Devices Draft Guidance, available at *http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm433165.pdf.*
3. Radiation Biodosimetry Devices; Draft Guidance for Industry and Food and Drug Administration Staff, available at *http://www.fda.gov/downloads/MedicalDevices/*

DeviceRegulationandGuidance/GuidanceDocuments/UCM427866.pdf.

4. American Glaucoma Society/Food and Drug Administration Workshop on Supporting Innovation for Safe and Effective Minimally Invasive Glaucoma Surgery; Public Workshop, available at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm382508.htm.*
5. Regulatory Science Considerations for Medical Countermeasure Radiation Biodosimetry Devices, available at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm308079.htm.*
6. Information to Support a Claim of Electromagnetic Compatibility (EMC) of Electrically-Powered Medical Devices, available at *http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm470201.pdf.*

Dated: December 7, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32726 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Bioequivalence Recommendations for Paliperidone Palmitate; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised draft guidance for industry on paliperidone palmitate extended-release injectable suspension entitled ''Draft Guidance on Paliperidone Palmitate.'' The recommendations provide specific guidance on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for paliperidone palmitate extended-release injectable suspension.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by February 29, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic submissions in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Draft Guidance on Paliperidone Palmitate.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' will be publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions: To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process

that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

As described in that guidance, FDA adopted this process to develop and disseminate product-specific BE recommendations and to provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of draft BE recommendations for paliperidone palmitate extended-release injectable suspension. FDA initially approved new drug application 022264 for INVEGA SUSTENNA (paliperidone palmitate) extended-release injectable suspension. There are no approved ANDAs for this product. In August 2011, we issued a draft guidance for industry on BE recommendations for paliperidone palmitate extended-release injectable suspension, which we subsequently revised in December 2013. We are now issuing a further revised draft guidance for industry on BE recommendations for generic paliperidone palmitate extended-release injectable suspension (''Draft Guidance on Paliperidone Palmitate'').

In May 2013, Janssen Research and Development, LLC, manufacturer of the reference listed drug, INVEGA SUSTENNA, submitted a citizen petition requesting that FDA require that any ANDA referencing INVEGA SUSTENNA extended-release injectable suspension meet certain conditions related to demonstrating BE (Docket No. FDA–2013–P–0608). FDA is reviewing the issues raised in the petition. FDA will consider any comments on the Draft Guidance on Paliperidone Palmitate in responding to the petition.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the design of BE studies to support ANDAs for paliperidone palmitate extended-release injectable suspension. It does not create or confer any rights for or on any person and do not operate to bind FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: December 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32723 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–4170]

Establishment of a Public Docket; Clinical Trial Designs in Emerging Infectious Diseases

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing a public docket to receive input on clinical trial designs in emerging infectious diseases. Interested parties are invited to submit comments, supported by research and data, regarding clinical trial designs.

DATES: Submit either electronic or written comments on the collection of information by January 28, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–4170 for ''Clinical Trial Designs in Emerging Infectious Diseases.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments

received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

SUPPLEMENTARY INFORMATION: FDA held a workshop on ''Clinical Trial Designs in Emerging Infectious Diseases'' in partnership with the National Institute of Allergy and Infectious Diseases, the HHS Office of the Assistant Secretary for Preparedness and Response, and the Centers for Disease Control and Prevention as a step in collecting information. The objectives of the workshop were to: (1) Discuss the deployment of investigational products in the context of emerging infectious diseases, drawing on the lessons learned in the Ebola virus epidemic; (2) explore the strengths and weaknesses of different clinical trial designs for establishing the safety and efficacy of investigational products for the treatment and/or prevention of life-threatening emerging infectious diseases (EID) in resource-limited settings from scientific, ethical, and operational perspectives; (3) identify areas of consensus and areas needing further discussion, with the goal of formulating acceptable options for the deployment of investigational products in clinical trials for future EIDs; and (4) discuss planning and other factors that can impact on the ability to establish clinical trials in a timely fashion to evaluate investigational therapies. The meeting agenda, transcripts, and web cast recordings are available on the FDA Web site at *http://www.fda.gov/emergencypreparedness/counterterrorism/medicalcountermeasures/aboutmcmi/ucm466153.htm.* The meeting agenda and transcripts will also be available in the docket.

FDA is opening this docket to provide an avenue for the public to submit additional information that may be relevant to the design and conduct of clinical trials for establishing the safety and efficacy of investigational products for the treatment and/or prevention of life-threatening emerging infectious diseases. Individuals submitting comments are specifically invited to address the scientific, ethical, and practical considerations that should be taken into account when designing and implementing clinical trials for future emerging infectious diseases in resource-limited settings.

Dated: December 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–32724 Filed 12–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 80 FR 66545–66546 dated October 29, 2015).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), Bureau of Health Workforce (RQ). Specifically, this notice: (1) Abolishes the Office of Workforce Development and Analysis (RQA); (2) abolishes the Office of Health Careers (RQB); and (3) updates the functional statement for the Bureau of Health Workforce (RQ).

Chapter RQ—Bureau of Health Workforce

Section RQ–10, Organization

Delete the organizational structure for the Bureau of Health Workforce (RQ) and replace in its entirety.

The Bureau of Health Workforce is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration.

1. Office of the Associate Administrator (RQ);
2. Division of Policy and Shortage Designation (RQ1);
3. Division of Business Operations (RQ2);
4. Division of External Affairs (RQ3);
5. National Center for Health Workforce Analysis (RQ4);
6. Division of Medicine and Dentistry (RQ5);
7. Division of Nursing and Public Health (RQ6);
8. Division of Practitioner Data Bank (RQ7);
9. Division of Participant Support and Compliance (RQ8);
10. Division of Health Careers and Financial Support (RQ9);
11. Division of National Health Service Corps (RQC); and
12. Division of Regional Operations (RQD).

Section RQ–20, Functions

Delete the functional statement for the Bureau of Health Workforce (RQ) and replace in its entirety.

This notice reflects organizational changes in Bureau of Health Workforce (RQ). Specifically, this notice: (1) Abolish the Office of Workforce Development and Analysis; (RQA); (2) abolishes the Office of Health Careers (RQB); and (3) updates the functional statement for the Bureau of Health Workforce (RQ).

Bureau of Health Workforce (RQ)

The Bureau of Health Workforce (BHW) improves the health of the nation's underserved communities and vulnerable populations by developing, implementing, evaluating, and refining programs that strengthen the nation's health care workforce. BHW programs support a diverse, culturally competent workforce by addressing components including: Education and training; recruitment and retention; financial support for students, faculty, and practitioners; supporting institutions; data analysis; and evaluation and coordination of health workforce activities. These efforts support development of a skilled health workforce serving in areas of the nation with the greatest need.

Office of the Associate Administrator (RQ)

The Office of the Associate Administrator provides overall leadership, direction, coordination, and planning in support of the BHW's programs designed to help meet the health professions workforce needs of the nation and improve the health of the nation's underserved communities and vulnerable populations. The office guides and directs the bureau's workforce analysis efforts and provides guidance and support for advisory councils. Additionally, the office provides direction by coordinating the recruitment, education, training, and retention of diverse health professionals in the healthcare system and supporting communities' efforts to build more integrated and sustainable systems of care. Specifically: (1) Directs and provides policy guidance for workforce recruitment, student and faculty assistance, training, and placement of health professionals to serve in underserved areas; (2) directs the bureau's health professions workforce data collection and analysis efforts in support of BHW's programs, and provides oversight for the evaluation of grantee performance and program outcomes; (3) guides and supports work

of advisory councils, and coordinates the bureau's Federal Advisory Committees' management activities; (4) provides leadership, and guides bureau programs in recruiting and retaining a diverse workforce; (5) establishes program goals, objectives, and priorities, and provides oversight as to their execution; (6) maintains effective relationships within HRSA and with other federal and nonfederal agencies, state, and local governments, and other public and private organizations concerned with health workforce development and improving access to health care for the nation's underserved; (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development, and improving access to health care for the nation's underserved; (8) plans, directs, coordinates, and evaluates bureau-wide management activities, *i.e.,* budget, personnel, procurements, delegations of authority, and responsibilities related to the awarding of the BHW funds; and (9) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the bureau.

Executive Office (RQ)

The Executive Office collaborates with BHW leadership to plan, coordinate, and direct bureau-wide administrative management activities. Specifically: (1) Executes the bureau's budget; (2) provides human resource services regarding all aspects of personnel management, workforce planning, and the allocation and utilization of personnel resources; (3) coordinates the business management functions for the bureau's grants programs; (4) plans, directs, and coordinates bureau-wide administrative management activities, *i.e.,* budget, personnel, procurements, delegations of authority, and responsibilities related to the awarding of BHW funds; (5) coordinates and supports the Bureau's quality and internal control efforts; (6) provides additional support services including the acquisition, management, and maintenance of supplies, equipment, space, training, and travel; and (7) assumes special projects or takes responsibility for issues as tasked by the bureau's leadership.

Division of Policy and Shortage Designation (RQ1)

The Division of Policy and Shortage Designation serves as the focal point for the development of the BHW programs and policies. Specifically: (1) Leads and coordinates the analysis, development, and drafting of policies impacting bureau programs; (2) coordinates program planning, and tracking of legislation and other information related to BHW's programs; (3) directly supports national efforts to analyze and address equitable distribution of health professionals for access to health care for underserved populations; (4) reviews requests for and designates health professional shortage areas and medically-underserved areas and populations; (5) finalizes designation policies and procedures for both current and proposed designation criteria; (6) oversees grants to state primary care offices and conducts all business management aspects of the review, negotiation, award, and administration of these grants; (7) provides oversight, processing, and coordination for the HHS sponsored J1-visa program; (8) works collaboratively with other components within HRSA and HHS, and with other federal agencies, state, and local governments, and other public and private organizations on issues affecting BHW's programs and policies; (9) performs environmental scanning on issues that affect BHW's programs and assesses the impact of programs on underserved communities; (10) monitors BHW's activities in relation to HRSA's strategic plan; (11) develops budget projections and justifications; and (12) serves as the bureau's focal point for program information.

Division of Business Operations (RQ2)

The Division of Business Operations serves as the focal point for the bureau's data management systems, reports, data analysis, and automation of business processes to support the administration of BHW programs. Specifically: (1) Provides leadership for implementing BHW's systems development, enhancement, and administration; (2) designs and implements data systems to assess and improve program performance; (3) provides user support and training to facilitate the effectiveness of the bureau's information systems and deliver excellent customer service to internal and external stake holders; and (4) ensures that data management systems and other tools continue to evolve to support changes to program policy, process, and data throughout the bureau.

Division of External Affairs (RQ3)

The Division of External Affairs provides communication and public affairs expertise to the bureau and serves as the focal point for the development of all external communication as well as dissemination of public information and promotional materials in support of the bureau's programs and activities. Specifically the division: (1) Leads, coordinates, and conducts outreach and engagement strategies for various audiences including students, clinicians, health care sites, and critical shortage facilities, as well as workforce grantees and applicants; (2) coordinates and conducts the bureau's virtual events for clinicians, grantees, sites, and applicants; (3) establishes and manages partner collaborations with national organizations and academic institutions; (4) develops and implements communication initiatives to promote the bureau's programs to target audiences; and (5) maintains responsibility for all targeted communication initiatives.

National Center for Health Workforce Analysis (RQ4)

The National Center for Health Workforce Analysis is the focal point for the coordination and management of the bureau's health professions workforce data collection, analysis, and evaluation efforts. The National Center for Health Workforce Analysis leads and monitors the development of workforce projections relating to BHW programs and acts as a national resource for such information and data.

Division of Medicine and Dentistry (RQ5)

The Division of Medicine and Dentistry serves as the bureau's lead for the program administration and oversight of medical and dental programs. Specifically: (1) Administers grants to educational institutions and other eligible organizations for the development, improvement, and operation of educational programs for primary care physicians (pre-doctoral, residency), physician assistants, dentists and dental hygienists, including support for community-based training and funding for faculty development to teach in primary care specialties training; (2) provides technical assistance and consultation to grantee institutions and other governmental and private organizations on the operation of these educational programs; (3) evaluates programmatic data and promotes the dissemination and application of findings arising from

supported programs; (4) collaborates within the bureau to identify and support analytical studies to determine the present and future supply and requirements of physicians, dentists, dental hygienists, and physician assistants by specialty, geographic location, and for state planning efforts; (5) encourages community-based training opportunities for primary care providers, particularly in underserved areas; (6) provides leadership and staff support for the Advisory Committee on Training in Primary Care Medicine and Dentistry, Advisory Committee on Interdisciplinary Community-Based Linkages, and for the Council on Graduate Medical Education; and (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the nation's underserved.

Division of Nursing and Public Health (RQ6)

The Division of Nursing and Public Health serves as the bureau's lead for the administration and oversight of nursing, behavioral and public health programs. Specifically: (1) Administers grants and provides technical assistance to educational institutions and other eligible entities in support of nursing education, practice, retention, diversity, and faculty development; (2) administers grants and provides technical assistance to educational institutions and other eligible entities in support of behavioral and public health education and practice; (3) addresses nursing workforce shortages through projects that focus on expanding enrollment in baccalaureate programs, and develops internships, residency programs, and other training mechanisms to improve the preparation of nurses, and behavioral and public health professionals, providing care for underserved populations; (4) collaborates within the bureau to identify and support analytical studies to determine the present and future supply and requirements for nurses, and behavioral and public health professionals; (5) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (6) provides staff support, and the Director, on behalf of the Secretary, serves as the Chair of the National Advisory Council on Nurse Education and Practice; and (7) represents the bureau, agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development, and improving access to health care for the nation's underserved.

Division of Practitioner Data Bank (RQ7)

The Division of Practitioner Data Bank coordinates with the department and other federal entities, state licensing boards, national, state, and local professional organizations, to promote quality assurance efforts and deter fraud and abuse by administering the National Practitioner Data Bank (NPDB). Specifically, the division: (1) Monitors adverse licensure information on all licensed health care practitioners and health care entities; (2) develops, proposes, and monitors efforts for (a) credentialing assessment, granting of privileges, monitoring and evaluating programs for physicians, dentists, other health care professionals, (b) professional peer review to promote an evaluation of the competence, professional conduct, or the quality and appropriateness of patient care provided by health care practitioners, and (c) risk management and utilization reviews; (3) encourages and supports evaluation and demonstration projects and research using NPDB data on medical malpractice payments and adverse actions taken against practitioners' licenses, clinical privileges, professional society memberships, and eligibility to participate in Medicare/Medicaid; (4) ensures integrity of data collection, follows all disclosure procedures without fail; (5) conducts and supports research based on the NPDB data; (6) maintains active consultative relations with professional organizations, societies, and federal agencies involved with the NPDB; (7) works with the Secretary's office to provide technical assistance to states undertaking malpractice reform; and (8) maintains effective relations with the Office of the General Counsel, the Office of the Inspector General, and HHS concerning practitioner licensing and data bank issues.

Division of Participant Support and Compliance (RQ8)

The Division of Participant Support and Compliance serves as the organizational focal point for the bureau's centralized, comprehensive customer service function to support individual program participants. The Division provides regular and ongoing communication, technical assistance, and support to program participants through the period of obligated service and closeout. Specifically: (1) Manages the staff and daily operations of the bureau's centralized customer service function; (2) initiates contact with and monitors program participants throughout their service; (3) manages clinician support, employment verification, site status changes/ transfers, in-service reviews; (4) provides oversight and approval of the default, suspension, and waiver processes; (5) oversees the approval process and response for exception requests and congressional inquiries; (6) manages the 6-month verification process; (7) conducts closeout activities for each program participant and issues completion certificates; (8) manages the monthly payroll for NURSE Corps Loan Repayment Program participants; and (9) maintains program participants' case files in the bureau's management information system.

Division of Health Careers and Financial Support (RQ9)

The Division of Health Careers and Financial Support serves as the point of contact for responding to inquiries; disseminating program information; providing technical assistance; administering grants, developing appropriate policies and procedures; and processing applications and awards pertaining to health workforce scholarship, loan, loan repayment, and pipeline development programs. Specifically: (1) Reviews, ranks, and selects participants and grantees for NURSE Corps, Faculty Loan Repayment Program, Native Hawaiian Health Scholarship Program, and other discretionary grant programs that provide scholarships, loans, and loan repayment to students, health professionals and faculty; (2) verifies and processes loan and lender related payments in prescribed manner and maintains current information on NURSE Corps and other scholarship, loan, and loan repayment applications and awards through automated BHW information systems; (3) manages NURSE Corps scholar in-school activities; (4) facilitates NURSE Corps scholar placement; and (5) administers grants and provides technical assistance to educational institutions and other eligible entities for the development of a diverse and culturally competent health workforce.

Division of National Health Service Corps (RQC)

The Division of National Health Service Corps serves as the point of contact for responding to inquiries, disseminating program information, providing technical assistance, and processing applications and awards pertaining to the NHSC scholarship and loan repayment programs. Specifically: (1) Reviews, ranks, and selects participants for the scholarship and loan repayment programs; (2) verifies and processes loan and lender related payments in prescribed manner and maintains current information on scholarship and loan repayment applications and awards through automated BHW information systems; (3) manages scholar in-school and post-graduate training activities; (4) administers the NHSC State Loan Repayment Program; and (5) provides leadership and staff support for the NHSC National Advisory Committee.

Division of Regional Operations (RQD)

The Division of Regional Operations serves as the regional component of BHW, cutting across divisions and working with the bureau programs that fund participants to serve in Health Professions Shortage Areas. Specifically, the Regional Offices support the bureau by: (1) Providing support for the recruitment and retention of primary health care providers in Health Professions Shortage Areas; (2) coordinating with state and regional level partners and stakeholders, and health professions schools in support of the BHW programs and initiatives; (3) reviewing and approving/disapproving NHSC site applications and recertification's; (4) completing NHSC site visits and providing technical assistance to sites; and (5) managing the scholar placement process.

Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: December 11, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–32749 Filed 12–28–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Aging Initial Review Group Behavior and Social Science of Aging Review Committee.

Date: February 4–5, 2016.

Time: 3:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Kimberly Firth, Ph.D., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue Suite 2C212, Bethesda, MD 20892, 301–402–7702 *kimberly.firth@nih.gov*.

Name of Committee: National Institute on Aging Initial Review Group Neuroscience of Aging Review Committee.

Date: February 4–5, 2016.

Time: 4:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Jeannette L. Johnson, Ph.D., Deputy Review Branch Chief, National Institutes of Health, National Institute on Aging Gateway Building Bethesda, MD 20892, 301–402–7705 *johnsonj9@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 22, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–32660 Filed 12–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant and contract 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 and contract applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus R03 & R21 SEP–2.

Date: February 1–2, 2016.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review Branch Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W106, Bethesda, MD 20892–9750, 240–276–6342, *choe@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Validation of Mobile Technologies for Clinical Assessment, Monitoring and Intervention.

Date: February 2, 2016.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 5E030, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Scott A. Chen, Ph.D., Scientific Review Officer, Research and Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W604, Rockville, MD 20850, 240–276–6038, *chensc@mail.nih.gov,*

Name of Committee: National Cancer Institute Special Emphasis Panel; Modulating Microbiome for Cancer Therapy.

Date: February 17, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Christopher L. Hatch, Ph.D., Chief, Program Coordination & Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, 240–276–6454, *ch29v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; The Pancreatic Cancer Detection Consortium.

Date: February 18, 2016.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Shamala K. Srinivas, Ph.D., Scientific Review Officer, Office of Referral, Review and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Bethesda, MD 20892–9750, 240–276–6442, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cell and Animal Models for Researching Disparities.

Date: February 29, 2016.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Christopher L. Hatch, Ph.D., Chief, Program Coordination & Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, 240–276–6454, *ch29v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Biomarkers of Adverse Reactions to RT.

Date: February 29–March 1, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 4W032/5E030, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kenneth Bielat, Ph.D., Scientific Review Officer, Research and Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, MD 20850, 240–276–6373, *bielatk@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 22, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–32658 Filed 12–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging Education Development Projects.

Date: February 5, 2016.

Time: 8:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 22, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–32659 Filed 12–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Clinical, Integrative and Molecular Gastroenterology Study Section.

Date: January 25, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

Date: January 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Stacey FitzSimmons, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, *fitzsimmonss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topic: PAR–15–149: Enhancing Developmental Biology Research AREA Review.

Date: January 26–27, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 5201, MSC 7840, Bethesda, MD 20892, 301–435–1175, *berestm@mail.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: January 28–29, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: New Orleans Marriott, 555 Canal Street, New Orleans, LA 70130.

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

Date: January 28, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 22, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–32657 Filed 12–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Action Under the NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)

AGENCY: National Institutes of Health (NIH) .

ACTION: Notice of proposed actions under the *NIH Guidelines.*

SUMMARY: The NIH is considering a proposal to conduct research involving the deliberate transfer of a chloramphenicol resistance trait to *Rickettsia typhi, conorii, rickettsii,* and *felis.* The acquisition of this antibiotic resistance trait could possibly compromise the use of a class of antibiotics for the treatment of Rickettsia infections in humans. Under the *NIH Guidelines* (*http://www.osp.od.nih.gov/sites/default/files/NIH_Guidelines.html*), these experiments can proceed only after they are reviewed by the NIH Recombinant DNA Advisory Committee (RAC) and specifically approved by the NIH Director as Major Actions. This proposal will be discussed at the March 8–10, 2016 RAC meeting. The public is encouraged to provide comments on this proposed action.

DATES: To ensure consideration, comments must be submitted in writing by January 28, 2016.

ADDRESSES: Comments may be submitted by email at *SciencePolicy@od.nih.gov*, by fax at 301–496–9839, or by mail to the Office of Science Policy, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892–7985. All written comments received in response to this notice will be available for public inspection at the NIH Office of Science Policy (OSP), 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985, weekdays between the hours of 8:30 a.m. and 5 p.m. and may be posted to the NIH OSP Web site (*http://osp.od.nih.gov/*). In addition, an opportunity for public comment will be provided at the RAC meeting, to be held March 8–10, 2016. The meeting location will be announced on the NIH OSP Web site at a later date.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional background information about this proposed action, please contact the NIH and by email at *SciencePolicy@od.nih.gov,* or by telephone at 301–496–9838 and reference this notice.

SUPPLEMENTARY INFORMATION: The NIH has received a request to consider experiments that involve the deliberate transfer of a drug resistance trait to a microorganism such that the acquisition could compromise the use of the drug to control disease in humans, veterinary medicine, or agriculture. This type of research falls under Section III–A–1–a of the *NIH Guidelines,* requiring NIH Director approval for the experiment to proceed and is thus considered to be a Major Action (*http://www.osp.od.nih.gov/sites/default/files/NIH_Guidelines.html#_Toc351276270*). An investigator at the University of Chicago has proposed to transfer chloramphenicol resistance to four different Rickettsia species: *Rickettsia typhi, conorii, rickettsii,* and *felis.* The transfer of chloramphenicol resistance to *R. conorii* was previously approved by the NIH Director as a Major Action (see 73 FR 32719) and therefore does not need to be reviewed and approved under Section III–A–1–a.

The proposed experiment entails transferring chloramphenicol resistance to *R. rickettsii* and *R. typhi* via vectors that are based upon *Escherichia coli* pET or pUC plasmids. These plasmids confer resistance to chloramphenicol since they contain transposons that express chloramphenicol acetyl transferase (CAT). In addition, the investigator proposes to transfer chloramphenicol resistance to *R. felis* via a shuttle vector that is designed to replicate in both *E. coli* and Rickettsia. This shuttle vector will be generated by fusion of an *R. felis* plasmid to an *E. coli* plasmid that expresses CAT. In addition, the *R. felis* plasmid also contains DNA sequences that are homologous to those necessary for bacterial conjugation. A goal of this work is to discover whether the shuttle vector (and chloramphenicol resistance) may be transmitted from *R. felis* to other Rickettsia via conjugation.

The proposal to transfer chloramphenicol resistance to *R. typhi, rickettsii,* and *felis* was discussed with a working group of the RAC via a teleconference call on October 22, 2015. The recommendations of this group were initially presented to and discussed with the RAC at its December 4, 2015, meeting. As indicated above, the RAC will continue to consider this proposal and make recommendations to the NIH Director at its upcoming meeting on March 8–10, 2016. An agenda will be available on the NIH OSP Web site (*http://osp.od.nih.gov/*) in advance of this meeting. The public is encouraged to submit written comments on this proposed action.

Dated: December 21, 2015.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2015–32810 Filed 12–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5900–FA–21]

Announcement of Funding Awards; Fair Housing Initiatives Program Fiscal Year 2015

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, the Department of Housing and Urban Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department under the Notice of Funding Availability (NOFA) for the Fair Housing Initiatives Program (FHIP) for Fiscal Year (FY) 2015. This announcement contains the names and addresses of those award recipients

selected for funding based on the rating and ranking of all applications and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Myron Newry, Director, FHIP Division, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5230,Washington, DC 20410. Telephone number (202) 402–7095 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (the Fair Housing Act) provides the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616, established FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

On July 22, 2015, the Department published its FY 2015 NOFA, which announced the availability of approximately $39,200,000 to be utilized for FHIP projects and activities. Funding availability for discretionary grants for the FHIP NOFA included: The Private Enforcement Initiative (PEI) ($29,275,000), the Education and Outreach Initiative (EOI) ($3,500,000), and the Fair Housing Organizations Initiative (FHOI) ($6,425,000). This Notice thereby announces grant awards for the FY 2015 FHIP NOFA.

For the FY 2015, the Department reviewed, evaluated and scored the applications received based on the criteria in the FY 2015 NOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545). The Department is hereby publishing details concerning the recipients of funding awards in Appendix A of this document.

(The Catalog of Federal Domestic Assistance Number for currently funded Initiatives under the Fair Housing Initiatives Program is 14.408.)

Dated: December 16, 2015.

Gustavo Velasquez,

Assistant Secretary for Fair Housing and Equal Opportunity.

APPENDIX A

FY 2015 FAIR HOUSING INITIATIVES PROGRAM AWARDS

Applicant name	Contact	Region	Award amount
Education and Outreach/Disability Discrimination Component			
Center for Community and Economic Development, Inc. DBA CCEDU, 3236 Landmark Drive, Suite 100, North Charleston, SC 29418.	Pasty Gardner, 843–552–7229	4	$100,000.00
Education and Outreach/National Media Campaign Component			
National Fair Housing Alliance, 1101 Vermont Avenue NW., Suite 710, Washington, DC 20005.	Catherine Cloud, 202–898–1661	3	999,988.00
Education and Outreach/National Origin Discrimination Component			
National Association for Latino Community Asset Builders, 5404 Wurzbach Rd., San Antonio, TX 78238.	Jeremy Carter, 210–227–1010	4	500,000.00
Education and Outreach/Sex/Familial Status Discrimination Component			
Southwestern Pennsylvania Legal Services, Inc., 10 West Cherry Ave., Washington, PA 15301.	Brian Gorman, 724–225–6170	3	100,000.00
Education and Outreach/Sex Discrimination Component			
Northwest Fair Housing Alliance, 35 W. Main, Spokane, WA 99201	Marley Hochendoner, 509–209–2667.	10	500,000.00
Education and Outreach/Tester Review Training Component			
Metropolitan Milwaukee Fair Housing Council, 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, 414–278–1240	5	499,939.00
Fair Housing Organizations Initiative—Continuing Development General Component			
Queens Legal Services Corporation, 89–00 Sutphin Boulevard, 5th Floor, Jamaica, NY 11435.	Jennifer Ching	2	325,000.00
JCVision and Associates, Inc., P.O. Box 1972, Hinesville, GA 31310	Dana Ingram, 912–877–4243	4	163,383.00
Savannah-Chatham County Fair Housing Council, Inc., 1900 Abercorn Street, Savannah, GA 31401.	David Dawson, 912–651–3136	4	248,063.00
North Texas Fair Housing Center, 8625 King George Drive, Suite 130, Dallas, TX 75235.	Frances Espinoza, 469–941–0375	6	325,000.00

FY 2015 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amount
High Plains Fair Housing Center, 1201 Belmont Rd., Grand Forks, ND 58201.	Michelle Rydz, 701–335–9244	8	149,881.00
CSA San Diego County, 131 Avocado Ave., El Cajon, CA 92020	Estela De Los Rios, 619–444–5700	9	288,673.00
Alaska Legal Services Corporation, 1016 W. 16th Avenue, Suite 200, Anchorage, AK 99501.	Nikole Nelson, 907–222–4508	10	325,000.00
Legal Aid Services of Oregon, 520 SW 6th Ave., Suite 1130, Portland, OR 97204.	Janice Morgan, 503–471–1159	10	325,000.00
Fair Housing Organizations Initiative/Lending Component			
Connecticut Fair Housing Center, Inc., 221 Main Street, Hartford, CT 06106.	Erin Kemple, 860–247–4400	1	500,000.00
Southwest Fair Housing Council, 2030 E Broadway Blvd. Suite 101, Tucson, AZ 85719.	Jay Young, 520–798–1568	9	499,890.00
Northwest Fair Housing Alliance, 35 W. Main, Suite 250, Spokane, WA 99201.	Marley Hochendoner, 509–209–2667.	10	500,000.00
Fair Housing Organizations Initiative/Special Emphasis Component			
Connecticut Fair Housing Center, Inc., 221 Main Street, Hartford, CT 06106.	Erin Kemple, 860–247–4400	1	350,000.00
Brooklyn Legal Services Corporation A, 260 Broadway, Brooklyn, NY 11211.	Gloria Ramon, 718–487–2328	2	350,000.00
Fair Housing Justice Center, Inc., 5 Hanover Square, 17th Floor, New York, NY 10004.	Fred Freiberg, 212–400–8201	2	349,999.00
Fair Housing Center of Central Indiana, Inc., 615 N. Alabama Street, Suite 426, Indianapolis, IN 46204.	Amy Nelson, 317–644–0673	5	174,005.00
HOPE Fair Housing Center, 245 W. Roosevelt Road, West Chicago, IL 60185.	Anne Houghtaling, 639–690–6500	5	348,839.00
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	Marlene Theberge, 504–708–2109	6	305,670.00
Fair Housing Organizations Initiative/National-Regional Testing Component			
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	Marlene Theberge, 504–708–2109	6	500,000.00
Southern California Housing Rights Center, 3255 Wilshire Blvd., Suite 1150, Los Angeles, CA 90010.	Chancela Al-Mansour, 213–387–8400.	9	467,747.00
Private Enforcement Initiative/Multi-Year Component			
Community Legal Aid, Inc., 405 Main Street, Worcester, MA 01608	Faye Rachlin, 508–425–2794	1	324,214.00
Connecticut Fair Housing Center, Inc., 221 Main Street, Hartford, CT 06106.	Erin Kemple, 860–247–4400	1	280,000.00
Fair Housing Center of Greater Boston, 262 Washington Street, Boston, MA 02111.	Robert Terrell, 617–399–0491	1	324,673.00
Housing Discrimination Project Inc., 57 Suffolk Street, Holyoke, MA 01040.	Meris Bergquist, 413–530–9796	1	325,000.00
New Hampshire Legal Assistance, 117 North State Street, Concord, NH 03301.	Christine Wellington, 603–223–9750.	1	266,766.00
Pine Tree Legal Assistance, Inc., 88 Federal Street, Portland, ME 04112.	Nan Heald, 207–774–4753	1	325,000.00
Suffolk University, 8 Ashburton Place, Boston, MA 02108	Cindy Vachon, 617–725–4145	1	324,998.00
Vermont Legal Aid, Inc., 264 North Winooski Avenue, Burlington, Vermont 05402.	Rachel Batterson, 802–863–5620	1	325,000.00
CNY Fair Housing, Inc., 731 James Street, Suite 200, Syracuse, NY 13203.	Anne Santangelo, 315–471–0420	2	325,000.00
Fair Housing Council of Northern New Jersey, 131 Main Street, Suite 140, Hackensack, NJ 07601.	Lee Porter, 201–489–3552	2	302,487.00
Fair Housing Justice Center, Inc., 5 Hanover Square, 17th Floor, New York, NY 10004.	Fred Freiberg, 212–400–8201	2	324,737.00
Housing Opportunities Made Equal Inc., 1542 Main Street, 3rd Floor, Buffalo, NY 14209.	Scott Gehl, 716–854–1400	2	325,000.00
Legal Assistance of Western NY, 1 West Main Street, Suite 400, Rochester, NY 14614.	Louis Prieto, 585–295–5610	2	298,000.00
Long Island Housing Services, Inc., 640 Johnson Avenue, Suite 8, Bohemia, NY 11716.	Michelle Santantonio, 631–567–5111.	2	325,000.00
South Brooklyn Legal Services, Inc., 105 Court Street, Brooklyn, NY 11201.	Meghan Faux, 718–237–5500	2	325,000.00
Westchester Residential Opportunities, Inc., 470 Mamaroneck Avenue, Suite 410, White Plains, NY 10605.	Geoffrey Anderson, 914–428–4507	2	280,000.00

FY 2015 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amount
Baltimore Neighborhoods, Inc., 2530 N. Charles Street, Baltimore, MD 21218.	Barbara Wilson, 410–243–4468	3	325,000.00
Center for Independent Living, 601 East Brockway Ave., Morgantown, WV 26501.	Jan Derry, 304–296–6091	3	324,956.00
Community Legal Aid Society, Inc., 100 W. 10th Street, Suite 801, Wilmington, DE 19801.	William Dunne, 302–575–0660	3	322,449.00
Equal Rights Center, 11 Dupont Circle NW., Washington, DC 20036	Melissa Rothstein, 202–370–3202	3	325,000.00
Fair Housing Council of Suburban Philadelphia, Inc., 455 Maryland Drive, Suite 190, Fort Washington, PA 19034.	James Berry,267–419–8918	3	325,000.00
Fair Housing Rights Center in Southeastern Pennsylvania, 444 N. 3rd Street, Suite 110, Philadelphia, PA 19123.	Angela McIver, 215–625–0700	3	325,000.00
Housing Opportunities Made Equal of Virginia, Inc., 626 E. Broad Street, Suite 400, Richmond, VA 23219.	Andrew Haugh, 804–237–7542	3	325,000.00
National Community Reinvestment Coalition, Inc., 727 15th Street NW., Suite 900, Washington, DC 20005.	Samira Cook Gaines, 202–628–8866.	3	324,365.00
National Fair Housing Alliance, 1101 Vermont Avenue NW., Washington, DC 20005.	Catherine Cloud, 202–898–1661	3	324,867.00
Southwestern Pennsylvania Legal Services, Inc., 10 West Cherry Avenue, Washington, PA 15301.	G. Clayton Nestler, 724–225–6170	3	325,000.00
Bay Area Legal Services, Inc., 1302 North 19th Street, Suite 400, Tampa, FL 33603.	Migdalia Figueroa, 813–232–1222	4	325,000.00
Central Alabama Fair Housing Center, 2867 Zelda Road, Montgomery, AL 36106.	Faith Cooper, 334–263–4663	4	279,171.00
Community Legal Services of Mid-Florida, Inc., 128 Orange Avenue, Daytona Beach, FL 32114.	Suzanne Edmunds, 386–255–6573	4	325,000.00
Fair Housing Center of the Greater Palm Beaches, Inc., 1300 W. Lantana Road, Suite 200, Lantana, FL 33462.	Vince Larkin, 561–533–8717	4	277,896.00
Fair Housing Continuum, Inc., 4760 N. Hwy. US 1, Suite 203, Melbourne, FL 32935.	David Baade, 321–757–3532	4	325,000.00
Housing Opportunities Project for Excellence, Inc., 11501 NW. 2nd Avenue, Miami, FL 33168.	Keenya Robertson, 305–759–7755	4	325,000.00
Jacksonville Area Legal Aid, Inc., 126 West Adams Street, Jacksonville, FL 32202.	James Kowalski, 904–356–8371	4	424,979.00
Legal Aid of North Carolina, Inc., 224 S. Dawson Street, Raleigh, NC 27601.	Jeffrey Dillman, 919–861–1884	4	325,000.00
Legal Aid Society of Palm Beach County, Inc., 423 Fern Street, Suite200, West Palm Beach, FL 33401.	Robert Bertisch, 561–655–8944	4	325,000.00
Lexington Fair Housing Council, Inc., 207 E. Reynolds Road, Suite 130, Lexington, KY 40517.	Arthur Crosby, 859–971–8067	4	324,673.00
Metro Fair Housing Services, Inc., 215 Lakewood, SW., Atlanta, GA 30315.	Gail Williams, 404–524–0000	4	280,000.00
Mobile Fair Housing Center, Inc., P.O. Box 161202, Mobile, AL 36616	Teresa Bettis, 251–479–1532	4	279,467.00
South Carolina Fair Housing Center, Inc., 1925 Bull Street, Columbia, SC 29201.	Tina Brown, 803–403–8447	4	80,000.00
Tennessee Fair Housing Council, Inc., 107 Music City Circle, Suite 318, Nashville, TN 37214.	Tracey McCartney, 615–874–2344	4	270,895.00
West Tennessee Legal Services, Inc., 210 West Main Street, Jackson, TN 38301.	Jane Jarvis, 731–426–1311	4	325,000.00
Access Living of Metropolitan Chicago, 115 West Chicago Avenue, Chicago, IL 60654.	Jason Gilmore, 312–640–2185	5	325,000.00
Chicago Lawyers' Committee for Civil Rights Under Law, Inc., 100 North LaSalle Street, Suite 600, Chicago, IL 60602.	Jay Readey, 312–630–2185	5	325,000.00
Fair Housing Center of Central Indiana, Inc., 615 N. Alabama Street, Suite 426, Indianapolis, IN 46204.	Amy Nelson, 317–644–0673	5	325,000.00
Fair Housing Center of Metropolitan Detroit, 220 Bagley Street, Suite 102, Detroit, MI 48226.	Margaret Brown, 313–963–1274	5	310,270.00
Fair Housing Opportunities of NW Ohio, Inc., 432 N. Superior Street, Toledo, OH 43604.	Michael Fehlen, 419–243–6163	5	280,000.00
Fair Housing Center of Southeastern Michigan, P.O. Box 7825, Ann Arbor, MI 48107.	Pamela Kisch, 734–994–3426	5	324,944.00
Fair Housing Center of Southwest Michigan, 405 W. Michigan, Kalamazoo, MI 49007.	Robert Ells, 269–276–9100	5	325,000.00
Fair Housing Center of West Michigan, 20 Hall Street SE., Grand Rapids, MI 49507.	Nancy Haynes, 616–451–2980	5	325,000.00
Fair Housing Contact Services, Inc., 441 Wolf Ledges Parkway, Suite 200, Akron, OH 44311.	Tamala Skipper, 330–376–6191	5	325,000.00
Fair Housing Resource Center, Inc., 1100 Mentor Avenue, Painesville, OH 44077.	Patricia Kidd, 440–392–0147	5	325,000.00
HOPE Fair Housing Center, 245 W. Roosevelt Road, Building 15, Suite 107, West Chicago, IL 60185.	Anne Houghtaling, 630–690–6500	5	325,000.00
Housing Opportunities Made Equal of Greater Cincinnati, Inc., 2400 Reading Road, Suite 118, Cincinnati, OH 45202.	Elizabeth Brown, 513–721–4663	5	324,530.00

FY 2015 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name	Contact	Region	Award amount
Housing Research and Advocacy Center, 2728 Euclid Avenue, Suite 200, Cleveland, OH 44115.	Hilary King, 216–361–9240	5	325,000.00
Legal Services of Eastern Michigan, 436 S. Saginaw Street, Suite 101, Flint, MI 48502.	Jill Nylander, 810–234–2621	5	322,047.00
Metropolitan Milwaukee Fair Housing Council, Inc., 600 East Mason Street, Milwaukee, WI 53202.	William Tisdale, 414–278–1240	5	325,000.00
Miami Valley Fair Housing Center, Inc., 505 Riverside Drive, Dayton, OH 45405.	Jim McCarthy, 937–223–6035	5	325,000.00
Mid-Minnesota Legal Assistance, 430 First Avenue North, Suite 300, Minneapolis, MN 55401.	Lisa Cohen, 612–746–3770	5	325,000.00
Open Communities, 614 Lincoln Avenue, Winnetka, IL 60093	Gail Schechter, 847–501–5760	5	316,389.00
Prairie State Legal Services, Inc., 303 N. Main Street, Suite 600, Rockford, IL 61101.	David Wolowitz, 630–580–3309	5	325,000.00
South Suburban Housing Center, 18220 Harwood Avenue, Suite 1, Homewood, IL 60430.	John Petruszak, 708–957–4674	5	325,000.00
The John Marshall Law School, 315 S. Plymouth Court, Chicago, IL 60604.	Michael Seng, 312–986–2397	5	279,951.00
Austin Tenants Council Inc., 1640B E. Second Street, Suite 150, Austin, TX 78702.	Katherine Starks, 512–474–7007	6	324,742.00
Greater Houston Fair Housing Center, Inc., P.O. Box 292, 1900 Kane Street, Room 111, Houston, TX 77001.	Daniel Bustamente, 713–641–3247	6	325,000.00
Greater New Orleans Fair Housing Action Center, Inc., 404 South Jefferson Davis Parkway, New Orleans, LA 70119.	James Perry, 504–596–2100	6	325,000.00
Metropolitan Fair Housing Council of Oklahoma, Inc., 1500 NE 4th Street, Suite 204, Oklahoma City, OK 73117.	Mary Dulan, 405–232–3247	6	324,479.00
San Antonio Fair Housing Council, Inc., 4414 Centerview Drive, Suite 229, San Antonio, TX 78228.	Sandra Tamez, 210–733–3247	6	375,000.00
Family Housing Advisory Services, Inc., 2401 Lake Street, Omaha, NE 68111.	Joseph Garcia, 402–934–9996	7	325,000.00
Metropolitan St. Louis Equal Housing and Opportunity Council, 1027 S. Vandeventer Avenue, 6th Floor, St. Louis, MO 63110.	Willie Jordan, 314–448–9063	7	324,996.00
Denver Metro Fair Housing Center, 3401 Quebec Street, Denver, CO 80207.	Arturo Alvarado, 720–279–4291	8	279,784.00
Disability Law Center, 205 N. 400 W., Salt Lake City, UT 84103	Adina Zahradnikova, 801–363–1347.	8	234,297.00
Montana Fair Housing, Inc., 519 East Front Street, Butte, MT 59701	Pamela Bean, 406–782–2573	8	205,838.00
Arizona Fair Housing Center, 615 N. 5th Avenue, Phoenix, AZ 85003	Kanitta Padilla, 602–548–1599	9	320,430.00
Bay Area Legal Aid, 1735 Telegraph Avenue, Oakland, CA 94612	Jaclyn Pinero, 510–250–5229	9	325,000.00
California Rural Legal Assistance, Inc., 2201 Broadway, Suite 815, Oakland, CA 94105.	Susan Podesta, 530–742–5191	9	280,000.00
Fair Housing Council of Central California, 333 W. Shaw Avenue, Suite 14, Fresno, CA 93704.	Marilyn Borelli, 559–244–2950	9	319,892.00
Fair Housing Council of Riverside County, Inc., 3933 Mission Inn Avenue, Riverside, CA 92501.	Rose Mayes, 951–682–6581	9	270,895.00
Fair Housing of Marin, 1314 Lincoln Avenue, San Rafael, CA 94901	Caroline Peattie, 415–457–5025	9	324,998.00
Greater Bakersfield Legal Assistance, Inc., 615 California Avenue, Bakersfield, CA 93304.	Estela Casas, 661–334–4660	9	266,015.00
Greater Napa Valley Fair Housing Center, 1804 Solcol Avenue, Napa, CA 94559.	Pablo Zatarain, 650–815–6199	9	279,467.00
Inland Mediation Board, 1500 South Haven Avenue, Suite 101, Ontario, CA 91761.	Lynne Anderson, 909–984–2254	9	325,000.00
Legal Aid Society of Hawaii, 924 Bethel Street, Honolulu, HI 96813	Elise Von Dohlen, 808–527–8056	9	350,000.00
Legal Aid Society of San Diego, Inc., 110 S. Euclid Avenue, San Diego, CA 92114.	Branden Butler, 619–417–2623	9	323,491.00
Orange County Fair Housing Council, 1516 Brookhollow Drive, Santa Ana, CA 92705.	David Levy, 714–569–0823	9	28,000.00
Project Sentinel Inc., 1490 Camino Real, Santa Clara, CA 95050	Ann Marquart, 888–324–7468	9	325,000.00
Silver State Fair Housing Council, 110 West Arroyo Street, Suite A, Reno, NV 89509.	Katherine Knister, 775–324–0990	9	325,000.00
Southern California Housing Rights Center, 3255 Wilshire Blvd., Los Angeles, CA 90010.	Chancela Al-Mansour, 213–387–8400.	9	325,000.00
Southwest Fair Housing Council, 2030 E. Broadway Blvd., Suite 101, Tucson, AZ 85719.	Jay Young, 520–798–1568	9	280,000.00
Fair Housing Center of Washington, 1517 South Fawcett, Suite 200, Tacoma, WA 98302.	Lauren Walker, 253–274–9523	10	325,000.00
Fair Housing Council of Oregon, 1221 SW Yamhill Street, Suite 305, Portland, OR 97204.	Pegge McGuire, 503–223–8197	10	325,000.00
Intermountain Fair Housing Council, Inc., 5460 W. Franklin Road, Suite M 200, Boise, ID 83702.	Zoe Olson, 208–383–0695	10	258,755.00
Northwest Fair Housing Alliance, 35 W. Main, Spokane, WA 99201	Marley Hochendoner, 509–209–2667.	10	325,000.00

[FR Doc. 2015–32798 Filed 12–28–15; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5923–N–01]

Notice of a Federal Advisory Committee Meeting; Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee (MHCC).

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the MHCC. The meeting is open to the public and the site is accessible to individuals with disabilities. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

DATES: The meeting will be held on January 19 through January 21, 2016, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time (EST).

ADDRESSES: The meeting will be held at the Kentucky Exposition Center, 937 Phillips Lane, Louisville, Kentucky 40209.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Department of Housing and Urban Development, Office of Manufactured Housing Programs, 451 7th Street SW., Room 9168, Washington, DC 20410, telephone (202) 708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403 (a)(3), as amended by the Manufactured Housing Improvement Act of 2000, (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulation specifying the permissible scope and conduct of monitoring in accordance with subsection (b);
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make comments on the business of the MHCC are encouraged to register before January 13, 2016, by contacting Home Innovation Research Labs, *Attention:* Kevin Kauffman, 400 Prince Georges Blvd., Upper Marlboro, MD 20774, or email to *mhcc@homeinnovation.com.* Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the MHCC.

Tentative Agenda

*Log items cited in this agenda can be reviewed at *www.hud.gov/mhs*

Tuesday, January 19, 2016

I. Call to Order-Chair & Designated Federal officer (DFO)
II. Opening Remarks-Chair
  A. Roll-Call-Administering Organization (AO)
  B. Introductions
  ii. HUD Staff
  ii. Guests
  C. Administrative Announcements-DFO and AO
III. Approve MHCC draft minutes from August 18–20, 2015 Meeting
IV. Update on approved proposals-HUD
V. Subcommittee Reports to MHCC
  A. Technical Systems Subcommittee
  i. Log 116–NFPA 54 National Fuel Gas Code
  ii. Log 118–UL 60335–2–40, Safety of Household and Similar Electrical Appliances, Part 2–34: Particular Requirements for Motor-Compressors
  iii. Reference Standards Review—
  • ANSI/ASHRAE 62.2, Ventilation and Acceptable
  • Indoor Air Quality in Low-Rise Residential buildings
  • ASTM E96, Standard Test Methods for Water Vapor;
  • Transmission of Materials; and
  • NFPA 70, National Electrical Code.
  B. General Subcommittee
  C. Structure and Design Subcommittee
  i. Log 87-Hallway Widths
  ii. Log 115–UL 1995
  iii. Reference Standards Review-
  • AISC Steel Construction Manual;
  • NEW 272, National Evaluation report, Power Driven Staples, Nailed and Allied Fasteners for use in All Types if Building Construction;
  • APA H815E, Design & Fabrication of All-Plywood Beam; and
  • APA D410A, Panel Design Specification.
  D. Regulatory Enforcement Subcommittee
  i. Action Item 6: Shower, Bathtub and Tub-shower Combination Valve Adjustment during Installation
  ii. SAA Funding Option Proposals
VI. Public Comment Period
VII. Review Current Log and Action Items
VIII. NFPA 70–2014 Task Group (Technical Systems Subcommittee)
IX. Continue Review Current Log and Action Items
X. Daily Wrap Up-DFO/AO
XI. Adjourn

Wednesday, January 20, 2016

I. Reconvene meeting-Chair & DFO
II. Opening Remarks-Chair
  A. Roll-Call-Administering Organization (AO)
III. On-Site Rule Presentation
IV. Installation Program Update-SEBA Professional Services
V. Continue Review Current Log and Action Items
VI. ESR–1539 Task Group (Structure and Design Subcommittee)
VII. Structure and Design Subcommittee
  A. Log 87-Hallway Widths
VIII. Structure and Design Committee Reports to MHCC
IX. FEMA Presentation
X. Public Comment
XI. Daily Wrap Up-DFO/AO
XII. Adjourn

Thursday, January 21, 2016

I. Reconvene Meeting-Chair & DFO
II. Opening Remarks-Chair
  A. Roll Call-Administering Organization (AO)
III. Structure and Design Subcommittee
  A. APA–H815E, Design and Fabrication of All-Plywood beam
  B. APA D410A, Pane Design Specification
IV. Structure and Design Subcommittee Reports to MHCC
V. Dispute Resolution Program
VI. Public Comment
VII. Daily Wrap Up-DFO/AO
VIII. Adjourn

IX. Tour of the Louisville Manufactured Housing Show 2016.

Dated: December 22, 2015.

Teresa Baker Payne,

Deputy Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2015–32799 Filed 12–28–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Tribal-State Class III Gaming Compacts Taking Effect in the State of New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Pueblo of Nambe and State of New Mexico entered into a Tribal-State compact governing Class III gaming; this notice announces that the compact is taking effect.

DATES: The compact if effective on December 29, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Section 11 of the Indian Gaming Regulatory Act (IGRA) requires the Secretary of the Interior to publish in the **Federal Register** notice of approved Tribal-State compacts that are for the purpose of engaging in Class III gaming activities on Indian lands. *See* Public Law 100–497, 25 U.S.C. 2701 *et seq.* All Tribal-State Class III compacts are subject to review and approval by the Secretary under 25 CFR 293.4. The Secretary took no action on the Pueblo of Nambe—State of New Mexico compact within 45 days of its submission. Therefore, the compact is considered to have been approved, but only to the extent the compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: December 18, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–32741 Filed 12–28–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Draft Environmental Impact Statement for the Proposed Wilton Rancheria Fee-to-Trust and Casino Project, Sacramento County, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency, with the Wilton Rancheria (Tribe), City of Galt (City), Sacramento County (County), and the United States Environmental Protection Agency (EPA) serving as cooperating agencies, intends to file a Draft Environmental Impact Statement (DEIS) with the EPA for the Wilton Rancheria fee-to-trust and casino project, Sacramento County, California. This notice announces that the DEIS is now available for public review and that a public hearing will be held to receive comments on the DEIS.

DATES: Comments on the DEIS must arrive by February 12, 2016. The date of the public hearing will be announced at least 15 days in advance through a notice to be published in local newspapers (Galt Herald and Sacramento Bee) and online at *http://www.wiltoneis.com.*

ADDRESSES: The DEIS is available for public review at the Galt Branch of the Sacramento Public Library, 1000 Caroline Ave., Galt, California 95632. You may mail or hand-deliver written comments to Ms. Amy Dutschke, Pacific Regional Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. You may also submit comments through email to Mr. John Rydzik, Chief, Division of Environmental, Cultural Resource Management and Safety, Bureau of Indian Affairs, at *john.rydzik@bia.gov.*

The location of the public hearing will be announced at least 15 days in advance through a notice to be published in local newspapers (Galt Herald and Sacramento Bee) and online at *http://www.wiltoneis.com.*

FOR FURTHER INFORMATION CONTACT: Ms. John Rydzik, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, California 95825, (916) 978–6051, *john.rydzik@bia.gov.* Information is also available online at *http://www.wiltoneis.com.*

SUPPLEMENTARY INFORMATION: Public review of the DEIS is part of the administrative process for the evaluation of the Tribe's application to BIA for the Federal trust acquisition of approximately 282 acres in Sacramento County, California. The Tribe proposes to construct a casino/hotel/resort on the property. A Notice of Intent (NOI) was published in the Sacramento Bee, the Galt Herald, and **Federal Register** on December 4, 2013. The BIA held a public scoping meeting for the project on December 19, 2013, at the Chabolla Community Center in Galt, California. Pursuant to Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) regulations (40 CFR 1506.10), the publication of this Notice of Availability in the **Federal Register** initiates a 45-day public comment period on the DEIS.

Background

The Tribe has requested that BIA take into trust 282 acres of land (known as the Twin Cities site) currently held in fee, on which the Tribe proposed to construct a casino, hotel, parking area, and other ancillary facilities (Proposed Project). The proposed fee-to-trust property is located within the City of Galt Sphere of Influence Area in unincorporated Sacramento County, California, north of Twin Cities Road between State Highway 99 and the Union Pacific Railroad tracks. The Proposed Project would contain 110,260 square-feet (sf) of gaming floor area, a 12-story hotel with 302 guest rooms, a 360-seat buffet, 60-seat pool grill, other food and beverage providers, a 2,600 sf retail area, a fitness center, spa, and an approximately 48,000 sf convention center. Access to the Twin Cities site would be provided via an improved Mingo Road interchange on Highway 99. The following alternatives are considered in the DEIS:

- Alternative A—Proposed Twin Cities Casino Resort
- Alternative B—Reduced Twin Cities Casino
- Alternative C—Retail on the Twin Cities Site
- Alternative D—Casino Resort at Historic Rancheria Site
- Alternative E—Reduced Intensity Casino at Historic Rancheria Site
- Alternative F—Casino Resort at Mall Site
- Alternative G—No Action

Environmental issues addressed in the DEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous

materials, aesthetics, cumulative effects, and indirect and growth inducing effects.

Directions for Submitting Comments: Please include your name, return address, and the caption: ''DEIS Comments, Wilton Rancheria Fee-to-Trust and Casino Project,'' on the first page of your written comments. If emailing comments, please use ''DEIS Comments, Wilton Rancheria Fee-to-Trust and Casino Project'' as the subject of your email.

Locations where the DEIS is Available for Review: The DEIS is available for review during regular business hours at the BIA Pacific Regional Office and the Galt Branch of the Sacramento Public Library at the addresses noted above in the **ADDRESSES** section of this notice. The DEIS is also available online at *http://www.wiltoneis.com.* To obtain a compact disc copy of the DEIS, please provide your name and address in writing or by voicemail to Mr. John Rydzik, Bureau of Indian Affairs, at the address or phone number above in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

Public Comment Availability: Comments, including names and addresses of respondents, will be available for public review during regular business hours at the BIA mailing address shown in the **ADDRESSES** section of this notice. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of l969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: December 18, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–32739 Filed 12–28–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Tonto Apache Tribe of Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 292.77 acres, more or less, an addition to the reservation of the Tonto Apache Indian Tribe of Arizona on December 21, 2015.

FOR FURTHER INFORMATION CONTACT: Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW., MS–4642–MIB, Washington, DC 20240, telephone (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), for the land described below. The land was proclaimed to be part of the Tonto Apache Indian Reservation of the Tonto Apache Tribe, Town of Payson, Gila County and State of Arizona.

Tonto Apache Indian Reservation

Legal Description Containing 292.77 Acres, More or Less

Parcel No. 1

Government Lots 4 and 6 and the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 9; the Southwest quarter and the West half of the Southeast quarter of Section 10, all in Township 10 North, Range 10 East of the Gila and Salt River Base and Meridian, Gila County, Arizona, consisting of 272.77 acres, more or less;

Parcel No. 2

A parcel of land being the East half of the Northwest quarter of the Southeast quarter of Section 9, Township 10 North, Range 10 East of the Gila and Salt River Base and Meridian, Gila County, Arizona, more particularly described as follows:

Beginning at the Northeast corner of the Northwest quarter of the Southeast quarter being identical to A.P. No. 2 of Tract 37 of said Section 9;

Thence South 00°02′36″ West, 1,323.57 feet to the Southeast corner of the Northwest quarter of the Southeast quarter being identical to A.P. No. 3 of Tract 37 of said Section 9;

Thence North 89°50′15″ West, 659.35 feet to the Southwest corner of the East half of the Northwest quarter of the Southeast quarter of said Section 9;

Thence North 00°04′46″ West, 1,323.05 feet to the Northwest corner of the East half of the Northwest quarter of the Southeast quarter of said Section 9;

Thence South 89°53′00″ East, 658.51 feet to the true point of beginning, consisting of 20 acres, more or less.

The above described lands contain a total of 292.77 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads, highways, public utilities, railroads, and pipelines or any other valid easements or rights-of-way or reservations of record.

Dated: December 17, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–32740 Filed 12–28–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[133D5670LC DLCAP0000.000000 DS10100000 DX.10129; OMB Control Number 1093–0007]

Proposed Renewal of Information Collection; Tribal Expression of Interest to the Land Buy-Back Program for Tribal Nations

AGENCY: Office of the Secretary, Land Buy-Back Program for Tribal Nations, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Land Buy-Back Program for Tribal Nations (Buy-Back Program), Office of the Secretary, Department of the Interior announces the proposed extension of a public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by *February 29, 2016*

ADDRESSES: Send your written comments to Michael Estes, Land Buy-Back Program for Tribal Nations, U.S. Department of the Interior, 1849 C Street NW., MS 5552–MIB, Washington, DC 20240, fax 202–208–3009, or by electronic mail to *Michael_Estes@ios.doi.gov.* Please mention that your comments concern the Tribal of Expression of Interest to the Land Buy-Back Program for Tribal Nations, OMB Control Number 1093–0007.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (''OMB'') regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

The Secretary of the Interior established the Land Buy-Back Program for Tribal Nations (''the Program'') to implement the land consolidation provisions of the *Cobell* Settlement Agreement (''the Settlement''). The Settlement provided for a $1.9 billion Trust Land Consolidation Fund to consolidate fractional land interests across Indian Country.

The Department of the Interior works cooperatively with tribal leaders and individual landowners to reduce the number of fractional interests through voluntary land sales. The Program allows interested individual owners to receive payments for voluntarily selling their land. All lands sold will immediately be held in trust for the tribe with jurisdiction. Tribal leadership, participation, and facilitation are crucial to the success of the Program.

The Program is carrying out its work in accordance with the Claims Resolution Act of 2010 (Pub. L. 111–291, § 101). The Act requires that ''[t]he Secretary shall consult with Indian tribes to identify fractional interests within the respective jurisdictions of the Indian tribes for purchase in a manner that is consistent with the priorities of the Secretary.'' Moreover, the obligation to engage in meaningful consultations with Federally-recognized tribes is rooted in the United States Constitution and Federal treaties, statutes, executive orders and policies. Federal agencies are required to consult on actions that will have substantial, direct effect or implications for tribal nations, including regulations, rulemakings, policy, guidance, legislative proposals, grant formula changes, and operational activities.

There are about 245,000 owners of nearly three million fractional interests across Indian Country who are eligible to participate in the Program. Informed by early planning activities, the Program identified 42 locations where land consolidation activities—such as planning, outreach, mapping, mineral evaluations, appraisals or acquisitions—have either already occurred or are expected to take place through the middle of 2017. These locations represented 83 percent of all outstanding fractional interests across Indian Country.

The Program has launched a two-part Planning Initiative to help determine its next implementation schedule for 2017 and beyond. Eligible tribal governments not already scheduled for implementation are invited to formally indicate their interest in participating in the Program. More information, including the deadline for tribal expressions of interest, is available to tribal leaders at: *https://www.doi.gov/buybackprogram/tribes.*

In light of the Program's duty to consult with tribes, we are conducting this information collection request to obtain information from the remaining eligible tribal governments regarding their interest in implementing the Program at their locations and their readiness to do so. The Program will evaluate the expressions of interest provided by tribal governments, among other factors, as it develops its next implementation schedule.

II. Data

(1) *Title:* Tribal Expression of Interest to the Land Buy-Back Program for Tribal Nations

OMB Control Number: 1093–0007.

Current Expiration Date: April 30, 2016.

Type of Review: Information Collection Renewal.

Affected Entities: Tribal Governments

Estimated annual number of respondents: 50

Frequency of responses: Once per interested tribe.

(2) *Annual reporting and recordkeeping burden:*

Total annual reporting per response: 74 hours.

Total number of estimated responses: 50.

Total annual reporting: 3,700 hours.

(3) *Description of the need and use of the information:* The information that we seek to collect will be used by the Land Buy-Back Program as one consideration among others to evaluate and determine our next implementation schedule for the consolidation of fractionated lands. The Program will consider implementation at locations associated with tribes that express interest in the Program.

III. Request for Comments

The Department invites comments on:

(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 the burden of the collection of information and 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 appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

It is our policy to make all comments available to the public for review. 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. If you wish to view any comments received, you may do so by scheduling an appointment using the

contact information provided in the **ADDRESSES** section of this notice. A valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection renewal; they also will become a matter of public record.

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.

Dated: December 22, 2015.

John H. McClanahan,

Program Manager, Land Buy-Back Program for Tribal Nations.

[FR Doc. 2015–32669 Filed 12–28–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–GATE–19973; PPNEGATEB0, PPMVSCS1Z.Y00000]

Notice of the Meeting Schedule for the Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee Through June 2016

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), notice is hereby given of the 2016 meeting schedule of the Gateway National Recreation Area Fort Hancock 21st Century Federal Advisory Committee.

Agenda: The Committee will offer expertise and advice regarding the preservation of historic Army buildings at Fort Hancock and Sandy Hook Proving Ground National Historic Landmark into a viable, vibrant community with a variety of uses for visitors, not-for-profit organizations, residents and others. All meetings will begin at 9:00 a.m., with a public comment period at 11:30 a.m. (EASTERN). All meetings are open to the public.

DATES: The meetings will take place on the following dates and at the following locations:

Friday, February 5, 2016, at the Sandy Hook Chapel in Middletown, New Jersey

Friday, April 1, 2016, at the Middletown Arts Center in Middletown, New Jersey

Friday, May 13, 2016, at the Middletown Arts Center in Middletown, New Jersey

Friday, June 17, 2016, at the Thompson Park Visitor Center in Lincroft, New Jersey

FOR FURTHER INFORMATION CONTACT: John Harlan Warren, External Affairs Officer, Gateway National Recreation Area, Sandy Hook Unit, 26 Hudson Road, Highlands, New Jersey 07732, (732) 872–5910, email *John_Warren@nps.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the purpose of the Committee is to provide advice to the Secretary of the Interior, through the Director of the National Park Service, on the development of a reuse plan and on matters relating to future uses of certain buildings at the Fort Hancock and Sandy Hook Proving Ground National Historic Landmark which lie within Gateway National Recreation Area.

The Committee Web site, *http://www.forthancock21.org,* includes summaries from all prior meetings. Interested persons may present, either orally or through written comments, information for the Committee to consider during the public meeting. Written comments will be accepted prior to, during, or after the meeting. Due to time constraints during the meeting, the Committee is not able to read written public comments submitted into the record. Individuals or groups requesting to make oral comments at the public Committee meeting will be limited to no more than five minutes per speaker.

All comments will be made part of the public record and will be electronically distributed to all Committee members. Before including your address, telephone number, email address, or other personal identifying information in your written comments, you should be aware that your entire comment including your personal identifying information will be publicly available. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 22, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–32675 Filed 12–28–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CEBE–19766; PPNECEBE00, PPMPSPD1Z.Y00000]

Request for Nominations for the Cedar Creek and Belle Grove National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, proposes to appoint new members to the Cedar Creek and Belle Grove National Historical Park Advisory Commission (Commission). The NPS is requesting nominations for qualified persons to serve as members of the Commission.

DATES: Written nominations must be received by February 29, 2016.

ADDRESSES: Nominations or requests for further information should be sent to Karen Beck-Herzog, Acting Site Manager, Cedar Creek and Belle Grove National Historical Park, 8693 Valley Pike, P.O. Box 700, Middletown, Virginia 22645, telephone (540) 868–9176.

FOR FURTHER INFORMATION CONTACT: Karen Beck-Herzog, Acting Site Manager, Cedar Creek and Belle Grove National Historical Park, 8693 Valley Pike, P.O. Box 700, Middletown, Virginia 22645, telephone (540) 868–9176, email *karen_beck-herzog@nps.gov*.

SUPPLEMENTARY INFORMATION: Public Law 107–373 established the Cedar Creek and Belle Grove National Historical Park. Section 9(a) of that law established the Advisory Commission. The Commission was designated by Congress to provide advice to the Secretary of the Interior on the preparation and implementation of the park's general management plan and to advise on land protection.

The Commission consists of 15 members appointed by the Secretary, as follows: (a) 1 representative from the Commonwealth of Virginia; (b) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County; (c) 2 representatives of private landowners within the Park; (d) 1 representative from a citizen interest group; (e) 1 representative from the Cedar Creek Battlefield Foundation; (f) 1 representative from the Belle Grove, Incorporated; (g) 1 representative from the National Trust for Historic Preservation; (h) 1 representative from the Shenandoah Valley Battlefields

Foundation; (i) 1 ex-officio representative from the National Park Service; and (j) 1 ex-officio representative from the United States Forest Service.

Each member shall be appointed for a term of three years and may be reappointed for not more than two successive terms. A member may serve after the expiration of that member's term until a successor has taken office. The Chairperson of the Commission shall be elected by the members to serve a term of one year renewable for one additional year.

We are currently seeking members to represent the Town of Strasburg, Shenandoah County, the Commonwealth of Virginia, and private landowners within the Park.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department of the Interior to contact a potential member.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the Designated Federal Officer, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under Section 5703 of Title 5 of the United States Code.

Individuals who are Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

All nominations must be compiled and submitted in one complete package. Incomplete submissions (missing one or more of the items described above) will not be considered.

Dated: December 15, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–32676 Filed 12–28–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Gray Television, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Gray Television, Inc.,* Civil Action No. 1:15–cv–02232. On December 22, 2015, the United States filed a Complaint alleging that Gray Television, Inc.'s proposed acquisition of Schurz Communications, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed on the same day as the Complaint, requires Gray to divest certain broadcast television stations in South Bend, Indiana and Wichita, Kansas.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to David Kully, Chief, Litigation III, Antitrust Division, Department of Justice, 450 Fifth Street NW., Washington, DC 20530, (telephone: 202–305–9969).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7000, Washington, DC 20530 Plaintiff, v. *Gray Television, Inc., 4370 Peachtree Road NE., Atlanta, GA 30319* and *Schurz Communications, Inc., 1301 E. Douglas Road, Mishawaka, IN 46545* Defendants.

Case No. 1:15–cv–02232

Judge: Rudolph Contreras

Filed: 12/22/2015

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States brings this civil action to enjoin the acquisition by Gray Television, Inc. (''Gray'') of Schurz Communications, Inc. (''Schurz'') and to obtain other equitable relief.

I. NATURE OF THE ACTION

1. Gray and Schurz own and operate broadcast television stations in multiple Designated Market Areas (''DMAs'') in the United States.

2. Gray's and Schurz's television stations compete head to head for the business of local and national companies that seek to advertise on broadcast television stations in the South Bend, Indiana DMA, and the Wichita, Kansas DMA.

3. In the South Bend, Indiana DMA, the two broadcast television stations that Gray and Schurz operate account for approximately 67 percent of all broadcast television station gross revenues in that DMA.

4. In the Wichita, Kansas DMA, the three stations that Gray and Schurz operate account for approximately 57 percent of all broadcast television station gross advertising revenues in that DMA.

5. Pursuant to an Asset Purchase Agreement dated September 14, 2015, Gray agreed to acquire Schurz for approximately $440 million.

6. If consummated, the proposed acquisition would eliminate the substantial head-to-head competition between Gray and Schurz in the South Bend, Indiana DMA, and the Wichita, Kansas DMA (collectively ''the DMA Markets''). Unless enjoined, the proposed transaction is likely to lead to higher prices and substantially lessen competition for broadcast television spot advertising in each of the DMA Markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. JURISDICTION, VENUE, AND COMMERCE

7. The United States brings this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain Gray and Schurz from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

8. The Court has subject-matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

9. Gray and Schurz are engaged in interstate commerce and in activities substantially affecting interstate commerce. They each own and operate broadcast television stations in various locations throughout the United States and sell television advertising for those stations. Their television advertising sales have had a substantial effect upon interstate commerce.

10. Defendants have consented to venue and personal jurisdiction in this District. Therefore, venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(c).

III. THE DEFENDANTS

11. Gray is incorporated in the state of Georgia, with its headquarters in Atlanta, Georgia. Gray reported operating revenues of over $508 million for the year ended December 31, 2014. As of February 1, 2015, Gray owned and operated broadcast television stations in 44 geographic markets. It owns and operates broadcast television stations in each of the DMA Markets.

12. Schurz is a privately owned radio, television, cable TV and newspaper company, with its headquarters in Mishawaka, Indiana. Schurz owns and operates 10 broadcast television stations in 7 markets. It also owns and operates broadcast television stations in each of the DMA Markets.

IV. RELEVANT MARKET

13. The relevant market for Section 7 of the Clayton Act is the sale of television spot advertising to advertisers targeting viewers in each of the DMA Markets.

14. A DMA is a geographical unit for which A.C. Nielsen Company, a firm that surveys television viewers, furnishes broadcast television stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating audience size and composition. DMAs are widely accepted by television stations, advertisers, and advertising agencies as the standard geographic area to use in evaluating television audience size and demographic composition.

15. Gray and Schurz sell television advertising to local and national advertisers in each of the DMA Markets. Gray and Schurz television stations in each of the DMA Markets generate almost all of their revenues by selling advertising to local and national advertisers who want to reach viewers in those markets. Spot advertising placed on television stations in a DMA is aimed at reaching viewing audiences in that DMA, and television stations broadcasting outside that DMA do not provide effective access to those audiences.

16. Spot advertising differs from network and syndicated television advertising. In contrast to spot advertising sales, television networks and producers of syndicated programs sell network and syndicated television advertising on a nationwide basis for broadcast in every market where the network or syndicated program is aired.

17. Broadcast television stations attract viewers through their programming, which is delivered for free over the air or retransmitted to viewers, primarily through wired cable or other terrestrial television systems and through satellite television systems. Broadcast television stations then sell advertising to businesses that want to advertise their products to television viewers. A television station's advertising rates typically are based on the station's ability, relative to competing television stations, to attract viewing audiences that have certain demographic characteristics that advertisers want to reach.

18. Broadcast television spot advertising possesses a unique combination of attributes that set it apart from advertising using other types of media. Television combines sight, sound, and motion, thereby creating a more memorable advertisement. Moreover, of all media, broadcast television spot advertising generally reaches the largest percentage of all potential customers in a particular target geographic area and is therefore especially effective in introducing, establishing, and maintaining the image of a product. For a significant number of advertisers, broadcast television spot advertising, because of its unique combination of attributes, is an advertising medium for which there is no close substitute. Other media, such as radio, newspapers, or outdoor billboards, are not desirable substitutes for broadcast television advertising. None of these media can provide the important combination of sight, sound, and motion that makes television unique and impactful as a medium for advertising.

19. Like broadcast television, subscription television channels such as those carried over cable or satellite television combine elements of sight, sound, and motion, but they are not a desirable substitute for broadcast television spot advertising for two important reasons. First, broadcast television can reach well over 90 percent of homes in a DMA, while satellite, cable and other subscription services often reach many fewer homes. Even when several subscription television companies within a DMA jointly offer cable television spot advertising through a consortium called an interconnect, cable spot advertising does not match the reach of broadcast television spot advertising. As a result, an advertiser can achieve greater audience penetration through broadcast television spot advertising than through advertising on a subscription television channel. Second, because subscription services may offer more than 100 channels, they fragment the audience into small demographic segments. Because broadcast television programming typically has higher rating points than subscription television programming, broadcast television provides a much easier and more efficient means for an advertiser to reach a high proportion of its target demographic.

20. While media buyers often buy advertising on subscription television channels, they do so not as a substitute for broadcast television spot advertising, but rather as a supplement, in order to reach a narrow demographic (*e.g.,* 18–24 year olds) with greater frequency, or to target narrow geographic areas within a DMA. A small but significant price increase by broadcast television spot advertising providers would not be made unprofitable by advertisers switching to advertising on subscription television channels.

21. Internet-based media is not currently a substitute for broadcast television spot advertising. Although Online Video Distributors (''OVDs'') such as Netflix and Hulu are important sources of video programming, as with cable television advertising, the local video advertising of OVDs lacks the reach of broadcast television spot advertising. Non-video Internet advertising, *e.g.,* Web site banner advertising, lacks the important combination of sight, sound, and motion that gives television its impact. Consequently, local media buyers currently purchase Internet-based advertising primarily as a supplement to broadcast television spot advertising, and a small but significant price increase by broadcast television spot advertising providers would not be made unprofitable by advertisers switching to Internet-based advertising.

22. In addition, broadcast television stations negotiate prices individually with advertisers; consequently, television stations can charge different advertisers different prices. Broadcast television stations generally can identify advertisers with strong preferences to advertise on broadcast television stations in their DMAs. Because of this ability to price discriminate among

customers, broadcast television stations may target with higher prices advertisers that view broadcast television in their DMA as particularly effective for their needs, while maintaining lower prices for more price-sensitive advertisers. As a result, a hypothetical monopolist could profitably raise prices to those advertisers that view broadcast television as a necessary advertising medium, either as their sole means of advertising or as a necessary part of a total advertising plan.

V. LIKELY ANTICOMPETITIVE EFFECTS

23. Broadcast television station ownership in each of the DMA Markets is already significantly concentrated. In each of these markets, four stations, each affiliated with a major network, had more than 90 percent of gross advertising revenues in 2014. In the South Bend, Indiana DMA the two stations that Gray and Schurz operate have approximately 67 percent of all television station gross advertising revenues in that DMA. In the Wichita, Kansas DMA the three stations that Gray and Schurz operate have approximately 57 percent of all television station gross advertising revenues in that DMA.

24. Market concentration is often one useful indicator of the likely competitive effects of a merger. Concentration in each of the DMA Markets would increase significantly as a result of the proposed acquisition.

25. As articulated in the Horizontal Merger Guidelines issued by the Department of Justice and the Federal Trade Commission, the Herfindahl-Hirschman Index (''HHI'') is a measure of market concentration. The more concentrated a market, and the more a transaction would increase concentration in a market, the more likely it is that a transaction would result in a meaningful reduction in competition harming consumers. Mergers resulting in highly concentrated markets (with an HHI in excess of 2,500) that involve an increase in the HHI of more than 200 points are presumed to be likely to enhance market power under the merger guidelines.

26. The post-acquisition HHI in each of the DMA Markets would be over 2,500. In the South Bend, Indiana DMA, the post-acquisition HHI would be approximately 4,800. In the Wichita, Kansas DMA, the post-acquisition HHI would be approximately 4,200. Those HHIs are well above the 2,500 threshold at which the Department normally considers a market to be highly concentrated. In addition, Gray's proposed acquisition of Schurz would result in a substantial increase in the HHIs set forth above in excess of the 200 points presumed to be anticompetitive under the merger guidelines.

27. In addition to increasing concentration in the DMA Markets, the proposed transaction combines stations that are close substitutes and vigorous competitors in markets with limited alternatives. In each of the DMA Markets, Defendants each have broadcast television stations that are affiliated with the major national television networks, ABC, CBS, NBC and FOX. In the South Bend, Indiana DMA, Schurz owns and operates WSBT–TV, a CBS affiliate; and Gray owns and operates WNDU–TV, an NBC affiliate. In the Wichita, Kansas DMA, Schurz owns and operates KWCH–DT, a CBS affiliate; and Gray owns and operates KAKE–TV, an ABC affiliate. Their respective affiliations with those networks, and their local news operations, provide the Defendants' stations with a variety of competing programming options that are often each other's next-best or second-best substitutes for many viewers and advertisers.

28. Advertisers benefit from Defendants' head-to-head competition in the sale of broadcast television spot advertising in the South Bend, Indiana DMA and the Wichita, Kansas DMA. Advertisers purposefully spread their advertising dollars across numerous spot advertising suppliers to reach their marketing goals most efficiently. After the proposed acquisition, advertisers in each of the DMA Markets would likely find it more difficult to ''buy around'' the Defendants' combined stations in response to higher advertising rates, than to ''buy around'' Gray's stations or Schurz's stations, as separate entities, as they could have done before the proposed acquisition. Because a significant number of advertisers would likely be unable to reach their desired audiences as effectively unless they advertise on at least one station that Gray would control after the proposed acquisition, those advertisers' bargaining positions would be weaker, and the advertising rates they pay would likely increase.

29. De novo entry into the South Bend, Indiana DMA and the Wichita, Kansas DMA is unlikely. The FCC regulates entry through the issuance of broadcast television licenses, which are difficult to obtain because the availability of spectrum is limited and the regulatory process associated with obtaining a license is lengthy. Even if a new signal became available, commercial success would come, at best, over a period of many years. Thus, entry into each DMA Market's broadcast television spot advertising market would not be timely, likely, or sufficient to deter Gray from engaging in anticompetitive price increases or other anticompetitive conduct after the proposed acquisition occurs.

30. Other broadcast television stations in the South Bend, Indiana DMA and the Wichita, Kansas DMA likely would not increase their advertising capacity in response to a price increase by Gray. The number of 30-second spots in a DMA is largely fixed by programming and time constraints. This fact makes the pricing of spot advertising responsive to changes in demand. Adjusting programming in response to a pricing change is risky, difficult, and time-consuming. Network affiliates are often committed to the programming provided by the network with which they are affiliated, and it often takes years for a station to build its audience. Programming schedules are complex and carefully constructed, taking many factors into account, such as audience flow, station identity, and program popularity. In addition, stations typically have multi-year contractual commitments for individual shows. Accordingly, a television station is unlikely to change its programming sufficiently or with sufficient rapidity to overcome a small but significant price increase imposed by Gray.

31. Although Defendants assert that the proposed acquisition would produce efficiencies, they cannot demonstrate acquisition-specific and cognizable efficiencies that would be sufficient to offset the proposed acquisition's anticompetitive effects.

32. The effect of the proposed acquisition of Schurz by Gray would be to substantially lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act.

VI. VIOLATIONS ALLEGED

33. The United States hereby repeats and realleges the allegations of paragraphs 1 through 32 as if fully set forth herein.

34. Gray's proposed acquisition of Schurz likely would substantially lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed acquisition likely would have the following effects, among others:

a. Competition in the sale of broadcast television spot advertising in each of the DMA Markets would be substantially lessened;

b. Actual and potential competition among Gray and Schurz in the sale of broadcast television spot advertising in

each of the DMA Markets would be eliminated; and

c. Prices for spot advertising on broadcast television stations in each of the DMA Markets would likely increase, and the quality of services would likely decline.

VII. REQUEST FOR RELIEF

The United States requests:

d. That the Court adjudge the proposed acquisition to violate Section 7 of the Clayton Act, 15 U.S.C. 18;

e. That the Court permanently enjoin and restrain Defendants from carrying out the transaction, or entering into any other agreement, understanding, or plan by which Gray would acquire Schurz;

f. That the Court award the United States the costs of this action; and

g. That the Court award such other relief to the United States as the Court may deem just and proper.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

William J. Baer (D.C. Bar #324723)
Assistant Attorney General

David I. Gelfand (D.C. Bar #416596)
Deputy Assistant Attorney General

Patricia A. Brink
Director of Civil Enforcement

David C. Kully (D.C. Bar #448763)
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* Attorney of Record

Dated: December 22, 2015

United States District Court for the District of Columbia

UNITED STATES OF AMERICA, Plaintiff, v. *GRAY TELEVISION, INC., and SCHURZ COMMUNICATIONS, INC.,* Defendants.
CASE NO. 1:15–cv–02232
JUDGE: Rudolph Contreras
FILED: 12/22/2015

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), plaintiff United States of America (''United States'') files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendants Gray Television, Inc. (''Gray'') and Schurz Communications, Inc. (''Schurz'') entered into an Asset Purchase Agreement, dated September 14, 2015, pursuant to which Gray would acquire Schurz for approximately $440 million. Defendants compete head-to-head in the sale of broadcast television spot advertising in the following Designated Market Areas (''DMAs''): South Bend, Indiana; and Wichita, Kansas (collectively ''the DMA Markets'').

The United States filed a civil antitrust Complaint on December 22, 2015, seeking to enjoin the proposed acquisition. The Complaint alleges that the acquisition's likely effect would be to increase broadcast television spot advertising prices in each of the DMA Markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. The proposed Final Judgment, which is explained more fully below, requires Defendants to divest the following broadcast television stations (the ''Divestiture Stations'') to Acquirers approved by the United States in a manner that preserves competition in each of the DMA Markets: WSBT–TV, located in the South Bend, Indiana DMA; and KAKE–TV, located in the Wichita, Kansas DMA. The Hold Separate requires Defendants to take certain steps to ensure that the Divestiture Stations are operated as competitively independent, economically viable, and ongoing business concerns, uninfluenced by the consummation of the acquisition so that competition is maintained until the required divestitures occur.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Acquisition

Gray is incorporated in the state of Georgia, with its headquarters in Atlanta, Georgia. Gray owns and operates broadcast television stations in 44 metropolitan areas. It owns and operates broadcast television stations in each of the DMA Markets.

Schurz is an Indiana corporation, with its headquarters in Mishawaka, Indiana. Schurz owns and operates 10 broadcast television stations in 7 metropolitan areas. It also owns and operates, or provides programming, operating, or sales services to broadcast television stations in each of the DMA Markets.

Pursuant to an Asset Purchase Agreement dated September 14, 2015, Gray agreed to acquire Schurz for approximately $440 million.

Gray and Schurz compete head to head against one another for the business of local and national advertisers that seek to purchase television advertising time in each of the DMA Markets.

B. Anticompetitive Consequences of the Transaction

1. Broadcast Television Advertising

The Complaint alleges that the sale of broadcast television spot advertising to advertisers targeting viewers located in each of the DMA Markets constitutes a relevant product market for analyzing this acquisition under Section 7 of the Clayton Act. Gray and Schurz sell television advertising to local and national advertisers that seek to target viewers in each of the DMA Markets. A DMA is a geographical unit designated by the A.C. Nielsen Company, a company that surveys television viewers and furnishes broadcast television stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating television audiences. DMAs are widely accepted by television stations, advertisers, and advertising agencies as the standard geographic area to use in evaluating television audience size and demographic composition. A television station's advertising rates typically are based on the station's ability, relative to competing television stations, to attract viewing audiences that have certain demographic characteristics that advertisers are seeking to reach.

Gray's and Schurz's broadcast television stations in the DMA Markets generate almost all of their revenues by selling advertising to local and national

advertisers who want to reach viewers present in those DMAs. Advertising placed on broadcast television stations in a DMA is aimed at reaching viewing audiences in that DMA, and television stations broadcasting outside that DMA do not provide effective access to these audiences.

Broadcast television spot advertising possesses a unique combination of attributes that sets it apart from advertising using other types of media. Because of this unique combination of attributes, broadcast television spot advertising has no close substitute for a significant number of advertisers.

Television combines sight, sound, and motion, thereby creating a more memorable advertisement when compared to other types of advertising. For example, radio spots lack the visual impact of television advertising; and newspaper and billboard ads lack sound and motion, as do many internet search engine and Web site banner ads.

Broadcast television spot advertising also generally reaches the largest percentage of potential customers in a targeted geographic area and is therefore especially effective in introducing, establishing, and maintaining a product's image.

Spot advertising differs from network and syndicated television advertising, which are sold on a nationwide basis by major television networks and by producers of syndicated programs and are broadcast in every market area in which the network or syndicated program is aired. Spot advertising on subscription television channels and internet-based video advertising also lacks the same reach as broadcast television spot advertising.

In addition, through information provided during individualized price negotiations, broadcast television stations can identify advertisers with strong preferences for using broadcast television spot advertising and charge different prices to those advertisers. Consequently, if there were a small but significant and non-transitory increase in the price (''SSNIP'') of broadcast television spot advertising on broadcast television stations in the DMA Markets, advertisers would not reduce their purchases sufficiently to render the price increase unprofitable. Advertisers would not switch enough purchases of advertising time to television stations outside the DMA Markets, or to other media to render the price increase unprofitable.

2. Harm to Competition in Each of the DMA Markets

The Complaint alleges that the proposed acquisition likely would substantially lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and likely would have the following effects, among others:

a) competition in the sale of broadcast television spot advertising in each of the DMA Markets would be substantially lessened;

b) competition between Gray broadcast television stations and Schurz broadcast television stations in the sale of broadcast television spot advertising in each of the DMA markets would be eliminated; and

c) the prices for spot advertising on broadcast television stations in each of the DMA Markets likely would increase.

The acquisition, by eliminating Schurz as a separate competitor and combining its operations with Gray's, would allow the combined entity to increase its market share of broadcast television spot advertising and revenues in each of the DMA Markets. In the South Bend, Indiana DMA, combining the two stations that Defendants operate would give Gray approximately 67 percent of all television station gross advertising revenues in that DMA. In the Wichita, Kansas DMA, combining the three stations that Defendants operate would give Gray approximately 57 percent of all television station gross advertising revenues in that DMA.

Gray's acquisition of Schurz would further concentrate the already highly concentrated broadcast television market in each of the DMA Markets. Using the Herfindahl-Hirschman Index (''HHI''), a standard measure of market, the post-acquisition HHI in each of the DMA Markets would be over 2,500. Gray's acquisition of Schurz would result in a substantial increase in the HHI set forth above for each DMA Market in excess of the 200 points presumed likely to enhance market power under the Horizontal Merger Guidelines issued by the Department of Justice and Federal Trade Commission.

Moreover, the acquisition combines stations that are close substitutes and vigorous competitors in a product market with limited alternatives. In each of the DMA Markets, Defendants have broadcast stations that are affiliated with the major national television networks, ABC, CBS, NBC, and FOX. Their respective affiliations with those networks, and their local news operations, provide Defendants' stations with a variety of competing programming options that are often each other's next-best or second-best substitutes for viewers and advertisers.

Finally, the Complaint alleges that entry or expansion in broadcast television spot advertising each of the DMA Markets would not be timely, likely, or sufficient to prevent any anticompetitive effects. New entry is unlikely because any new station would require an FCC license, which is difficult to obtain. Even if a new station became operational, commercial success would come over a period of many years. The number of 30-second spots available at a station is generally fixed. Accordingly, other television stations in each of the DMA Markets could not readily increase their advertising capacity in response to a small but significant price increase by Gray.

In summary, for all these reasons, the Complaint alleges that Gray's proposed acquisition of Schurz would substantially lessen competition in the sale of television spot advertising time to advertisers targeting viewers in each of the DMA Markets, eliminate head-to-head competition between Gray and Schurz television stations in those markets, and result in increased prices and reduced quality of service for television advertisers in each of those markets, all in violation of Section 7 of the Clayton Act.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in each of the DMA Markets by maintaining the Divestiture Stations as independent, economically viable competitors. The proposed Final Judgment requires Gray to divest WSBT–TV, located in South Bend, Indiana to Sinclair Broadcast Group; and KAKE–TV, located in Wichita, Kansas to Lockwood Broadcast Group. The United States has approved each of these divestiture buyers. The United States required Gray to identify each Acquirer of a Divestiture Station in order to provide greater certainty and efficiency in the divestiture process.

The ''Divestiture Assets'' are defined in Paragraph II. I of the proposed Final Judgment to include all assets, tangible or intangible, principally devoted to or necessary for the operation of the Divestiture Stations as viable, ongoing commercial broadcast television stations. With respect to each Divestiture Station, the divestiture will include assets sufficient to satisfy the United States, in its sole discretion, that such assets can and will be used to operate each station as a viable, ongoing, commercial television business.

To ensure that the Divestiture Stations are operated independently from Gray after the divestitures, Sections IV and XI of the proposed Final Judgment prohibit

Defendants from entering into any agreements during the term of the Final Judgment that create a long-term relationship with or any entanglements that affect competition between Gray and an Acquirer of a Divestiture Station concerning the Divestiture Assets after the divestitures are completed. Examples of prohibited agreements include agreements to reacquire any part of the Divestiture Assets, agreements to acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person, agreements to enter into any time brokerage agreement, local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement, or agreements to conduct other business negotiations jointly with the Acquirer(s) with respect to the Divestiture Assets, or providing financing or guarantees of financing with respect to the Divestiture Assets, during the term of the Final Judgment. The time brokerage agreement prohibition does not preclude Defendants from entering into an agreement pursuant to which an Acquirer can begin operating a Divestiture Station immediately after the Court's approval of the Hold Separate in this matter, so long as the agreement with the Acquirer expires upon the consummation of a final agreement to divest the Divestiture Assets to the Acquirer.

Defendants are required to take all steps reasonably necessary to accomplish the divestitures quickly and to cooperate with prospective purchasers. Because transferring the broadcast license for each of the Divestiture Stations requires FCC approval, Defendants are specifically required to use their best efforts to obtain all necessary FCC approvals as expeditiously as possible. The divestiture of each of the Divestiture Stations must occur within 90 calendar days after the filing of the Complaint in this matter. If applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirers of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of the Divestiture Assets for which no FCC order has issued until 5 calendar days after such order is issued. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 90 calendar days in total, and shall notify the Court in such circumstances.

In the event that Defendants do not accomplish the divestitures within the periods prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court, upon application of the United States, will appoint a trustee selected by the United States to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that Gray will pay all costs and expenses of the trustee. The trustee's commission will be structured to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States describing his or her efforts to accomplish the divestiture of any remaining stations. If the divestiture has not been accomplished after 6 months, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the United States Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: David C. Kully, Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 450 5th Street NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and Defendants may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Gray's acquisition of Schurz. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the sale of broadcast television spot advertising in each of the DMA Markets. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In

making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v, U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[1]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that room must be made for the government to grant concessions in the negotiation process for settlements) (citing *Microsoft,* 56 F.3d at 1461); *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004) *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the Court, with the recognition that the Court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: December 22, 2015

Respectfully submitted,

/s/ *Mark A. Merva*
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[3] *See United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D.Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *GRAY TELEVISION, INC., and SCHURZ COMMUNICATIONS, INC., Defendants.*

CASE NO. 1:15-cv-02232
JUDGE: Rudolph Contreras
FILED: 12/22/2015

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, the United States of America, filed its Complaint on December 22, 2015, and Defendant Gray Television, Inc. ("Gray") and Defendant Schurz Communications, Inc. ("Schurz"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. DEFINITIONS

As used in this Final Judgment:

A. "Gray" means Defendant Gray Television, Inc., a Georgia corporation headquartered in Atlanta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. "Schurz" means Defendant Schurz Communications, Inc., a Indiana corporation headquartered in Mishawaka, Indiana, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Sinclair" means Sinclair Broadcast Group, Inc., a Maryland corporation headquartered in Hunt Valley, Maryland, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Lockwood" means Lockwood Broadcast Group, a Virginia corporation headquartered in Hampton, Virginia, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. "Acquirer" means Sinclair, Lockwood, or another entity to which Defendants divest any of the Divestiture Assets.

F. "DMA" means Designated Market Area as defined by A.C. Nielsen Company based upon viewing patterns and used by the *Investing in Television BIA Market Report 2015* (1st edition). DMAs are ranked according to the number of households therein and are used by broadcasters, advertisers, and advertising agencies to aid in evaluating television audience size and composition.

G. "WSBT–TV" means the CBS-affiliated broadcast television station located in the South Bend, Indiana DMA owned by Defendant Schurz.

H. "KAKE–TV" means the ABC-affiliated broadcast television station located in the Wichita, Kansas DMA owned by Defendant Gray.

I. "Divestiture Assets" means the WSBT–TV and KAKE–TV broadcast television stations and all assets, tangible or intangible, principally devoted to or necessary for the operations of the stations as viable, ongoing commercial broadcast television stations, including, but not limited to, all real property (owned or leased), all broadcast equipment, office equipment, office furniture, fixtures, materials, supplies, and other tangible property; all licenses, permits, authorizations, and applications therefore issued by the Federal Communications Commission ("FCC")

and other government agencies related to the stations; all contracts (including programming contracts and rights), agreements, network affiliation agreements, leases, and commitments and understandings of Defendants; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials, and promotional materials relating to the stations; all customer lists, contracts, accounts, and credit records; and all logs and other records maintained by Defendants in connection with the stations.

III. APPLICABILITY

A. This Final Judgment applies to Defendants, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Defendants' Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirers of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURES

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by Defendants or a trustee appointed pursuant to Section V of this Final Judgment, if applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirers of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of the Divestiture Assets for which no FCC order has issued until five (5) days after such order is issued. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible, including using their best efforts to obtain all necessary FCC approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this Final Judgment.

B. In the event that Defendants are attempting to divest assets related to WSBT–TV to an Acquirer other than Sinclair, or assets related to KAKE–TV to an Acquirer other than Lockwood:

(1) Defendants, in accomplishing the divestitures ordered by this Final Judgment, promptly shall make known, by usual and customary means, the availability of the Divestiture Assets not yet divested;

(2) Defendants shall inform any person making an inquiry regarding a possible purchase of the applicable Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment;

(3) Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the applicable Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine; and

(4) Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirers and the United States information relating to the personnel involved in the operation and management of the applicable Divestiture Assets to enable the Acquirers to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirers to employ or contract with any employee of any Defendant whose primary responsibility relates to the operation or management of the applicable Divestiture Assets.

D. Defendants shall permit the prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the applicable stations; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirers that each Divestiture Asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. At the option of the Acquirer(s), Defendants shall enter into a transition services agreement with the Acquirer(s) for a period of up to six (6) months to facilitate the continuous operations of the Divestiture Assets until the Acquirer can provide such capabilities independently. The terms and conditions of any contractual arrangement intended to satisfy this provision must be reasonably related to market conditions and shall be subject to the approval of the United States, in its sole discretion. Additionally, the United States in its sole discretion may approve one or more extensions of this agreement for a total of up to an additional six (6) months.

H. Defendants shall warrant to the Acquirers that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset, and that, following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets and be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirers as part of a viable, ongoing commercial television broadcasting business. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable, and the divestiture of such assets will achieve the purposes of this Final Judgment and remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) shall be made to Acquirers that, in the United States' sole judgment, have the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the commercial television broadcasting business; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between Acquirers and Defendants gives Defendants the ability unreasonably to raise any of the Acquirers' costs, to lower any of the Acquirers' efficiency, or otherwise to interfere in the ability of any of the Acquirers to compete effectively.

V. APPOINTMENT OF TRUSTEE

A. If Defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), Defendants shall notify the United States of that fact in writing, specifically identifying the Divestiture Assets that have not been divested. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets that have not yet been divested.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the applicable Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The trustee shall account for all monies derived from the sale of the applicable Divestiture Assets and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets subject to sale by the trustee and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the trustee and Defendants are unable to reach agreement on the trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other agents retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the trustee's efforts to accomplish the applicable divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. Such report shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the applicable Divestiture Assets.

G. If the trustee has not accomplished any applicable divestiture ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such report contains information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

H. If the United States determines that the trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirers. Defendants and the trustee shall furnish any additional information requested

within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. HOLD SEPARATE

Until the divestitures required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V of this Final Judgment, Defendants shall deliver to the United States an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets, including efforts to secure FCC or other regulatory approvals, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitations on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Each such affidavit shall also include a description of the efforts Defendants have taken to complete the sale of the Divestiture Assets, including efforts to secure FCC or other regulatory approvals. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copies or electronic copy of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. NO REACQUISITION OR OTHER PROHIBITED ACTIVITIES

Defendants may not (1) reacquire any part of the Divestiture Assets, (2) acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person, (3) enter into any local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement, or conduct other business negotiations jointly with the Acquirers with respect to the Divestiture Assets, or (4) provide financing or guarantees of financing with respect to the Divestiture Assets, during the term of this Final Judgment. The shared services prohibition does not preclude Defendants from

continuing or entering into agreements in a form customarily used in the industry to (1) share news helicopters or (2) pool generic video footage that does not include recording a reporter or other on-air talent, and does not preclude Defendants from entering into any non-sales-related shared services agreement or transition services agreement that is approved in advance by the United States in its sole discretion.

XII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: ________________________

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

____

United States District Judge

[FR Doc. 2015–32785 Filed 12–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Johnson Matthey, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before January 28, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on September 3, 2015, Johnson Matthey, Inc., Pharmaceutical Materials, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Coca Leaves (9040)	II
Thebaine (9333)	II
Opium, raw (9600)	II
Noroxymorphone (9668)	II
Poppy Straw Concentrate (9670)	II
Fentanyl (9801)	II

The company plans to import thebaine derivatives and fentanyl as reference standards.

The company plans to import the remaining listed controlled substances as raw materials, to be used in the manufacture of bulk controlled substances, for distribution to its customers. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C, 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: December 21, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–32640 Filed 12–28–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On December 21, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Indiana in the lawsuit entitled *United States and the State of Indiana* v. *Anderson Products Inc., et al,* Civil Action No. 15–613.

The United States and the State filed the lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Complaint names seven parties as Defendants: Anderson Products Inc., doing business in Indiana as Anco Products, Inc.; B–D Industries; Elkhart Plating Corp.; FFP Holdings, LLC, formerly known as Flexible Foam Products, Inc.; Gaska Tape Inc.; Holland Metal Fab, Inc.; and Walerko Tool and Engineering Corp. The Complaint seeks recovery of certain costs that the United States and the State incurred and/or will incur in responding to releases of hazardous substances at the Lusher Street Groundwater Contamination Superfund Site located in the City of Elkhart, Elkhart County, Indiana. This includes the State's past costs of $26,436.38. The Consent Decree requires Defendants to reimburse those State costs and perform injunctive relief related to groundwater contamination and associated soil vapor for Operable Unit 1 at the Site. In return, the United States and the State agree not to pursue the Defendants under Sections 106 and 107 of CERCLA for the matters addressed in the Consent Decree.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and

Natural Resources Division, and should refer to *United States and the State of Indiana* v. *Anderson Products Inc., et al,* D.J. Ref. No. 90–11–3–11212. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, D.C. 20044–7611

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $42.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–32727 Filed 12–28–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Request for Nominations

AGENCY: Bureau of Labor Statistics (BLS).

ACTION: Request for nominations to the BLS Technical Advisory Committee.

SUMMARY: The BLS is soliciting new members for the Technical Advisory Committee (TAC). Five current membership terms expire on April 11, 2016. The TAC provides advice and makes recommendations to the Bureau of Labor Statistics on technical aspects of data collection and the formulation of economic measures. On some technical issues there are differing views, and receiving feedback at public meetings provides BLS with the opportunity to consider all viewpoints. The Committee will consist of 16 members and will be chosen from a cross-section of economists, statisticians, and behavioral scientists who represent a balance of expertise. The economists will have research experience with technical issues related to BLS data and will be familiar with employment and unemployment statistics, price index numbers, compensation measures, productivity measures, occupational and health statistics, or other topics relevant to BLS data series. The statisticians will be familiar with sample design, data analysis, computationally intensive statistical methods, non-sampling errors or other areas which are relevant to BLS work. The behavioral scientists will be familiar with questionnaire design, usability or other areas of survey development. BLS invites persons interested in serving on the TAC to submit their names for consideration for committee membership.

DATES: Nominations for the TAC membership should be postmarked by January 13, 2016.

ADDRESSES: Nominations for the TAC membership should be sent to: Commissioner Erica Groshen, U.S. Bureau of Labor Statistics, 2 Massachusetts Avenue NE., Room 4040, Washington, DC 20212.

FOR FURTHER INFORMATION CONTACT: Jay Stewart, Division Chief, U.S. Bureau of Labor Statistics, 2 Massachusetts Avenue NE., Office of Productivity and Technology, Room 2180. Washington, DC 20212. Telephone: 202–691–7376. This is not a toll free number.

SUPPLEMENTARY INFORMATION: BLS intends to renew memberships in the TAC for another three years. The Bureau often faces highly technical issues while developing and maintaining the accuracy and relevancy of its data on employment and unemployment, prices, productivity, and compensation and working conditions. These issues range from how to develop new measures to how to make sure that existing measures account for the ever changing economy. The BLS presents issues and then draws on the specialized expertise of Committee members representing specialized fields within the academic disciplines of economics, statistics and survey design. Committee members are also invited to bring to the attention of BLS issues that have been identified in the academic literature or in their own research.

The TAC was established to provide advice to the Commissioner of Labor Statistics on technical topics selected by the BLS. Responsibilities include, but are not limited to providing comments on papers and presentations developed by BLS research and program staff, conducting research on issues identified by BLS on which an objective technical opinion or recommendation from outside of BLS would be valuable, recommending BLS conduct internal research projects to address technical problems with BLS statistics that have been identified in the academic literature, participating in discussions of areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant, and establishing working relationships with professional associations with an interest in BLS statistics, such as the American Statistical Association and the American Economic Association.

Nominations: BLS is looking for committed TAC members who have a strong interest in, and familiarity with, BLS data. The Agency is looking for nominees who use and have a comprehensive understanding of economic statistics. The U.S. Bureau of Labor Statistics is committed to bringing greater diversity of thought, perspective, and experience to its advisory committees. Nominees from all races, gender, age, and disabilities are encouraged to apply. Interested persons may nominate themselves or may submit the name of another person who they believe to be interested in and qualified to serve on the TAC. Nominations may also be submitted by organizations. Nominations should include the name, address, and telephone number of the candidate. Each nomination should include a summary of the candidate's training or experience relating to BLS data specifically, or economic statistics more generally. BLS will conduct a basic background check of candidates before their appointment to the TAC. The background check will involve accessing publicly available, Internet-based sources.

Authority: This notice was prepared in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the Bureau of Labor Statistics Data Users Advisory Committee is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Signed at Washington, DC, this 22nd day of December 2015.

Kimberly D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2015–32664 Filed 12–28–15; 8:45 am]

BILLING CODE 4510–24–P

LIBRARY OF CONGRESS

U.S. Copyright Office

[Docket No. 2015–8]

Section 1201 Study: Notice and Request for Public Comment

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The United States Copyright Office is undertaking a public study to assess the operation of section 1201 of Title 17, including the triennial rulemaking process established under the DMCA to adopt exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. To aid this effort, and to ensure thorough assistance to Congress, the Office is seeking public input on a number of key questions.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on February 25, 2016. Written reply comments must be received no later than 11:59 p.m. Eastern Time on March 25, 2016. The Office will be announcing one or more public meetings, to take place after written comments are received, by separate notice in the future.

ADDRESSES: All comments must be submitted electronically. Specific instructions for submitting comments will be posted on the Copyright Office Web site at *http://www.copyright.gov/policy/1201* on or before February 1, 2016. To meet accessibility standards, all comments must be provided in a single file not to exceed six megabytes (MB) in one of the following formats: Portable Document File (PDF) format containing searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). All comments must include the name of the submitter and any organization the submitter represents. The Office will post all comments publicly in the form that they are received. If electronic submission of comments is not feasible, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, Associate General Counsel, by email at *resm@loc.gov* or by telephone at 202–707–8350; or Kevin Amer, Senior Counsel for Policy and International Affairs, by email at *kamer@loc.gov* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Digital Millennium Copyright Act (''DMCA'') has played a pivotal role in the development of the modern digital economy. Enacted in 1998 to implement the United States' obligations under two international treaties,[1] it is intended to foster the growth of the digital marketplace by ensuring adequate legal protections for copyrighted content.[2] As envisioned by Congress, the DMCA seeks to balance the interests of copyright owners and users, including the personal interests of consumers, in the digital environment.[3] In addition to provisions limiting the liability of online service providers,[4] the DMCA includes provisions prohibiting the circumvention of technological measures used to protect copyrighted works as well as trafficking in anticircumvention devices.[5] These anticircumvention provisions, codified in section 1201 of the Copyright Act, were the subject of a 2014 hearing held by the House Judiciary Committee's Subcommittee on Courts, Intellectual Property and the Internet as part of its comprehensive review of the nation's copyright law,[6] and, as discussed below, a recently concluded rulemaking conducted by the Copyright Office. In accordance with the request from the House Judiciary Committee's Ranking Member to the Register of Copyrights at the April 2015 House Judiciary Committee hearing on copyright review, and consistent with the Register's testimony in that hearing that the impact and efficacy of section 1201 merit analysis at this time, the Office is undertaking a study and soliciting public input.[7]

A. Overview of Section 1201

Prohibitions on Circumvention and Trafficking

Section 1201 prohibits the circumvention of technological measures employed by or on behalf of copyright owners to control access to their works (also known as ''access controls''), as well as the trafficking in technologies or services that facilitate such circumvention.[8] It also prohibits trafficking in technologies or services that facilitate circumvention of technological measures that protect the exclusive rights granted to copyright owners under Title 17 (also known as ''copy controls'').[9] In enacting section 1201, Congress recognized that technological measures can be deployed ''not only to prevent piracy and other economically harmful unauthorized uses of copyrighted material, but also to support new ways of disseminating copyrighted materials to users,'' as well as to make ''the process of obtaining permissions easier.'' [10] Violations of

[1] *See* WIPO Copyright Treaty art. 11, Dec. 20, 1996, 36 I.L.M. 65 (1997); WIPO Performances and Phonograms Treaty art. 18, Dec. 20, 1996, 36 I.L.M. 76 (1997).

[2] *See* H.R. Rep. No. 105–551, pt. 2, at 23 (1998).

[3] *See id.* at 26.

[4] *See* 17 U.S.C. 512.

[5] The DMCA also established protections for the integrity of copyright management information. *See id.* 1202.

[6] *See Chapter 12 of Title 17: Hearing Before the Subcomm. on Courts, Intellectual Prop., and the Internet of the H. Comm. on the Judiciary,* 113th Cong. (2014) (''*Chapter 12 of Title 17 Hearing''*).

[7] *See Register's Perspective on Copyright Review: Hearing Before the H. Comm. on the Judiciary,* 114th Cong. 6 (2015) (''*Register's Perspective on Copyright Review Hearing*'') (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office) (''For [certain] aspects of section 1201, we are recommending a comprehensive study, including the permanent exemptions for security, encryption, and privacy research.''); *id.* at 49 (statement of Rep. John Conyers, Jr., Ranking Member, H. Comm. on the Judiciary) (''[T]here are policy issues that warrant studies and analysis, including section 512, section 1201, mass digitization, and moral rights. I would like the Copyright Office to conduct and complete reports on those policy issues . . . .''). Separately, as discussed below, the Register has also proposed amending the triennial rulemaking process to ease the burden of renewing existing exemptions. *See id.* at 5 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office) (''We are therefore recommending a legislative change to provide a presumption in favor of renewal in cases where there is no opposition.'').

[8] 17 U.S.C. 1201(a); *see* Staff of H. Comm. on the Judiciary, 105th Cong., Section-by-Section Analysis of H.R. 2281 as Passed by the United States House of Representatives on August 4th, 1998, at 5–9 (Comm. Print 1998) (''House Manager's Report'').

[9] 17 U.S.C. 1201(b); *see* House Manager's Report at 12–13. While section 1201 does not prohibit the circumvention of copy controls, in some cases access control and copy control measures are merged, and thus circumvention of such measures is prohibited by section 1201(a)(1). U.S. Copyright Office, Section 1201 Rulemaking: Sixth Triennial Proceeding to Determine Exemptions to the Prohibition on Circumvention, Recommendation of the Register of Copyrights 4 n.13 (2015), *http://copyright.gov/1201/2015/registers-recommendation.pdf* (''2015 Recommendation''); U.S. Copyright Office, Recommendation of the Register of Copyrights in RM 2008–8, Rulemaking on Exemptions from Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies 44–47 (June 11, 2010), *http://www.copyright.gov/1201/2010/initialed-registers-recommendation-june-11-2010.pdf* (''2010 Recommendation'').

[10] House Manager's Report at 6.

section 1201 are subject to both civil and criminal penalties.[11]

Rulemaking Process

Section 1201 includes a triennial rulemaking process through which the Librarian of Congress, following a public proceeding conducted by the Register of Copyrights in consultation with the National Telecommunications and Information Administration of the Department of Commerce (''NTIA''), may grant limited exceptions to section 1201(a)(1)'s bar on the circumvention of access controls. By statute, the triennial rulemaking process addresses only the prohibition on the act of circumvention itself; section 1201 does not provide a mechanism to grant exceptions to the anti-trafficking provisions of sections 1201(a)(2) or 1201(b).[12] The section 1201 rulemaking is intended to serve as a ''fail-safe'' mechanism through which the Copyright Office can monitor developments in the copyright marketplace and recommend limited exemptions as needed to prevent the unnecessary restriction of fair and other noninfringing uses.[13] In keeping with that goal, the primary responsibility of the Office in the rulemaking proceeding is to assess whether the implementation of access controls impairs the ability of individuals to make noninfringing uses of copyrighted works within the meaning of section 1201(a)(1). To do this, the Register solicits proposals from the public, develops a comprehensive administrative record using information submitted by interested parties, and makes recommendations to the Librarian concerning whether exemptions are warranted based on that record. While the first triennial rulemaking completed in the year 2000 considered nearly 400 comments, resulting in the adoption of two exemptions,[14] the process has grown such that the recently concluded sixth triennial rulemaking considered nearly 40,000 comments, resulting in exemptions for twenty-two types of uses.[15]

Those seeking an exemption from the prohibition on circumvention must establish that ''persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition . . . in their ability to make noninfringing uses under this title of a particular class of copyrighted works.'' [16] To meet the statutory standard, a proponent must show: (1) That uses affected by the prohibition on circumvention are or are likely to be noninfringing; and (2) that as a result of a technological measure controlling access to a copyrighted work, the prohibition is causing, or in the next three years is likely to cause, an adverse impact on those uses.[17] With respect to the first requirement, proponents in prior rulemakings have pointed to several types of noninfringing uses that could be affected by the prohibition of section 1201(a)(1), including fair use (codified in section 107 of the Copyright Act), certain educational uses (section 110), and certain uses of computer programs (section 117).[18] The second requirement asks whether technological measures are ''diminishing the ability of individuals to use these works in ways that are otherwise lawful.'' [19] Congress stressed that proponents must establish that a ''substantial diminution'' of the availability of works for noninfringing uses is ''*actually occurring*'' in the marketplace—or, in ''extraordinary circumstances,'' may establish the ''likelihood of future adverse impact during that time period'' where such evidence is ''highly specific, strong and persuasive.'' [20]

In considering a proposed exemption, the Librarian—and hence the Register—must also weigh the statutory factors listed in section 1201(a)(1)(C), namely: ''(i) the availability for use of copyrighted works; (ii) the availability for use of works for nonprofit archival, preservation, and educational purposes; (iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research; (iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and (v) such other factors as the Librarian considers appropriate.'' [21]

In addition, section 1201(a)(1) specifies that exemptions adopted through the triennial rulemaking must be defined based on ''a particular *class* of works.'' [22] The legislative history explains that ''the 'particular class of copyrighted works' [is intended to] be a narrow and focused subset of the broad categories of works'' appearing in section 102 of Title 17, such as literary works, musical works, and sound recordings.[23] In the course of prior rulemakings, the Register has concluded that, based on the record presented, a ''class of works'' defined initially by reference to a section 102 category or subcategory of works may be additionally refined by reference to the medium in which the works are distributed, the particular access controls at issue, or the particular type of use and/or user to which the exemption will apply.[24]

Exemptions adopted via the rulemaking process are to remain in effect for three years. Congress made clear that the basis for an exemption must be established *de novo* in each triennial proceeding.[25] Accordingly, even if the same exemption is sought

[11] 17 U.S.C. 1203–1204.

[12] *Id.* 1201(a)(1)(C).

[13] H.R. Rep. No. 105–551, pt. 2, at 36.

[14] Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Final Rule, 65 FR 64556, 64557 (Oct. 27, 2000).

[15] 2015 Recommendation at 2–7 (2015).

[16] 17 U.S.C. 1201(a)(1)(C); *see* 2015 Recommendation at 13–14; 2010 Recommendation at 10. Under the APA, ''[e]xcept as otherwise provided by statute, the proponent of a rule or order has the burden of proof.'' 5 U.S.C. 556(d). The Breaking Down Barriers to Innovation Act of 2015, introduced in both the House and the Senate, would shift the burden of proof away from proponents of exemptions and provide discretion to the Librarian to conduct a rulemaking proceeding outside the triennial process. H.R. 1883, 114th Cong. sec. 3(a)(1)(E) (2015); S. 990, 114th Cong. sec. 3(a)(1)(E) (2015).

[17] 17 U.S.C. 1201(a)(1)(B).

[18] *See, e.g.,* Transcript, U.S. Copyright Office, Hearing on Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies 10:17–11:9 (May 2, 2000) (statement of Peter Jaszi, Digital Future Coalition) (discussing adverse effects of section 1201(a)(1) on noninfringing uses under sections 107 and 110); Internet Archive, Creative Commons, and Berkman Center for Internet & Society, Initial Comments Submitted in Response to U.S. Copyright Office's Oct. 15, 2002 Notice of Inquiry at 7–9 (2002) (seeking an exemption to allow software archiving as allowed under sections 117 and 107); National Association of Independent Schools, Initial Comments Submitted in Response to U.S. Copyright Office's Nov. 24, 1999 Notice of Inquiry (2000) (discussing fair use for educational purposes).

[19] H.R. Rep. No. 105–551, pt. 2, at 37.

[20] House Manager's Report at 6.

[21] 17 U.S.C. 1201(a)(1)(C). In the latest triennial rulemaking, due to the increasing prevalence of technological measures employed in connection with embedded computer software, many participants urged the Register and Librarian to consider non-copyright issues relating to health, safety, and environmental concerns under the rubric of ''other factors'' appropriate for consideration. *See* 2015 Recommendation at 2–3. The Breaking Down Barriers to Innovation Act of 2015 would add two additional factors to the list to be considered by the Librarian when deciding whether to grant an exemption: (1) Whether the prohibition on circumvention impacts accessibility for persons with disabilities, and (2) whether the prohibition impacts the furtherance of security research. H.R. 1883 sec. 3(a)(1)(B)(v); S. 990 sec. 3(a)(1)(B)(v).

[22] *See* 17 U.S.C. 1201(a)(1)(B) (emphasis added).

[23] H.R. Rep. No. 105–551, pt. 2, at 38.

[24] U.S. Copyright Office, Recommendation of the Register of Copyrights in RM 2005–11, Rulemaking on Exemptions from Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies 9–10 (Nov. 17, 2006), *http://www.copyright.gov/1201/docs/1201_recommendation.pdf.*

[25] *See* H.R. Rep. No. 105–551, pt. 2, at 37 (explaining that for every rulemaking, ''the assessment of adverse impacts on particular categories of works is to be determined de novo'').

again, it cannot be granted unless its proponents establish a new record that satisfies the statutory criteria.

Permanent Exemptions

In addition to the temporary exemptions adopted pursuant to the triennial rulemaking process, section 1201 provides eight permanent exemptions to the prohibition on circumvention, namely for certain activities of nonprofit libraries, archives, and educational institutions (section 1201(d)) and law enforcement (section 1201(e)); for reverse engineering (section 1201(f)); encryption research (section 1201(g)); the protection of personally identifying information (section 1201(i)); security testing (section 1201(j)); the prevention of access by minors to the internet (section 1201(h)); and relating to certain analog devices such as VHS and Beta format cassettes (section 1201(k)). Separately, section 112 includes a limited permanent exception to section 1201 for purposes of making ephemeral recordings.[26] As discussed below, the applicability and usefulness of the existing permanent exemptions has been questioned by some.[27]

Unlocking Consumer Choice and Wireless Competition Act

In 2014, Congress addressed certain issues relating to section 1201 by passing the Unlocking Consumer Choice and Wireless Competition Act (''Unlocking Act''), which primarily concerned the circumvention of technological measures that control access to computer programs that enable wireless telephone handsets to connect to wireless communication networks (''cellphone unlocking'').[28] The Unlocking Act reinstated the cellphone unlocking exemption adopted by the Librarian in 2010,[29] replacing the narrower version adopted in 2012,[30] and directed the Librarian to consider in the 2015 rulemaking whether to ''extend'' the exemption ''to include any other category of wireless devices in addition to wireless telephone handsets.'' [31] (On the Register's recommendation, the Librarian granted additional exemptions for tablets and other types of wireless devices in the 2015 proceeding.[32])

The Unlocking Act also permanently established that circumvention under any exemption to permit a wireless telephone handset or other wireless device to connect to a different telecommunications network may be initiated by the owner of the handset or device, by another person at the direction of the owner, or by a provider of commercial mobile radio or data service, so long as the purpose is to enable the owner or a family member to connect to a wireless network in an authorized manner.[33] The legislation served to clarify that the owner of a device or the owner's family member can obtain assistance with the circumvention from another party notwithstanding the anti-trafficking provisions of section 1201.[34]

B. Areas of Concern

Rulemaking Process

As the number of participants in the triennial rulemaking has expanded with each successive cycle, the Office has done what it can within the existing statutory framework to streamline the proceedings. For the recent sixth triennial rulemaking proceeding, the Register (in consultation with NTIA and past proceeding participants) adjusted the administrative procedures to make the process more accessible and understandable; facilitate participation, coordination, and the development of the factual record; and reduce administrative burdens on both the participants and the Copyright Office.[35] The Office solicited initial petitions setting forth only the essential elements of proposed exemptions and then issued a Notice of Proposed Rulemaking that reviewed and grouped the proposals and provided detailed guidance on the submission of written comments.[36] The Office also refined the comment phase to encourage a more organized and complete administrative record, including by instituting three distinct rounds of comments to allow participants to better respond to issues raised by other commenters.[37] The Office instituted procedures to encourage advance submission of multimedia evidence where appropriate.[38]

Even with these improvements, however, the rulemaking procedure, as enacted by Congress, is resource-intensive for both participants and the Office. An area of particular concern is the requirement that previously granted exemptions be reviewed anew. During the most recent rulemaking, a number of petitions essentially sought renewal of existing exemptions—for example, unlocking of cellphones and jailbreaking of smartphones. Some of these petitions—including a petition to permit circumvention so that literary works distributed electronically could continue to be accessed by persons who are blind, visually impaired, or print disabled—were unopposed.[39] In testimony, the Register has recommended that Congress amend the rulemaking process to create a presumption in favor of renewal when there is no meaningful opposition to the continuation of an exemption.[40]

[26] 17 U.S.C. 112(a)(2).

[27] *See Register's Perspective on Copyright Review Hearing* at 29 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office) (''The permanent exemptions in Section 1201 relating to reverse engineering, encryption research, and security testing are an ongoing issue, with some stakeholders suggesting that they are too narrow in scope and others of the view that they strike an appropriate balance. For its part, the Office has previously highlighted the limited nature of the existing security testing exemptions and supported congressional review of the problem.'') (citations omitted).

[28] Unlocking Consumer Choice and Wireless Competition Act, Public Law 113–144, 128 Stat. 1751 (2014). Subsequently, the Librarian adopted regulatory amendments to reflect the new legislation. *See* Exemption to Prohibition on Circumvention of Copyright Protection Systems for Wireless Telephone Handsets, Final Rule, 79 FR 50552 (Aug. 25, 2014).

[29] *See* Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Final Rule, 75 FR 43825, 43828–32 (July 27, 2010).

[30] *See* Unlocking Consumer Choice and Wireless Competition Act sec. 2(a), 128 Stat. at 1751.

[31] *Id.* 2(b), 128 Stat. at 1751.

[32] *See* Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Final Rule, 80 FR 65944, 65952, 65962–63.

[33] Unlocking Consumer Choice and Wireless Competition Act sec. 2(a), (c), 128 Stat. at 1751–52; *see also* 37 CFR 201.40(b)(3) (2012).

[34] Other bills have recently been introduced that would alter the operation of section 1201. Recent examples include the Unlocking Technology Act of 2015, H.R. 1587, 114th Cong. (2015); and the Breaking Down Barriers to Innovation Act of 2015, H.R. 1883, S. 990, 114th Cong. (2015).

[35] *See generally* Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Notice of Inquiry, 79 FR 55687 (Sept. 17, 2014) (''Sixth Triennial Rulemaking NOI''); Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Notice of Proposed Rulemaking, 79 FR 73856 (Dec. 12, 2014) (''Sixth Triennial Rulemaking NPRM''); *cf.* Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Notice of Inquiry, 76 FR 60398 (Sept. 29, 2011).

[36] Sixth Triennial Rulemaking NPRM, 79 FR 73856, 73858–71.

[37] *See* Sixth Triennial Rulemaking NPRM, 79 FR 73856, 73857–58; *see also* Sixth Triennial Rulemaking NOI, 79 FR 55687, 55693.

[38] *See* Sixth Triennial Rulemaking NPRM, 79 FR 73856, 73858.

[39] *See* 2015 Recommendation at 127–37.

[40] In her testimony, the Register noted this issue is ripe for legislative process. *See Register's Perspective on Copyright Review Hearing* at 27 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office); 2015 Recommendation at 4. The Breaking Down Barriers to Innovation Act of 2015 would require the renewal of previously-granted exemptions unless ''changed circumstances'' justify revoking the exemption. H.R. 1883 sec. 3(a)(1)(F)(iii); S. 990 sec. 3(a)(1)(F)(iii).

Consumer Issues

Since the enactment of section 1201, the use of technological measures has been useful in expanding consumer choice and the avenues for dissemination of creative works, for example, movies and video games.[41] At the same time, as the Copyright Office has stated, it is also apparent that the prohibition on circumvention impacts a wide range of consumer activities that have little to do with the consumption of creative content or the core concerns of copyright.[42] Considering these impacts, some stakeholders have expressed concern over the effect of section 1201 on competition and innovation in the marketplace. In their view, technological measures are often deployed to ''lock in'' particular business models by inhibiting the development of interoperable products, such as printer cartridges, or to prevent individuals from engaging in otherwise legitimate pursuits, such as the repair of automobiles and farm equipment—despite the fact that these sorts of activities seem far removed from piracy of copyrighted works.[43]

These concerns were highlighted throughout the recently completed sixth triennial proceeding. In the 2015 rulemaking, some of the proposed exemptions concerned the ability to access and make noninfringing uses of expressive copyrighted works, such as motion pictures, video games, and e-books, which Congress undoubtedly had in mind when it created the triennial review process. But others concerned the ability to circumvent access controls on copyrighted computer code in consumer devices. Proponents of these latter classes sought to access the computer code not for its creative content, but rather to enable greater functionality and interoperability of devices ranging from cellphones, tablets, and smart TVs to 3–D printers, automobiles, tractors, and pacemakers.[44] As the Register has testified, the effect of section 1201 on a wide range of consumer goods that today contain copyrighted software merits review.[45]

Third-Party Assistance

A related issue is whether section 1201 should be clarified to ensure that intended beneficiaries of exemptions are able to engage in the permitted circumvention activities.[46] For example, a vehicle owner may require assistance from a repair shop technician to take advantage of an exemption that allows circumvention of access controls on automobile software to make a repair.[47] The anti-trafficking provisions of section 1201, however, prevent the adoption of exemptions that permit third parties to offer circumvention services.[48] While the Unlocking Act clarified section 1201 to permit specified third parties to circumvent technological measures on behalf of device owners in the case of cellphones and other wireless devices, the statute does not extend to other types of uses or allow the Librarian to grant an exemption that provides for third-party assistance in other circumstances.

Permanent Exemptions

Another concern is that section 1201's permanent exemptions have failed to keep up with changing technologies. In testimony, the Register has identified the limited nature of the existing security testing exemptions and supported congressional review of this problem.[49] Based on the record in the most recent section 1201 rulemaking, the Register concluded that commenting parties had made a ''compelling case that the current permanent exemptions in section 1201, specifically section 1201(f) for reverse engineering, section 1201(g) for encryption research, and section 1201(j) for security testing, are inadequate to accommodate their intended purposes.'' [50] For example, when considering a requested exemption for good-faith security research, the Register noted that ''the existing permanent exemptions . . . do not cover the full range of proposed security research activities, many of which . . . are likely [to] be noninfringing.'' [51] Separately, others have suggested that section 1201(d)'s exemption for activities of nonprofit entities is inadequate to meet the legitimate archiving and preservation needs of libraries and archives.[52]

International Issues

As noted above, section 1201 was adopted in 1998 to implement the United States' obligations under two international treaties.[53] Those treaties—the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty—require signatory countries to provide ''adequate legal protection and effective legal remedies against the circumvention of effective technological measures'' that are used by authors, performers, and phonogram producers in connection with the exercise of their rights, and that restrict acts, in respect of their works, performances, or phonograms, which are not authorized by rightsholders or permitted by law.[54] Since then, the United States has included anticircumvention provisions in a number of bilateral and regional agreements entered into with other nations.[55] Therefore, any proposals to

[41] *See, e.g., Chapter 12 of Title 17 Hearing* at 28–29 (statement of Christian Genetski, Senior Vice-President and General Counsel, Entertainment Software Association).

[42] 2015 Recommendation at 2.

[43] *See, e.g., Chapter 12 of Title 17 Hearing* at 43–44 (statement of Corynne McSherry, Intellectual Property Director, Electronic Frontier Foundation); *Unintended Consequences: Fifteen Years under the DMCA,* Electronic Frontier Foundation, *https://www.eff.org/pages/*unintended-consequences-fifteen-years-under-dmca (last updated March 2013). The proposed Unlocking Technology Act of 2015 would amend both the anticircumvention and anti-trafficking provisions of section 1201(a) to prohibit such conduct only when done with the intent to facilitate the infringement of a copyrighted work. H.R. 1587 sec. 2(a).

[44] 2015 Recommendation at 2; *Register's Perspective on Copyright Review Hearing* at 29–30 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office).

[45] *Register's Perspective on Copyright Review Hearing* at 29–30 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office).

[46] *Id.* at 29 (noting that intended beneficiaries of exemptions lack the practical ability to engage in the permitted circumvention themselves and suggesting the need for further study).

[47] *See* 2015 Recommendation at 4–5.

[48] *Id.*

[49] *Register's Perspective on Copyright Review Hearing* at 29 (statement of Maria A. Pallante, Register of Copyrights and Director, U.S. Copyright Office).

[50] 2015 Recommendation at 307. Legislation recently introduced in Congress would increase exemptions for reverse engineering, encryption research, the protection of personally identifying information, and security testing. *See* Breaking Down Barriers to Innovation Act of 2015, H.R. 1883 sec. 3(b)–(e); Breaking Down Barriers to Innovation Act of 2015, S. 990 sec. 3(b)–(e).

[51] 2015 Recommendation at 299. The Breaking Down Barriers to Innovation Act of 2015 would increase exemptions for reverse engineering, encryption research, the protection of personally identifying information, and security testing. H.R. 1883 sec. 3(b)–(e); S. 990 sec. 3(b)–(e).

[52] *See, e.g.,* 2015 Recommendation at 327 (discussing proposal for exemption for video game preservationists); Pan C. Lee et al., Samuelson Law, Technology & Public Policy Clinic, University of California, Berkeley School of Law, on behalf of Public Knowledge, Updating 17 U.S.C. 1201 for Innovators, Creators, and Consumers in the Digital Age 52 (2010), *https://www.publicknowledge.org/assets/uploads//2_Circumvention.pdf.*

[53] *See* H.R. Rep. No. 105–551, pt. 2, at 20.

[54] WIPO Copyright Treaty art. 11, Dec. 20, 1996, 36 I.L.M. 65 (1997); WIPO Performances and Phonograms Treaty art. 18, Dec. 20, 1996, 36 I.L.M. 76 (1997).

[55] *See* United States-Australia Free Trade Agreement, U.S.-Austl., art. 17.4.7, May 18, 2004, 43 I.L.M. 1248, *http://www.ustr.gov/trade-agreements/free-trade-agreements/australian-fta/final-text;* United States-Bahrain Free Trade Agreement, U.S.-Bahr., art. 14.4.7, Sept. 14, 2004, 44 I.L.M. 544, *http://www.ustr.gov/trade-agreements/free-trade-agreements/bahrain-fta/final-text;* United States-Chile Free Trade Agreement, U.S.-Chile, art. 17.7.5, June 6, 2003, 42 I.L.M. 1026, *http://www.ustr.gov/trade-agreements/free-trade-agreements/chile-fta/final-text;* United States-Colombia Trade Promotion Agreement, U.S.-Colom., art. 16.7.4, Nov. 22, 2006, *http://www.ustr.gov/trade-agreements/free-trade-*

modify or amend Section 1201 would require consideration of the United States' international obligations.

C. Relationship to Software Study

The scope of this study is limited to the operation and effectiveness of section 1201. It is not intended to focus on broader issues concerning the role of copyright with respect to software embedded in everyday products. Those issues are the subject of a separate and concurrent Copyright Office study.[56] Although, as noted, section 1201 certainly has implications for the use of such products, members of the public who wish to address the impact of other provisions of copyright law on embedded software are encouraged to submit comments in that separate process. More information about the Software-Enabled Consumer Products Study may be found at *http://www.copyright.gov/policy/software/*.

II. Subjects of Inquiry

The Office invites written comments on the specific subjects below. A party choosing to respond to this Notice of Inquiry need not address every subject, but the Office requests that responding parties clearly identify and separately address each subject for which a response is submitted.

General

1. Please provide any insights or observations regarding the role and effectiveness of the prohibition on circumvention of technological measures in section 1201(a).

2. How should section 1201 accommodate interests that are outside of core copyright concerns, for example, in cases where circumvention of access controls protecting computer programs implicates issues of product interoperability or public safety?

Rulemaking Process

3. Should section 1201 be adjusted to provide for presumptive renewal of previously granted exemptions—for example, when there is no meaningful opposition to renewal—or otherwise be modified to streamline the process of continuing an existing exemption? If so, how?

4. Please assess the current legal requirements that proponents of an exemption must satisfy to demonstrate entitlement to an exemption. Should they be altered? If so, how? In responding, please comment on the relationship to traditional principles of administrative law.

5. Please provide additional suggestions to improve the rulemaking process.

Anti-Trafficking Prohibitions

6. Please assess the role of the anti-trafficking provisions of sections 1201(a)(2) and 1201(b) in deterring copyright infringement, and address whether any amendments may be advisable.

7. Should section 1201 be amended to allow the adoption of exemptions to the prohibition on circumvention that can extend to exemptions to the anti-trafficking prohibitions, and if so, in what way? For example, should the Register be able to recommend, and the Librarian able to adopt, exemptions that permit third-party assistance when justified by the record?

Permanent Exemptions

8. Please assess whether the existing categories of permanent exemptions are necessary, relevant, and/or sufficient. How do the permanent exemptions affect the current state of reverse engineering, encryption research, and security testing? How do the permanent exemptions affect the activities of libraries, archives, and educational institutions? How might the existing permanent exemptions be amended to better facilitate such activities?

9. Please assess whether there are other permanent exemption categories that Congress should consider establishing—for example, to facilitate access to literary works by print-disabled persons?

Other

10. To what extent and how might any proposed amendments to section 1201 implicate the United States' trade and treaty obligations?

11. Please identify any pertinent issues not referenced above that the Copyright Office should consider in conducting its study.

Dated: December 22, 2015.

Maria A. Pallante,

Register of Copyrights, U.S. Copyright Office.

[FR Doc. 2015–32678 Filed 12–28–15; 8:45 am]

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agreements/colombia-fta/final-text; Dominican Republic-Central America-United States Free Trade Agreement, U.S.-Costa Rica-Dom. Rep.-El Sal.-Guat.-Hond.-Nicar., art 15.5.7, Aug. 5, 2004, 43 I.L.M. 514, *https://ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta/final-text;* United States-Jordan Free Trade Agreement, U.S.-Jordan, art. 4(13), Oct. 24, 2000, 41 I.L.M. 63, *http://www.ustr.gov/trade-agreements/free-trade-agreements/jordan-fta/final-text;* United States-Korea Free Trade Agreement, U.S.-S. Kor. art. 18.4.7, June 30, 2007, 46 I.L.M. 642, *https://ustr.gov/trade-agreements/free-trade-agreements/korus-fta/final-text;* United States-Morocco Free Trade Agreement, U.S.-Morocco, art. 15.5.8, June 15, 2004, 44 I.L.M. 544, *http://www.ustr.gov/trade-agreements/free-trade-agreements/morocco-fta/final-text;* United States-Oman Free Trade Agreement, U.S.-Oman, art. 15.4.7, Jan. 19, 2006, *http://www.ustr.gov/trade-agreements/free-trade-agreements/oman-fta/final-text;* United States-Panama Trade Promotion Agreement, U.S.-Pan., art 15.5.7, June 28, 2007, *http://www.ustr.gov/trade-agreements/free-trade-agreements/panama-tpa/final-text;* United States-Peru Trade Promotion Agreement, U.S.-Peru, art. 16.7.4, Apr. 12, 2006, *http://www.ustr.gov/trade-agreements/free-trade-agreements/peru-tpa/final-text;* United States-Singapore Free Trade Agreement, U.S.-Sing., art. 16.4.7, May 6, 2003, 42 I.L.M. 1026, *https://ustr.gov/trade-agreements/free-trade-agreements/singapore-fta/final-text*.

[56] *See* Software-Enabled Consumer Products Study: Notice and Request for Public Comment, 80 FR 77668 (Dec. 15, 2015).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–122)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to existing Privacy Act systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice its proposal to modify a previously noticed system of records and rescind another previously noticed system. This notice publishes details of the proposed updates as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA–PAOfficer@nasa.gov*.

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA–PAOfficer@nasa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its biennial System of Records review, NASA is making the following minor modifications of its system of records Exchange Records on Individuals/NASA 10XROI: Inclusion of a statement of purpose for the system of records; updates of system and subsystem managers; clarification of routine uses; and correction of previous typographical errors. Further, NASA

proposes to rescind its separate system of records Johnson Space Center Exchange Activities Records/JSC 72XOPR (October 17, 2011, 76 FR 64115) because all information contained in these records is adequately described by NASA 10XROI, revised herein.

Renee P. Wynn,

NASA Chief Information Officer.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1–9, 11, 12, 18, and 19, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on present and former employees of, and applicants for employment with, NASA Exchanges, recreational associations, and employees' clubs at NASA Centers; and civil servants and contractors, and their dependents, who are members of or participants in NASA Exchange programs, activities, clubs and/or recreational associations. Finally, the system maintains information on children, and their parents or guardians, who participate in Exchange-operated child care and educational development programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and former employees of NASA Exchange entities including child care and educational development center programs, records in the system relate to personnel actions and determinations during their application to and employment by the NASA Exchange. Records contain information about individuals and their employment such as name, birth date, Social Security Number, home contact information, marital status, references, veteran preference, tenure, disabilities, position description, unemployment claims; salary, leave and payroll deduction information; and job performance and personnel actions.

For civil servants, contractors, and others who apply for and participate in Exchange-sponsored programs, activities, clubs and/or recreational associations, records include employee or contractor identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

For civil servant or contractor dependents who apply for Exchange scholarships, records in the system include information such as parents' home and work address and telephone numbers, income, and financial assistance they will provide the student; the student's high school and colleges applied to, high school graduation date, class ranking, and transcripts; and student community activities and personal goals.

For current or former participants in Exchange-operated child care and development centers, records in the system include identification and other information facilitating enrollment in the entity and proper care of the children. Specific records include information such as home and work addresses, email addresses, and telephone numbers; financial payment information; emergency contact names, addresses and telephone numbers; children's names and pictures as well as their health care and insurance providers; medical histories; physical, emotional, or other special care requirements; and child care and educational development center correspondence with parents/guardians such as authorizations to release the child to another person or field trip permission slips.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

51 U.S.C. 20113(a) *and (c)(5);* 44 U.S.C. 3101; and 40 U.S.C. 590.

PURPOSE(S):

Records in this system are used to facilitate individuals' participation in and use of NASA Exchange programs and fitness and childcare facilities; for application evaluation and award of Exchange higher education scholarships; and to execute personnel actions and determinations for applicants to, and employees of, the Exchange entities at NASA Centers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) To provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (2) to provide employment or credit information to third parties as requested by a current or former Exchange employee to whom the records pertain; (3) to provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) to respond to State employment compensation requests for wage and separation data on former employees; (5) to report previous job injuries to worker's compensation organizations; (6) for person to notify in an emergency; (7) to report unemployment records to appropriate State and local authorities; and (8) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media and/or as hard-copy documents.

RETRIEVABILITY:

All records are retrieved from the system by the individual's name. For children or parents/guardians associated with child care facilities, records may be retrieved by either the child's or parent's/guardian's name.

SAFEGUARDS:

Electronic records are maintained on secure NASA servers and protected in accordance with all Federal standards and those established in NASA regulations at 14 CFR 1212.605. Additionally, server and data management environments employ infrastructure encryption technologies both in data transmission and at rest on servers. Approved security plans are in place for information systems containing the records in accordance with the Federal Information Security Management Act of 2002 (FISMA) and OMB Circular A–130, Management of Federal Information Resources. Only authorized personnel requiring information in the official discharge of their duties are authorized access to records through approved access or authentication methods. Access to electronic records is achieved only from workstations within the NASA Intranet or via a secure Virtual Private Network (VPN) connection that requires two-factor hardware token authentication or via employee PIV badge authentication from NASA-issued computers. Non-electronic records are secured in locked rooms or files.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed in accordance with NASA Records Retention Schedules, Schedule 9 Item 6/D.

SYSTEM MANAGERS AND ADDRESSES:

Contractor Industrial Relations Officer, Location 1.

Subsystem Managers: Exchange Store Operations Manager, Location 1; Exchange Council Chair, Location 2, Exchange Operations Manager, Locations 3–5; Chairperson, Exchange Council, Location 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Locations 9, 12, and 19; President, NASA Exchange, Location 11; and NSSC Exchange Counsel, Location 18. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Information on oneself or one's child may be obtained by submitting a written request to the appropriate system or subsystem manager listed above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual on whom the record is maintained and the individual's supervisor, or from parents/guardians of children enrolled in the child care and educational development centers.

EXEMPTIONS: NONE.

[FR Doc. 2015–32719 Filed 12–28–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 64024, and one comment was received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW. Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* 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 703–292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton at (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION: *Comment:* On October 23, 2015, we published in the **Federal Register** (80 FR 64024) a 60-day notice of our intent to request renewal of this information collection authority from OMB. In that notice, we solicited public comments for 60 days ending December 21, 2015. One comment was received from the public notice from the Federation of American Societies for Experimental Biology (FASEB). In their comment, FASEB provided support for the Biological Sciences Proposal Classification Forms, noting that they provide ''additional means for maintaining a stringent merit review process and data-driven oversight of NSF's research portfolio.''

Response: NSF thanks FASEB for its support of the Biological Classification forms and is proceeding with the clearance request.

Title of Collection: ''Biological Sciences Proposal Classification Form''

OMB Approval Number: 3145–0203.

Type of Request: Intent to seek approval to renew an information collection for three years.

Proposed Project: Five organizational units within the Directorate of Biological Sciences of the National Science Foundation will use the Biological Sciences Proposal Classification Form. They are the Division of Biological Infrastructure (DBI), the Division of Environmental Biology (DEB), the Division of Molecular and Cellular Biosciences (MCB), the Division of Integrative Organismal Systems IOS) and Emerging Frontiers (EF). All scientists submitting proposals to these units will be asked to complete an electronic version of the Proposal Classification Form. The form consists of brief questions about the substance of the research and the investigator's previous federal support. Each division will have a slightly different version of the form. In this way, submitters will only confront response choices that are relevant to their discipline.

Use of the Information: The information gathered with the Biological Sciences Proposal Classification Form serves two main purposes. The first is facilitation of the proposal review process. Since peer review is a key component of NSF's grant-making process, it is imperative that proposals are reviewed by scientists with appropriate expertise. The information collected with the Proposal Classification Form helps ensure that the proposals are evaluated by specialists who are well versed in appropriate subject matter. This helps maintain a fair and equitable review process.

The second use of the information is program evaluation. The Directorate is committed to investing in a range of substantive areas. With data from this collection, the Directorate can calculate submission rates and funding rates in specific areas of research. Similarly, the information can be used to identify emerging areas of research, evaluate changing infrastructure needs in the research community, and track the amount of international research. As the National Science Foundation is

committed to funding cutting-edge science, these factors all have implications for program management.

The Directorate of Biological Sciences has a continuing commitment to monitor its information collection in order to preserve its applicability and necessity. Through periodic updates and revisions, the Directorate ensures that only useful, non-redundant information is collected. These efforts will reduce excessive reporting burdens

Burden on the Public: The Directorate estimates that an average of five minutes is expended for each proposal submitted. An estimated 6,500 responses are expected during the course of one year for a total of 542 public burden hours annually.

Expected Respondents: Individuals.

Estimated Number of Responses: 6,800.

Estimated Number of Respondents: 6,800.

Estimated Total Annual Burden on Respondents: 567 hours.

Frequency of Responses: On occasion.

Dated: December 23, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–32722 Filed 12–28–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meeting Notice

DATE: December 28, 2015, January 4, 11, 18, 25, February 1, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of December 28, 2015

There are no meetings scheduled for the week of December 28, 2015.

Week of January 4, 2016—Tentative

There are no meetings scheduled for the week of January 4, 2016.

Week of January 11, 2016—Tentative

There are no meetings scheduled for the week of January 11, 2016.

Week of January 18, 2016—Tentative

There are no meetings scheduled for the week of January 18, 2016.

Week of January 25, 2016—Tentative

There are no meetings scheduled for the week of January 25, 2016.

Week of February 1, 2016—Tentative

There are no meetings scheduled for the week of February 1, 2016.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: December 23, 2015.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–32807 Filed 12–24–15; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0287]

Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities

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–5043, ''Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities.'' The proposed revision to the regulatory guide (RG) updates training and qualification guidance that incorporates lessons learned since the original publication of the guide.

DATES: Submit comments by February 29, 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–2015–0287. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *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: James Vaughn, Office of Nuclear Security and Incident Response, telephone: 301–287–3586, email: *James.Vaughn@nrc.gov* or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301–415–1699, email: *mekonen.bayssie@nrc.gov;* 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–2015–0287 when contacting the NRC about the availability of information regarding this document. You may obtain publically-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–2015–0287. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DG is electronically available in ADAMS under Accession No. ML14297A272
- *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–2015–0287 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 enters 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, ''Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities,'' is a proposed revision guide temporarily identified by its task number, DG–5043. DG–5043 is proposed revision 1 of RG 5.75, ''Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities.'' The guide proposes revised guidance for methodologies that licensees and applicants should use to select, train, equip, test, qualify, and re-qualify armed and unarmed security personnel, watchpersons, and members of the licensee staff that support the licensee's security organization, to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively.

III. Backfitting and Issue Finality

DG–5043 describes a method that the NRC staff considers acceptable for use by nuclear power plant licensees in meeting the requirements for training and qualification of security personnel as set forth in Section VI of Appendix B to title 10 of the *Code of Federal Regulations* Part 73 (10 CFR part 73), ''Physical Protection of Plants and Materials.'' Issuance of this DG, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (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 and combined licenses 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 part 52. Neither section 50.109 nor the issue finality provisions under 10 CFR part 52—with certain exceptions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are whenever an applicant references a part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule, a standard design approval) with specified issue finality provisions. However, the scope of issue finality provided extends only to the matters resolved in the license or regulatory approval. Early site permits, design certification rules, and standard design approvals typically do not address or resolve compliance with operational programs such as the security personnel requirements in 10 CFR part 73.

Therefore, no applicant referencing an early site permit, design certification rule, or standard design approval would be protected by relevant issue finality provisions with respect to the security matters addressed in this draft regulatory guide.

Dated at Rockville, Maryland, this 22nd day of December 2015.

For the Nuclear Regulatory Commission.

Kurt O. Cozens,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–32778 Filed 12–28–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286; NRC–2008–0672]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit Nos. 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental environmental impact statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft supplement to Supplement 38 to the Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants (GEIS), NUREG–1437, regarding the renewal of operating licenses DPR–26 and DPR–64, held by Entergy Nuclear Operations, Inc. (Entergy), for the operation of Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and IP3), for an additional 20 years of operation. Units IP2 and IP3 are located in Westchester County in the Village of Buchanan, New York, approximately 24 miles north of New York City.

DATES: Submit comments by March 4, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0672. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Wentzel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6459, email: *michael.wentzel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2008–0672 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0672.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's public document room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0672 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 will post all comment submissions at *http://www.regulations.gov* as well as enter 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 into ADAMS.

II. Background

The NRC is issuing for public comment a draft supplement to Supplement 38 to the GEIS, NUREG–1437 (ADAMS No. ML15351A422), regarding the renewal of operating licenses DPR–26 and DPR–64, held by Entergy for the operation of IP2 and IP3, for an additional 20 years of operation. Units IP2 and IP3 are located in Westchester County in the Village of Buchanan, New York, approximately 24 miles north of New York City. The NRC staff published final plant-specific Supplement 38 to NUREG–1437 (final supplemental environmental impact statement (FSEIS)), Volumes 1–3 (ADAMS No. ML103360205), in December 2010 (75 FR 77920). The FSEIS documented the NRC staff's findings relative to the environmental impacts of the license renewal of IP2 and IP3. In June 2013 (78 FR 39018), the NRC staff published a final supplement to 2010 FSEIS as NUREG–1437, Supplement 38, Volume 4 (ADAMS No. ML13170A028). The June 2013 supplement updated the NRC staff's final analysis to include corrections to impingement and entrainment data presented in the FSEIS; revised conclusions on thermal impacts based on newly available thermal plume studies; and provided an update of the status of the NRC's consultation, under section 7 of the Endangered Species Act of 1973, as amended, with the National Marine Fisheries Service regarding the shortnose sturgeon and Atlantic sturgeon.

On September 2, 2014 (79 FR 52059), the NRC notified the public of its intent to prepare a second supplement to the FSEIS to evaluate new information identified subsequent to the publication of the June 2013 supplement, including new aquatic impact data, refined cost estimates associated with the licensee's severe accident mitigation alternatives analysis, and other matters. This draft supplement, published as Volume 5 of the FSEIS, documents the NRC staff's evaluation of the new information.

Documents related to this notice are available on the NRC's Plant Application for License Renewal Web site at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/indian-point.html.* A copy of documents related to this notice also will be available to local residents near the site at the White Plains Public Library located at 100 Martine Avenue, White Plains, NY 10601; at the Hendrick Hudson Free Library located at 185 Kings Ferry Road, Montrose, NY 10548; and at the Field Library located at 4 Nelson Avenue, Peekskill, NY 10566.

Dated at Rockville, Maryland, this 21st day of December 2015.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–32777 Filed 12–28–15; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Locating and Paying Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of revised collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is modifying its collection of information on Locating and Paying Participants (OMB control number 1212–0055; expires December 31, 2015) and is requesting that the Office of Management and Budget approve the revised collection of information under the Paperwork

Reduction Act for three years. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted by January 28, 2016.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov,* or by fax to 202–395–6974. The collection of information is available at *www.reginfo.gov.* Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address, by visiting the Disclosure Division, or by calling 202–326–4040 during normal business hours. (TTY/ASCII users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The Disclosure Division will email, fax, or mail the requested information to you, as you request.

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns, Attorney, or Catherine B. Klion, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4400, ext. 3072 (Burns) or 3041 (Klion). (For TTY/ASCII users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400.)

SUPPLEMENTARY INFORMATION: PBGC is requesting that OMB approve modifications to an information collection needed to locate and pay participants and beneficiaries who may be entitled to pension benefits under a defined benefit plan that has terminated. The collection consists of information that participants and beneficiaries are asked to provide when applying for benefits. In addition, in some instances, as part of a search for participants and beneficiaries who may be entitled to benefits, PBGC requests individuals to provide identifying information that the individual would provide as part of an initial contact with PBGC. The information collection also includes My Pension Benefit Account (My PBA), an application on PBGC's Web site, *http://www.pbgc.gov,* through which plan participants and beneficiaries may conduct electronic transactions with PBGC, including applying for pension benefits, designating a beneficiary, changing contact information, and applying for electronic direct deposit. All requested information is needed to enable PBGC to determine benefit entitlements and to make appropriate payments, or to provide respondents with specific information about their pension plan so they may obtain rough estimates of their benefits.

PBGC will add one new form to the information collection, Form 717, Benefit Inquiry Questionnaire. PBGC will send this form to individuals who contact PBGC to inquire whether PBGC is holding any benefits to which they are entitled. The questionnaire will request information that PBGC needs to determine whether the individual is owed benefits and, if so, the benefit amount.

In addition, PBGC is making clarifying, simplifying, editorial, and other changes to the information collection.

The collection of information has been approved by OMB under control number 1212–0055 (expires December 31, 2015). PBGC is requesting that OMB extend its approval (with modifications) for three years from its approval date. 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.

PBGC estimates that the average annual burden associated with this collection of information will be 126,090 hours and $1,360 for the next three years. The burden estimate includes 124,410 hours and $1,330 for participants in plans covered by the PBGC insurance program. The remaining burden is attributable to participants expected to be covered by the expanded Missing Participants program under Pension Protection Act of 2006 amendments to ERISA, once that program is in effect.

Issued in Washington, DC, this 23 day of December 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–32783 Filed 12–28–15; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–48 and CP2016–63; Order No. 2917]

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 171 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:* January 4, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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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 171 to the competitive product list.[1]

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. MC2016–48 and CP2016–63 to consider the Request pertaining to the proposed Priority Mail Contract 171 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 January 4, 2016. The public portions of these filings can be

[1] Request of the United States Postal Service to Add Priority Mail Contract 171 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 22, 2015 (Request).

accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–48 and CP2016–63 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller 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 January 4, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–32711 Filed 12–28–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. R2016–4; Order No. 2918]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a Type 2 rate adjustment and the filing of a related negotiated service agreement with Canada Post. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 5, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Contents of Filing
III. Commission Action
IV. Ordering Paragraphs

I. Introduction

On December 17, 2015, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.,* announcing a Type 2 Rate Adjustment to improve default rates established under the Universal Postal Union (UPU) Acts.[1] The Notice concerns the Canada Post 2016 Agreement (Agreement),[2] the inbound portion of a bilateral agreement with Canada Post Corporation (''Canada Post'' or ''CPC'') that the Postal Service contends is functionally equivalent to the baseline agreement with Koninklijke TNT Post B.V and TNT Post Pakketservice Benelux B.V. (''TNT Post''), (''the TNT Agreement'').[3] The TNT Agreement is the baseline agreement that the Commission included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product on the market dominant product list of the Mail Classification Schedule. *Id.*

II. Contents of Filing

The Postal Service's filing consists of the Notice, two attachments, and redacted and unredacted versions of an Excel file with supporting financial workpapers. Notice at 2. Attachment 1 is an application for non-public treatment of materials filed under seal with the Commission. *Id.* Attachment 2 is a redacted copy of the Agreement. *Id.* On December 22, 2015, the Postal Service filed a signed version of the agreement.[4]

The Agreement is the successor agreement to one previously found to be functionally equivalent to the baseline agreement in the Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 (MC2010–35) product.[5] The Agreement provides that the effective date is February 1, 2016 for market dominant products. Notice, Attachment 2 at 8.

The Postal Service asserts that it is providing at least the 45 days advance notice required under 39 CFR 3010.41; and identifies the parties to the Agreement as the United States Postal Service and Canada Post, the designated postal operator for handling letter-post originating in Canada. Notice at 3, 6. The Postal Service further asserts that the Agreement is intended to remain in effect until December 31, 2017. *Id.* at 4.

The Postal Service states that the Agreement includes negotiated pricing and settlement for various inbound letter-post products, including registered mail, small packets with delivery confirmation, and International Business Reply Service (IBRS). *Id.*

Reporting requirements. 39 CFR 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection plan for the Agreement, the Postal Service proposes to report information on the Agreement through the Annual Compliance Report. *Id.* at 8. The Postal Service also invokes, with respect to service performance measurement reporting under 39 CFR 3055.3(a)(3), the standing exception in Order No. 996 for all agreements filed in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product grouping.[6]

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria under 39 U.S.C. 3622(c)(10) as codified in 39 CFR 3010.40. These are whether the agreement: (1) Improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. Notice at 8. The Postal Service asserts that it addresses the first two criteria in its Notice and that the third criterion is inapplicable, as there are no entities similarly situated to Canada Post in terms of its ability to tender broad-based small packet flows from Canada or serve as a designated operator for letter-post originating in Canada. *Id.* at 8–9.

Functional equivalence. The Postal Service addresses reasons why it considers the Agreement functionally equivalent to the baseline TNT Agreement and requests that the Agreement be added to the market dominant product list within the Inbound Market Dominant Multi-

[1] Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, December 17, 2015, at 1 (Notice).

[2] The Agreement replaces the Canada Post 2014 Agreement reviewed by the Commission in PRC Docket No. R2014–3. Docket No. R2014–3, Order No. 1940, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Canada Post Corporation), December 31, 2013.

[3] *See* Docket Nos. MC2010–35, R2010–5, and R2010–6, Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, September 30, 2010.

[4] *See* Docket Nos. CP2016–57 and R2016–4, Notice of United States Postal Service of Filing Executed Agreement, December 22, 2015.

[5] *See* Order No. 549, *see also* Order No. 1940.

[6] *Id., citing* Docket No. R2012–2, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011, at 7 (Order No. 996).

Service Agreements with Foreign Postal Operators 1 product. *Id.* at 9–10, 13. The Postal Service identifies differences between the Agreement and the TNT Agreement, but asserts that these differences do not detract from the conclusion that the Agreement is functionally equivalent to the TNT Agreement. *Id.* at 10–13.

III. Commission Action

The Commission, in conformance with rule 3010.44, establishes Docket No. R2016–4 to consider issues raised in the Notice. The Commission invites comments from interested persons on whether the Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3010. Comments are due no later than January 5, 2016. The public portions of this filing can be accessed via the Commission's Web site (*http://www.prc.gov*). Information on how to obtain access to non-public material appears in 39 CFR part 3007.

The Commission appoints Nina Yeh to represent the interests of the general public (Public Representative) in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2016–4 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Nina Yeh is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons in this proceeding are due no later than January 5, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–32712 Filed 12–28–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–47 and CP2016–62; Order No. 2916]

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 170 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:* January 4, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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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 170 to the competitive product list.[1]

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. MC2016–47 and CP2016–62 to consider the Request pertaining to the proposed Priority Mail Contract 170 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 January 4, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–47 and CP2016–62 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd 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 January 4, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–32710 Filed 12–28–15; 8:45 am]

BILLING CODE 7710–FW–P

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[1] Request of the United States Postal Service to Add Priority Mail Contract 170 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 22, 2015 (Request).

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Employer Reporting; 3220–0005.

Under Section 9 of the Railroad Retirement Act (RRA), and Section 6 of the Railroad Unemployment Insurance Act (RUIA), railroad employers are required to submit reports of employee service and compensation to the RRB as needed for administering the RRA and RUIA. To pay benefits due on a

deceased employee's earnings records or determine entitlement to, and amount of annuity applied for, it is necessary at times to obtain from railroad employers current (lag) service and compensation not yet reported to the RRB through the annual reporting process. The reporting requirements are specified in 20 CFR 209.6 and 209.7. The RRB currently utilizes Form G–88A.1, Notice of Retirement and Verification of Date Last Worked, Form G–88A.2, Notice of Retirement and Request for Service Needed for Eligibility, and Form AA–12, Notice of Death and Compensation, to obtain the required lag service and related information from railroad employers. Form G–88A.1 is sent by the RRB via a computer-generated listing or transmitted electronically via the RRB's Employer Reporting System (ERS) to employers. ERS consists of a series of screens with completion instructions and collects essentially the same information as the approved manual version. Form G–88A.1 is used for the specific purpose of verifying information previously provided to the RRB regarding the date last worked by an employee. If the information is correct, the employer need not reply. If the information is incorrect, the employer is asked to provide corrected information. Form G–88A.2 is used by the RRB to secure lag service and compensation information when it is needed to determine benefit eligibility. Form AA–12 obtains a report of lag service and compensation from the last railroad employer of a deceased employee. This report covers the lag period between the date of the latest record of employment processed by the RRB and the date an employee last worked, the date of death or the date the employee may have been entitled to benefits under the Social Security Act. The information is used by the RRB to determine benefits due on the deceased employee's earnings record. The RRB proposes no changes to Forms G–88A.1, G–88A.2 or AA–12.

In addition, 20 CFR 209.12(b) requires all railroad employers to furnish the RRB with the home addresses of all employees hired within the last year (new-hires). Form BA–6a, *Form BA–6 Address Report,* is used by the RRB to obtain home address information of employees from railroad employers who do not have the home address information computerized and who submit the information in a paper format. The form also serves as an instruction sheet to railroad employers who submit the information electronically by magnetic tape, cartridge, or CD ROM. The RRB proposes no changes to Form BA–6a.

Completion of the forms is mandatory. Multiple responses may be filed by respondent.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–12	60	5	5
G–88A.1	100	5	8
G–88A.1 Internet	260	4	17
G–88A.1 Internet (Class 1 railroads)	144	16	38
G–88A.2	100	5	8
G–88A.2 (Internet)	1,200	2.5	50
BA–6a Electronic Equivalent*	14	15	4
BA–6a (E-mail)	30	15	8
BA–6a (File Transfer Protocol)	10	15	3
BA–6a Internet (RR initiated)	250	17	71
BA–6a Internet (RRB initiated)	250	12	50
BA–6a Paper (RR initiated)	80	32	43
BA–6a Paper (RRB initiated)	250	32	133
Total	2,748	....	438

2. Title and purpose of information collection: Employee Representative's Status and Compensation Reports; OMB 3220–0014.

Under Section 1(b)(1) of the Railroad Retirement Act (RRA), the term ''employee'' includes an individual who is an employee representative. As defined in Section 1(c) of the RRA, an employee representative is an officer or official representative of a railway labor organization other than a labor organization included in the term ''employer,'' as defined in the RRA, who before or after August 29, 1935, was in the service of an employer under the RRA and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or, any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his or her office. The requirements relating to the application for employee representative status and the periodic reporting of the compensation resulting from such status is contained in 20 CFR 209.10.

The RRB utilizes Forms DC–2a, *Employee Representative's Status Report,* and DC–2, *Employee Representative's Report of Compensation,* to obtain the information needed to determine employee representative status and to maintain a record of creditable service and compensation resulting from such status. Completion is required to obtain or retain a benefit. One response is requested of each respondent. The RRB proposes to remove Form DC–2a from the information collection due to receiving less than 10 responses a year.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
DC–2	82	30	41

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
Total	82		41

3. Title and purpose of information collection: Survivor Questionnaire; OMB 3220–0032.

Under Section 6 of the Railroad Retirement Act (RRA), benefits that may be due on the death of a railroad employee *or* a survivor annuitant include (1) a lump-sum death benefit (2) a residual lump-sum payment (3) accrued annuities due but unpaid at death, and (4) monthly survivor insurance payments. The requirements for determining the entitlement of possible beneficiaries to these benefits are prescribed in 20 CFR 234.

When the RRB receives notification of the death of a railroad employee or survivor annuitant, an RRB field office utilizes Form RL–94–F, Survivor Questionnaire, to secure additional information from surviving relatives needed to determine if any further benefits are payable under the RRA. Completion is voluntary. One response is requested of each respondent. The RRB proposes the following changes to Form RL–94–F:

- Add new Item 8d, Divorced Spouse's Date of Divorce from Employee;
- Renumber current Item 8d to 8e, and
- Change ''Address'' to ''Mailing Address'' in Items 6, 7, 8a, 10, 11, 12, 14.b.2, 15b, and 16 for those applicants who live outside the country.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–94–F Items 5–10, and 18	50	9	8
RL–94–F, Items 5–18	7,200	11	1,320
RL–94–F, Item 18 only	750	5	63
Total	8,000		1,391

4. Title and purpose of information collection: Employer's Deemed Service Month Questionnaire; OMB 3220–0156. Section 3 (i) of the Railroad Retirement Act (RRA), as amended by P.L. 98–76, provides that the Railroad Retirement Board (RRB), under certain circumstances, may deem additional months of service in cases where an employee does not actually work in every month of the year, provided the employee satisfies certain eligibility requirements, including the existence of an employment relation between the employee and his or her employer. The procedures pertaining to the deeming of additional months of service are found in the RRB's regulations at 20 CFR 210, Creditable Railroad Service.

The RRB utilizes Form GL–99, Employer's Deemed Service Months Questionnaire, to obtain service and compensation information from railroad employers to determine if an employee can be credited with additional deemed months of railroad service.

The RRB proposes non-burden impacting editorial changes to Form GL–99. Completion is mandatory. One response is required for each RRB inquiry.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
GL–99	2,000	2	67

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2015–32720 Filed 12–28–15; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76733; File No. SR–ICC–2015–017]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Revise the ICC Risk Management Framework and ICC Treasury Operations Policies and Procedures, and Adopt the ICC Risk Management Model Description Document

December 22, 2015.

I. Introduction

On October 20, 2015, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19b(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–ICC–2015–017) to reorganize the ICC Risk Management Framework (''RMF'') in response to a recommendation from the Commodity Futures Trading Commission (''CFTC'') regarding improvements related to the governance of ICC's risk management documentation. The proposed rule change was published for comment in the **Federal Register** on November 9, 2015.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC has proposed reorganizing the RMF in response to a recommendation from the CFTC regarding improvements to the governance of ICC's risk management documentation. Specifically, ICC has proposed organizational and clarifying edits to the RMF and the Treasury Operations Policies and Procedures, and has proposed adopting a new Risk Management Model Description Document. ICC has represented that these revisions do not require any changes to the ICC Clearing Rules (''Rules'').

ICC will move the Collateral Assets Risk Management Framework appendix from the RMF to the Treasury Operations Policies and Procedures. Accordingly, ICC will update references throughout the RMF to the Collateral Assets Risk Management Framework appendix to refer instead to the Treasury Operations Policies and Procedures. ICC will move appendices containing technical risk management information (formerly, RMF Appendices 3–5) to the new ICC Risk Management Model Description Document. Accordingly, ICC will update references throughout the RMF to these appendices to refer to the Risk Management Model Description Document.

ICC will also make general updates and edits throughout the RMF for clarity and consistency. Such edits will include correcting verb tenses, adopting consistent abbreviations, and adjusting sentence order to assure logical presentation and word flow, and using more succinct language. ICC has represented that the edits are not substantive and do not affect the nature of ICC's risk management program.

Within the Overview section of the RMF, ICC will refine the Business Overview details to more accurately describe the business operations of Intercontinental Exchange, Inc. and ICC.

ICC will edit the Governance and Organization section of the RMF to more fully describe which topics the Risk Committee is responsible to advise the Board. The list of documents reviewed by the Risk Committee on at least an annual basis will be revised to include the ICC Risk Management Model Description Document, the ICC Treasury Operations Policies and Procedures, and the ICC Liquidity Risk Management Framework. The Risk Working Group (''RWG'') description will be updated to note that the group consists of risk personnel from ICC Clearing Participants (''CPs''), and to clarify that the RWG is responsible for reviewing ICC's risk philosophy and recommending changes to ICC's RMF. The validation function of the risk philosophy and tolerance will be removed from the list of RWG responsibilities as, according to ICC, such functions are the ultimate responsibility of the Board. The Advisory Committee description will be updated to note that the committee is comprised of representatives of up to twelve clients/customers of ICC CPs (ICC has represented that currently there are twelve client/customer members). The CDS Default Committee description will be updated to note that the committee is comprised of representatives from ICC CPs on a rotating basis and to remove reference to a duty to provide feedback on ICC's RMF and parameters because the CDS Default Committee is only convened upon the declaration of a default. The committee description will be enhanced to note that, as the CDS Default Committee assists ICC in determining and managing Minimum Target Prices for auctioned portfolios related to a default, the committee oversees necessary auction(s) as well as the process to re-establish a matched book. The Risk Management Organization section will be updated to remove outdated language stating that the Risk Management Department conducts an annual review of ICC's Risk Management Framework Policy Statement and submits proposed changes to the RWG, Risk Committee, and Board. Further, the section will be updated to remove reference to the Risk Management Department being responsible for ICC's intellectual capital and personnel, while creating, implementing and maintaining ICC's risk management policies.

ICC will make edits to the Product Summary section of the RMF. ICC will clarify language to refer to Index CDS Instruments (as opposed to Index Products), Single Name CDS Instruments (as opposed to Single Name CDS), and reference entities (as opposed to companies). The Index CDS instruments section will be revised to remove reference to the International Index Company. The Single Name CDS Instruments section will be modified to refine language concerning what constitutes a credit event. The list of attributes defining a CDS contract will be enhanced to include Maturity, as well as reference Notional Amount, as opposed to Notional Principal. Reference to the terms of the contracts being prescribed by the ICC Rules and Participant Agreement will be removed. The Risk Factors, Risk Sub-Factors and Instruments section will be revised to enhance the definition of Risk Sub-Factor to refer to a specific single name reference obligation seniority and doc clause combination.

ICC will make edits to the Systemic Risk Management Approach section of the RMF, which includes Waterfall Levels 1 through 5. ICC will revise Waterfall Level 1: Membership Criteria to remove reference, within the Operational Criteria, to employee participation on industry committees (*e.g.* ISDA, DTCC, etc.). Furthermore, the ongoing monitoring of participants section will be enhanced to state: (i) intraday monitoring includes intraday CDS market levels and potential equity price movements, as well as news from Bloomberg and other information sources; and (ii) daily monitoring and analysis includes prior day's final pays by CPs, daily change in Initial Margin (''IM''), margin deficits, unrealized intraday profits/losses for cleared portfolios, risk impact of new intraday

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–76331 (Nov. 3, 2015), 80 FR 69261 (Nov. 9, 2015) (SR–ICC–2015–017).

trades on cleared portfolios, daily end-of-day (''EOD'') levels, CPs' Guaranty Fund (''GF'') obligations, CPs' day-over-day change in GF requirements relative to each firms prior day levels, and CPs' day-over-day change in GF requirements relative to the total GF balance. ICC will remove from the ongoing monitoring of participants section review the following components: Daily prices and spreads (including missed EOD submissions), daily EOD prices (including missed prices), prior day's and intraday total IM as a percentage of CP's or CP's guarantor's capital, collateral pricing report for missing prices, and collateral deposits no longer in compliance with ICC's acceptable collateral policy. ICC asserts that such elements are included in the enhanced daily monitoring and analysis section or have been deemed no longer relevant to the monitoring process. Further, ICC will clarify that the Risk Management Department reviews weekly stress test results for extreme risk event scenarios to ensure sufficient margin cover under market conditions, as opposed to drastic market conditions. The Participant Withdrawal subsection will be revised to remove reference to ICC's right of One Time Assessment and instead refer more generally to ICC's power of assessment.

ICC will revise the Waterfall Level 2: Initial Margin description to clarify that ICC's IM requirements consist of a set of individual components that account for various risks and that the methodology includes consideration of hypothetical scenarios for those components. ICC will add language to the Spread Response Requirements section to note that the hypothetical prices used in calculating the instrument spread response risk IM requirement reflect the time-to-maturity horizon reduced by one day. ICC will revise the distributions and related parameters subsection to refer to the more specific feature Mean Absolute Deviation (''MAD'') as opposed to the more general term ''scale.'' ICC will remove reference to a set Exponentially Weighted Moving Average decay factor, as ICC asserts the factor is dynamic, subject to review and changed by the Risk Department in consultation with the Risk Committee. ICC will also remove outdated language regarding the initial setting of Auto Regressive process for first order parameters.

ICC will revise the description of the considered scenarios to provide a mathematical description of how the considered scenarios are constructed based on statistical analysis of historical time series. The term structure scenario construction will now be clearly defined in terms of 99% Value-at-Risk equivalent risk measures for different tenors, and the cross-tenor correlation structure will be estimated from time series analysis. ICC will revise the term ''contracting'' to ''tightening'' in the context of spread behavior to, according to ICC, provide conformity to more commonly used credit market terminology.

Within the Recovery Rate (''RR'') Sensitivity Requirements subsection, ICC will clarify that two additional single name-specific stress-test RRs are considered in determining the requirements.

ICC will revise Waterfall Level 3: Mark-to-Market Margin description. Specifically, ICC will revise the methodology section to remove specific calculations regarding the methodology and instead refer to the ICC EOD Price Discovery Policies and Procedures, which ICC asserts contain a more fulsome methodology description.

ICC will revise Waterfall Level 4: Intra-day Risk Monitoring/Special Margin Call Execution to clarify language describing the calculation of prices to determine the adequacy of collected IM intraday. Specifically, as part of the calculation, ICC will utilize bid-offer quotes which will be automatically fed into the ICC risk management intraday monitoring system.

ICC will revise Waterfall Level 5: Guaranty Fund description. The ICC GF is designed to provide adequate funds to cover losses associated with the default of the two CPs, as well as any affiliated CPs (*i.e.* any other CP that owns, is owned by, or is under common ownership with such a CP) with the greatest potential uncollateralized losses. ICC will add language to note that the set of all affiliated CPs is considered as a CP affiliate group. Within the Waterfall Level 5 description, ICC will revise language to reinforce this CP affiliate group concept. Within the Guaranty Fund Calculation for Clearing Participants subsection, ICC will remove reference to summary concepts of uncollateralized loss given default, uncollateralized spread response losses, uncollateralized basis risk losses, and uncollateralized interest rate losses, previously used in describing the computations of the stress scenario losses. ICC will more precisely define the factors considered within the GF calculation and related stress test scenarios as the following: occurrence of multiple credit events, uncollateralized loss-given-default from self-referencing positions, adverse spread scenarios, adverse index-single-name basis widening, adverse interest rate scenarios, and anti procyclicality.

ICC will add language to the Guaranty Fund Allocation subsection of the RMF to state that the CP's total uncollateralized GF stress loss is the difference between the sum of the stress loss given default, GF stress spread response, GF stress basis risk and interest rate losses and the sum of the IM idiosyncratic jump-to-default requirements, IM spread response requirement, IM basis and interest risk requirement.

ICC will revise the General Wrong Way Risk and Contagion Measures subsection to remove technical information that was moved to the Risk Management Model Description Document.

ICC will revise the Position Concentration Limits subsection of the Risk Limits and Controls section to clarify that ICC's concentration charge is designed to increase a CP's IM requirement toward the risk of maximum loss and ultimately, at the extreme, toward the full expected notional amount of liability of the sold protection or the present value of the amount of coupon payments for bought protection. ICC will summarize language referring to the notional liability of the protection sold or the full value of coupon payments to refer more generally to loss associated with the portfolio. ICC will revise the Model Time Horizon subsection to note that the standard risk horizon can be increased by the ICC Risk Management Department during banking holiday periods to reflect ICC's limited ability to execute margin calls without Risk Committee consultation. ICC will further revise the Position Concentration Thresholds subsection to clarify that, if at any point, either the margin requirements or concentration charges grow to be a concern, ICC has the authority to execute special or intraday margin calls, and/or to increase the rate at which the concentration charges grow.

ICC will revise the Stress Testing subsection of the Back Testing and Stress Testing section to remove specific assumptions associated with the various stress scenarios used in the daily risk management process. For proprietary reasons, these specific assumptions will now be included in ICC's Stress Testing Framework. ICC will also clarify that the Risk Management Department presents stress results at the monthly Risk Committee meetings, as well as recommendations about next steps and recommendations to add or retire stress tests.

ICC will make edits to the Default Treatment section to remove outdated language stating that ICC seconds

traders eligible to serve on the ICE Clear Europe Default Management Committee. ICC will remove language regarding the auctioning of multi-currency portfolios for stylistic reasons, as the following sentences provide the information in a more accessible format.

ICC will revise the Cash Settlement subsection of the Settlement section to remove outdated language stating that ICC will evaluate a transition to a central bank model for U.S. cash if available.

ICC will make edits to the Market Investment Risk Management section of the RMF. Specifically, ICC will delete redundant language regarding ICC's investment policy that can be found in the ICC Treasury Operations Policies and Procedures.

ICC will enhance the ICC Clearing Participant Risk Management Questionnaire appendix to add more specific details that better capture the intent of the questions contained within.

ICC will revise the Overview section of the Clearing Participant Default Management Procedures appendix to refer more generally to ICC's default management procedures, as opposed to offering specific details provided elsewhere within the appendix. ICC will also revise the CDS Default Committee subsection to remove language stating that the CDS Default Committee Members are responsible for determining and adjusting minimum target prices for auctions. ICC will add language to the Hedging and Liquidation subsection to note that the CDS Default Committee is responsible for assisting ICC with respect to liquidating and hedging positions with the Non-Defaulting CPs, in consultation with the Chief Risk Officer. ICC will clarify the Auction Procedures/ Competitive Bidding section to state that the auction bidding process will be open for an ICC specified minute window, as opposed to a specific 15-minute window.

ICC will remove the Collateral Assets Risk Management Framework Appendix 7 from the RMF and add it as an appendix to the ICC Treasury Operations Policies and Procedures. Accordingly, references within the Treasury Operations Policies and Procedures to the RMF will be updated. Additionally, ICC will update its list of banking relationships contained within the document. ICC will also make conforming and non-material edits to the document.

Finally, ICC will create the Risk Management Model Description Document, which includes the technical risk information previously included in Appendices 3 to 5 of the RMF as well as information previously included in explanatory risk documents. Technical risk information, previously included in explanatory risk documents, will be incorporated consistently throughout the new Risk Management Model Description Document. The inclusion of such information does not constitute a substantive change to the RMF, as it serves to enhance the transparency of the technical details of the current implementation described in the previous RMF. In the Risk Management Model Description Document, ICC will provide additional technical information to improve the understanding and/or replication of the models. ICC will also provide improved logical connections among all model components, which, ICC asserts, should contribute to developing a general intuition for ICC's risk approach.

ICC represents that material changes to the Risk Management Model Description Document will be approved by ICC's Board of Managers and submitted, in the appropriate form to regulators consistent with other documents constituting ICC's RMF. The Risk Management Model Description Document will include a technical description of ICC's Initial Margin methodology (Recovery Rate Sensitivity Risk Analysis; Loss Given Default Risk Analysis; Liquidity Risk Analysis; Large Position Risk Analysis; Jump-To-Default Risk Analysis; Interest Rate Sensitivity Risk Analysis; Basic Risk Analysis; Spread Risk Analysis; Multi-Currency Portfolio Treatment; and Portfolio Loss Boundary Condition) and ICC's Guaranty Fund methodology (Guaranty Fund Size Estimation; Guaranty Fund Requirements and Periodic Adjustments; and General Wrong Way Risk and Contagion Stress Tests). Within the Spread Risk Analysis section, where ICC previously had listed explicit risk factors within the RMF, ICC will replace such explicit risk factors with the underlying formulas used in deriving such factors.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act [6] and the rules and regulations thereunder applicable to ICC. The proposed rule change is designed to clarify ICC's risk management policies through the proposed revisions to the RMF and associated changes to the Treasury Operations Policies and Procedures. Additionally, the Risk Management Model Description Document should reflect the consolidation of certain technical risk documents into one singular document, further clarifying these technical issues. The Commission therefore believes that the proposed revisions to the RMF and Treasury Operations Policies and Procedures, as well as creation of the Risk Management Model Description Document, are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions in accordance with Section 17A(b)(3)(F) of the Act.[7]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–ICC–2015–017) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32649 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q-1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76738; File No. SR–NASDAQ–2015–152]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Level 2 Professional Subscriber Fee

December 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. 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 proposes to modify the NASDAQ Level 2 Professional subscriber (''Subscriber'') fee. While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on January 4, 2016.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are bracketed.

NASDAQ Market Rules

Equity Rules

* * * * *

7023. NASDAQ Depth-of-Book Data

(a) No change.

(b) Subscriber Fees.

(1) NASDAQ Level 2

(A) Non-Professional Subscribers pay a monthly fee of $9 each;

(B) Professional Subscribers pay a monthly fee of $*6*[5]0 each for Display Usage based upon Direct or Indirect Access, or for Non-Display Usage based upon Indirect Access only;

(C)–(E) No Change.

(2)–(4) No change.

(c)–(f) No change.

* * * * *

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 these statements may be examined at the places specified in Item IV below. NASDAQ 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 purpose of the proposed rule change is to increase the NASDAQ Level 2 Professional Subscriber fee (''Level 2 fee''). Specifically, the Exchange proposes to increase the Level 2 fee by $10 from $50 to $60 for display usage based upon direct or indirect access, or for non-display usage based upon indirect access only. This proposed rule change will not affect the pricing of the NASDAQ OpenView Non-Professional and Professional Subscriber fees.

The NASDAQ Level 2 product is optional. NASDAQ has enhanced this product through capacity upgrades and regulatory data sets over the life of the product. The network capacity for NASDAQ Level 2 has also increased from a 56 Kb feed to the current 33 Mb feed. Additionally, since NASDAQ Level 2 is also used for market making functions, NASDAQ has invested over the years to add regulatory data sets, such as Market Maker Mode, Trading Action status, Limit Up—Limit Down, Market Wide Circuit Breaker (MWCB) messaging and Short Sale Threshold Indicator.

Moreover, NASDAQ also increased the infrastructure resiliency with the migration of the entire Exchange's Disaster Recovery facility to Chicago, Illinois, which further reduces proximity risk. The costs associated with this migration are being apportioned among data products across multiple asset classes and, as a result, some of this cost is being allocated to NASDAQ Level 2.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides an equitable allocation of reasonable fees among Subscribers and recipients of NASDAQ data and is not designed to permit unfair discrimination between them. NASDAQ's proposal to increase the Level 2 fee by $10 from $50 to $60 for display usage based upon direct or indirect access, or for non-display usage based upon indirect access only, is also consistent with the Act in that it reflects an equitable allocation of reasonable fees. The Commission has long recognized the fair and equitable and not unreasonably discriminatory nature of assessing different fees for Professional and Non-Professional Users of the same data. NASDAQ also believes it is equitable to assess a higher fee per Professional User than to an ordinary Non-Professional User due to the enhanced flexibility, lower overall costs and value that it offers Distributors.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[5]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well. The Exchange considers Level 2 to be the sort of market data product that the Commission envisioned when it adopted Regulation NMS.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoaliton* v. *SEC*[6] (''*NetCoalition I*''), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4) and (5).

[5] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[6] *See NetCoaliton* v. *SEC* 615 F.3d 525 (D.C. Cir. 2010).

that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' [7] The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [8]

The Court in *NetCoalition I,* while upholding the Commission's conclusion that competitive forces may be relied upon to establish the fairness of prices, nevertheless concluded that the record *in that case* did not adequately support the Commission's conclusions as to the competitive nature of the market for NYSE Arca, Inc.'s (''NYSE Arca'') data product at issue in that case. As explained below in NASDAQ's Statement on Burden on Competition, however, NASDAQ believes that there is substantial evidence of competition in the marketplace for data that was not in the record in the *NetCoalition I* case, and that the Commission is entitled to rely upon such evidence in concluding fees are the product of competition, and therefore in accordance with the relevant statutory standards.[9] Accordingly, any findings of the court with respect to that product may not be relevant to the product at issue in this filing.

NASDAQ believes that the allocation of the proposed fee is fair and equitable in accordance with Section 6(b)(4) of the Act, and not unreasonably discriminatory in accordance with Section 6(b)(5) of the Act. As described above, the proposed fee is based on pricing conventions and distinctions that exist in NASDAQ's current fee schedule. These distinctions are each based on principles of fairness and equity that have helped for many years to maintain fair, equitable, and not unreasonably discriminatory fees, and that apply with equal or greater force to the current proposal.

As described in greater detail below, if NASDAQ has calculated improperly and the market deems the proposed fees to be unfair, inequitable, or unreasonably discriminatory, firms can discontinue the use of their data because the proposed product is optional to all parties. Firms are not required to purchase data and NASDAQ is not required to make data available or to offer specific pricing alternatives for potential purchases. NASDAQ can discontinue offering a pricing alternative (as it has in the past) and firms can discontinue their use at any time and for any reason (as they often do), including due to their assessment of the reasonableness of fees charged. NASDAQ continues to establish and revise pricing policies aimed at increasing fairness and equitable allocation of fees among Subscribers.

NASDAQ believes that periodically it must adjust the Subscriber fees to reflect market forces. NASDAQ believes it is an appropriate time to adjust this fee to more accurately reflect the investments made to enhance this product through capacity upgrades and regulatory data sets added. This also reflects that the market for this information is highly competitive and continually evolves as products develop and change.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the *NetCoalition I* court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. NASDAQ believes that a record may readily be established to demonstrate the competitive nature of the market in question.

There is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. Data products are valuable to many end Subscribers only insofar as they provide information that end Subscribers expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable.

Thus, an increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' [10] However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the

[7] *NetCoalition I,* at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323).

[8] *Id.*

[9] It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') has amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear that all exchange fees, including fees for market data, may be filed by exchanges on an immediately effective basis. *See also NetCoalition* v. *SEC,* 715 F.3d 342 (D.C. Cir. 2013) finding no jurisdiction to review Commission's non-suspension of immediately effective fee changes).

[10] *NetCoalition I,* at 539.

change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. NASDAQ pays rebates to attract orders, charges relatively low prices for market information and charges relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity, and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability [11] in the market is evident in the numerous alternative venues that compete for order flow, including eleven self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated trade reporting facilities (''TRFs'') compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do so or have announced plans to do so, including NASDAQ, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, and BATS Exchange (''BATS'')/Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BDs' production of proprietary data products. The potential sources of proprietary products are virtually limitless. Notably, the potential sources of data include the BDs that submit trade reports to TRFs and that have the ability to consolidate and distribute their data without the involvement of FINRA or an exchange-operated TRF.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and NYSE Arca did before registering as exchanges by publishing proprietary book data on the internet. Second, because a single order or transaction report can appear in a core data product, an SRO proprietary product, and/or a non-SRO proprietary product, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive and, based on Nasdaq's experience, profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the competition of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg and Thomson Reuters. In Europe, Cinnober aggregates and disseminates data from over 40 brokers and multilateral trading facilities.[12]

In the case of TRFs, the rapid entry of several exchanges into this space in 2006–2007 following the development and Commission approval of the TRF structure demonstrates the contestability of this aspect of the market.[13] Given the demand for trade reporting services that is itself a by-product of the fierce competition for transaction executions—characterized notably by a proliferation of ATSs and BDs offering internalization—any unjustified price increase in the fees associated with trade reporting or TRF data would shift trade report volumes from one of the existing TRFs to the other [14] and create incentives for other

[11] Contestability in this rule filing means that the market leader for a particular product can be easily challenged.

[12] *See http://www.cinnober.com/boat-trade-reporting.*

[13] The low cost exit of two TRFs from the market is also evidence of a contestable market because new entrants are reluctant to enter a market where exit may involve substantial shut-down costs.

[14] It should be noted that the FINRA/NYSE TRF during November 2016 [sic] received reports for

Continued

TRF operators to enter the space. Alternatively, because BDs reporting to TRFs are themselves free to consolidate the market data that they report, the market for over-the-counter data itself, separate and apart from the markets for execution and trade reporting services—is very competitive.

Moreover, consolidated data provides two additional measures of pricing discipline for proprietary data products that are a subset of the consolidated data stream. First, the consolidated data is widely available in real-time at $1 per month for non-professional users. Second, consolidated data is also available at no cost with a 15- or 20-minute delay. Because consolidated data contains marketwide information, it effectively places a cap on the fees assessed for proprietary data (such as last sale data) that is simply a subset of the consolidated data. The mere availability of low-cost or free consolidated data provides a powerful form of pricing discipline for proprietary data products that contain data elements that are a subset of the consolidated data, by highlighting the optional nature of proprietary products.

In this environment, an unjustified price increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' *NetCoalition I* at 539. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A BD that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. If a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected BDs will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

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.

10.6% of non-exchange share volume in Regulation NMS stocks that represented 3.8% of overall volume.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2015–152 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–2015–152. 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–2015–152, and should be submitted on or before January 19,2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32652 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(a)(ii). [sic]

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76732; File No. SR–BOX–2015–38]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 2020 (Participant Eligibility and Registration) To Replace the Limited Representative—Proprietary Trader and Limited Principal—Proprietary Trader Registration Categories and Establish the Securities Trader and Securities Trader Principal Registration Categories

December 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 14, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, of which Items I and II have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 2020 (Participant Eligibility and Registration) to replace the Limited

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Representative—Proprietary Trader and Limited Principal—Proprietary Trader registration categories and establish the Securities Trader and Securities Trader Principal registration categories. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 BOX Rule 2020 (Participant Eligibility and Registration) to replace the Limited Representative—Proprietary Trader and Limited Principal—Proprietary Trader registration categories and establish the Securities Trader and Securities Trader Principal registration categories. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and eliminating the reference to the S501 continuing education program currently applicable to Proprietary Traders.[3] This filing is, in all material respects, based upon SR–FINRA–2015–017, which was recently approved by the Securities and Exchange Commission (''SEC'' or ''Commission'').[4]

a. Securities Trader Registration Category

BOX currently uses the Series 56 qualification examination for the Limited Representative—Proprietary Trader registration category referenced in BOX Rule 2020(b)(2).[5] However, BOX allows representatives who have passed the Series 7 qualification examination and who are registered as a [sic] General Securities Representative on BOX to conduct proprietary trading without having to take the Series 56 qualification examination and register as a Limited Representative—Proprietary Trader. For representatives who are new to the industry or have not yet taken a qualification examination, BOX requires the representatives engaged in proprietary trading to take a qualification examination, either the Series 7 or the Series 56, and then register as a General Securities Representative or a Proprietary Trader on BOX. After the implementation of the Series 57 examination on or after January 4, 2016, BOX will no longer allow representatives with a General Securities Representative registration to engage in proprietary trading on BOX.[6] Representatives who are not grandfathered prior to the implementation of the Series 57 qualification examination or who are new to the industry after implementation of the Series 57; [sic] and are engaged in proprietary trading will be required to take the Series 57 qualification examination and register as a Securities Trader on BOX.

BOX notes that the proposed rule change does not impose any additional examination burdens on persons who are already registered on BOX. A person registered as a Limited Representative—Proprietary Trader and Limited Principal—Proprietary Trader on the effective date of the proposed rule change will be grandfathered in as a Securities Trader or Securities Trader Principal, respectively, without having to take additional examinations or any other actions. In addition, individuals who were registered as either a Limited Representative—Proprietary Trader or Limited Principal—Proprietary Trader prior to the effective date of the proposed rule change will be eligible to register as a Securities Trader or Securities Trader Principal without having to take any additional examinations, provided no more than two years have passed between the date they were last registered as a representative and the date they register as a Securities Trader or Securities Trader Principal.

On January 22, 2015, FINRA entered into a Termination Agreement with the national securities exchanges that set forth the terms and conditions that will govern the winding down of the Series 56 examination in advance of its replacement by the Series 57 examination and the integration of the S501 Program into the S101 Regulatory Element Continuing Education Program. The Series 57 qualification examination will be recognized by FINRA and the other national securities exchanges on January 4, 2016.

FINRA has developed the Series 57 qualification examination and has filed the qualification examination with the Commission as part of a separate proposed rule change.[7] According to FINRA, while the Series 57 examination will include the core knowledge portion of the Series 7 examination, the Series 57 examination will also be based on the current job functions of securities traders and include elements of the Series 55 and Series 56 examination programs. In addition, FINRA has filed a separate proposed rule change to establish the fee for the Series 57 examination.[8]

b. Securities Trader Principal Registration Category

BOX current registration rules require a person seeking to register as a Limited Principal—Proprietary Trader to have passed the underlying qualification examination Series 56 and be registered pursuant to Exchange Rules as a Limited Representative—Proprietary Trader, and

[3] Currently, in order to supervise, representatives must first pass the appropriate underlying qualification examination which is either the Series 7 qualification examination which would allow a representative to register as a General Securities Representative on BOX or the Series 56 qualification examination which would allow a representative to register as a Limited Representative—Proprietary Trader on BOX. In addition to passing the Series 7 or Series 56, representatives must also pass the Series 24 qualification examination and register as a General Securities Principal if they are registered as a General Securities Representative or as a Limited Principal—Proprietary Trader if they are registered as a Limited Representative—Proprietary Trader. After January 4, 2016, the Series 57 qualification examination would replace the Series 56 qualification examination as the appropriate underlying qualification examination for a representative to take prior to taking the Series 24 qualification examination so that the Representative may supervise proprietary trading on BOX. Representatives would then register as a [sic] Securities Trader Principal in order to supervise proprietary trading on BOX.

[4] *See* Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 41119 (July 14, 2015) [sic] (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories) (SR–FINRA–2015–017).

[5] *See* BOX Rule 2020(b)(2).

[6] BOX will grandfather in anyone registered with Limited Representative—Proprietary Trader registration prior to January 4, 2016 with the new Securities Trader registration category in FINRA's Central Registration Depository (''Web CRD'') System.

[7] *See* Securities Exchange Act Release No. 76188 (October 19, 2015), 80 FR 64456 (October 23, 2015) (SR–FINRA–2015–042).

[8] *See* Securities Exchange Act Release No. 76391 (November 9, 2015), 80 FR 70862 (November 16, 2015) (SR–FINRA–2015–044). BOX will also file a separate rule filing in December 2015 to amend Section VI (Regulatory Fees) of its Fee Schedule to remove Part C (Registration and Continuing Education Fees) associated with Series 56 qualification examination and the S501 continuing education.

have passed the Series 24 qualification examination.[9] BOX proposes to amend its rule text to replace Limited Principal—Proprietary Trader registration category with a Securities Trader Principal registration category in addition to replacing the Series 56 underlying qualification examination with the Series 57 underlying qualification examination. The Exchange also proposes to add a statement to clarify that a person registered as a General Securities Principal under 2020(c)(1) above shall not be qualified to function in a Principal capacity with responsibility over any area of business activity described in Rule 2020(c)(2).

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. In particular, BOX believes that the proposed rule change will streamline, and bring consistency and uniformity to, the qualification and registration requirements for individuals engaged in securities trading activities across different markets and for principals responsible for supervising such activities, which will, in turn, improve registration and compliance efforts.

B. Self-Regulatory Organization's Statement on Burden on Competition

BOX 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.

BOX's proposed rule change to replace the Limited Representative—Proprietary Trader registration category and qualification examination Series 56 with the Securities Trader registration category and Series 57 qualification examination will reduce the burden on associated persons currently required to be registered as proprietary traders by harmonizing the registration requirements for representatives engaged in securities trading activities across different markets. Under the proposed rule change, associated persons would be eligible to engage in securities trading activities by registering as Securities Traders and passing a single comprehensive Securities Trader qualification examination which is consistent with the other national securities exchanges.

BOX believes that the proposed rule change relating to Securities Trader Principals will harmonize the registration and qualification requirements for principals that supervise securities trading activities across different markets.

Further, the proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the proposed 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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

(a) This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act [12] and Rule 19b–4(f)(6) thereunder.[13]

(b) This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period for ''non-controversial'' proposals and make the proposed rule change effective and operative upon filing [14] because the proposal is related to the industry wide replacement of the proprietary trader registration categories and Series 56 qualification examination with the Securities Trader registration category and Series 57 qualification examination, which will become effective on January 4, 2015 [sic].

The Commission believes that waiving the thirty-day operative delay is consistent with the protection of investors and the public interest, because waiving the operative delay will enable BOX to have registration and qualification requirements that are consistent with those of the other national securities exchanges and FINRA. Therefore, the Commission hereby waives the thirty-day operative delay and designates the proposal operative as of January 4, 2016.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2015–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2015–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's Internet

[9] *See* BOX Rule 2020(c)(2)(i)(A–C).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. 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–BOX–2015–38 and should be submitted on or before January 19, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32648 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76742; File No. SR–Phlx–2015–49]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend and Correct Phlx Rule 1080.07

December 22, 2015.

I. Introduction

On June 5, 2015, NASDAQ OMX PHLX LLC (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend and correct several provisions of Phlx Rule 1080.07, ''Complex Orders on Phlx XL,'' which governs the handling of Complex Orders submitted to the Phlx's electronic Complex Order System (''System''). The proposed rule change was published for comment in the **Federal Register** on June 23, 2015.[3] On July 30, 2015, the Commission extended the time period for Commission action to September 21, 2015.[4] On September 17, 2015, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Phlx filed Amendment Nos. 1 and 2 to the proposal on November 4, 2015, and December 3, 2015, respectively.[6] On December 15, 2015, the Commission extended the time period for Commission action to February 18, 2016.[7] The Commission received no comments regarding the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment Nos. 1 and 2 and is approving the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

The Phlx proposes to amend and correct inconsistencies in several provisions of Phlx Rule 1080.07, which governs the handling of Complex Orders submitted to the System. The System currently includes a Complex Order Opening Process (''COOP''); the Complex Order Live Auction (''COLA''), an automated auction for seeking liquidity and price improvement for Complex Orders; and a Complex Limit Order Book (''CBOOK''). In addition, the proposal revises Phlx Rule 1080.07 to describe the acceptance and treatment of all-or-none Complex Orders.

A. Amendments to the COOP Rules

The Phlx proposes several changes to Phlx Rule 1080.07(d) to accurately describe the operation of the COOP for Complex Order Strategies and to provide additional details regarding the COOP.[8] Currently, Phlx Rule 1080.07(d)(ii) provides that upon receipt of a single COLA-eligible order, the System initiates the opening process. The Phlx proposes to revise Phlx Rule 1080.07(d)(ii) to indicate that, instead, the COOP operates in a manner similar to a traditional opening process for single leg orders, taking into account all trading interest in a particular Complex Order Strategy (rather than auctioning a single order), to determine the price at which the maximum number of contracts may trade, and calculating any imbalance.[9] The Phlx states that the opening process maximizes price discovery and seeks to execute as much interest as possible at the best possible price(s).[10]

Phlx Rule 1080.07(d)(ii), as amended, provides that the Phlx will conduct a COOP for any Complex Order Strategy for which the Phlx has received an order prior to the opening, unless the Complex Order Strategy is already open as a result of another electronic auction process or another electronic auction involving the same Complex Order Strategy is in progress.[11] Following a trading halt, the System will conduct a COOP for any Complex Order Strategy that has a Complex Order present or that had previously opened prior to the trading halt.[12] The System will initiate the COOP once trading in each option component of a Complex Order Strategy has opened (or re-opened following a trading halt) for a certain configurable time not to exceed 60 seconds.[13] This

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75189 (June 17, 2015), 80 FR 35997 (''Notice'').

[4] *See* Securities Exchange Act Release No. 75570, 80 FR 46619 (August 5, 2015).

[5] *See* Securities Exchange Act Release No. 75942, 80 FR 57406 (September 23, 2015).

[6] As described more fully in Section II(H) below, Amendment No. 1 revises the proposal to further clarify or add detail to several rules, provide additional rationale for certain proposed changes, and specify the time when the Phlx plans to begin accepting all-or-none Complex Orders. Amendment No. 2 revises several rules to clarify the manner in which participants may participate in auctions and in the opening process. When the Phlx filed Amendment Nos. 1 and 2 with the Commission, it also posted the amendments on the Phlx's Web site and submitted them as a comment letters to the file, which the Commission posted on its Web site and placed in the public comment file for SR–Phlx–2015–49.

[7] *See* Securities Exchange Act Release No. 76648, 80 FR 79385 (December 21, 2015).

[8] A Complex Order Strategy is a particular combination of components of a Complex Order and their ratios to one another. *See* Phlx Rule 1080.07(a)(ii).

[9] *See* Notice, 80 FR at 35997. Phlx states that it currently operates the COOP as proposed. Id.

[10] *See* Notice, 80 FR at 36004.

[11] Phlx Rule 1080.07(d)(ii) currently indicates that the System will conduct a COOP if a Complex Order is pending at the opening or re-opening following a trading halt. The Phlx is revising the rule to indicate that the receipt of an order will trigger a COOP, regardless of whether the order is still pending. For example, an order that was no longer pending because the sender has canceled the order will nonetheless trigger a COOP. *See* Notice, 80 FR at 35997.

[12] *See* Phlx Rule 1080.07(d)(ii).

[13] *See id.* The proposal deletes provisions in Phlx Rule 1080.07(d)(ii)(A)(2) which states that the System will not engage the COOP Timer upon re-opening Complex Order trading when either: (a) the Exchange's automated execution system was disengaged and subsequently re-engaged, or (b) the Phlx XL Risk Monitor Mechanism was engaged and subsequently disengaged. These provisions are incorrect because the Exchange cannot disengage its automatic execution system and because the operation of the Risk Monitor Mechanism does not impact the COOP Timer. *See* Notice, 80 FR at 35998. The proposal also deletes the references to

Continued

opening delay timer is intended to allow options prices to stabilize after the options opening before permitting Complex Orders to become available for trading.[14] COOPs for different Complex Order Strategies may occur at the same time.[15]

The COOP is comprised of two phases, the COOP Timer and the COOP Evaluation.[16] During the COOP Timer, the Phlx will send a broadcast message indicating that a COOP has been initiated for a Complex Order Strategy (''Complex Order Opening Auction Notification'').[17] The Complex Order Opening Auction Notification, which is intended to attract interest to the opening process and encourage the opening of a Complex Order Strategy, will identify the Complex Order Strategy, the opening price (based on the maximum number of contracts that can be executed at one particular price, except if there is no price at which any orders may be executed), and the imbalance side and volume, if any.[18] The Complex Order Opening Notification starts the COOP Timer, during which Phlx XL Participants may submit responses to the Complex Order Opening Auction Notification.[19] Complex Orders received prior to the COOP Timer and Complex Orders received during the COOP Timer that are not marked as a response to the Complex Order Opening Auction Notification will be visible to Phlx XL participants upon receipt.[20]

New subparagraphs (1), (2), and (3), of Phlx Rule 1080.07(d)(ii)(B) describe the manner in which market participants may respond to a Complex Order Opening Auction Notification. Phlx XL participants [21] may bid and/or offer on either or both side(s) of the market during the COOP Timer by submitting one or more Complex Orders in $0.01 increments (a ''Complex Order Response'').[22] A Complex Order Response that is marked as a response will not be visible to Phlx XL participants.[23]

In addition to submitting Complex Order Responses, Phlx XL market makers [24] may bid and/or offer on either or both side(s) of the market during the COOP Timer by submitting one or more bids/offers known as COOP Sweeps.[25] A Phlx XL market maker may submit multiple COOP Sweeps at different prices in increments of $0.01 in response to a Complex Order Opening Auction Notification, regardless of the minimum trading increment applicable to the specific series.[26] A Phlx XL market maker may change the size of a previously submitted COOP Sweep during the COOP Timer.[27] Phlx XL market makers are the only participants that may submit COOP Sweeps.[28] According to the Phlx, the Exchange developed COOP Sweeps to allow Phlx XL market makers to be able to expeditiously submit one-sided responsive interest without having to enter an order, which involves a different protocol and method of entry.[29] The Phlx states that COOP Sweeps were intended to encourage Phlx XL market makers to submit responsive interest while managing risk, utilizing a single protocol.[30] The Phlx notes that the ability to enter two-sided quotes also is available only to Phlx XL market makers.[31] The Phlx represents that there is no advantage to submitting a COOP Sweep rather than a Complex Order, and that market participants who are not Phlx XL market makers are not disadvantaged by their inability to submit COOP Sweeps, much as they are not disadvantaged by their inability to submit quotes or sweeps for non-Complex Orders.[32] In this regard, the Phlx states that Phlx XL participants who are not market makers may submit Immediate-or-Cancel (''IOC'') orders, which behave in the same manner as a sweep.[33]

COOP Sweeps and Complex Order Responses will not be visible to any participant and will not be disseminated by the Exchange.[34] The Phlx believes that this information would not be useful due to the temporary, quick nature of the COOP.[35] COOP Sweeps and Complex Order Responses that remain unexecuted at the end of the COOP Timer after all executions have been completed will expire.[36] A Complex Order submitted during the COOP Timer that is not marked as a response will be available to be traded after the opening of the Complex Order Strategy unless it is marked IOC.[37] Such a Complex Order will be placed on the CBOOK if it is not executed during the opening.[38]

Upon expiration of the COOP Timer, the COOP Evaluation begins.[39] During the COOP Evaluation, the System determines, for a Complex Order Strategy, the price at which the maximum number of contracts may trade, taking into account Complex Orders marked all-or-none (which will be executed if possible), unless the maximum number of contracts may trade only without including all-or-none orders.[40] The Phlx will open the Complex Order Strategy at that price, executing marketable trading interest in the following order: first, non-broker-dealer customers in time priority; next, Phlx XL market makers on a pro rata

Phlx Rule 1080.07(d)(ii)(A)(2) in Phlx Rules 1080.07(c)(ii) and (d)(ii)(A)(1). In addition, the proposal deletes the provision in Phlx Rule 1080.07(c)(ii)(D) indicating that Complex Orders will not trade on Phlx XL when the Phlx's automated execution system is disengaged for any options component of a Complex Order. *See* Amendment No. 1.

[14] *See* Notice, 80 FR at 36004.

[15] *See* Notice, 80 FR at 35998.

[16] *See* Phlx Rule 1080.07(d)(ii).

[17] *See* Phlx Rule 1080.07(d)(ii)(A)(1). The Complex Order Opening Auction Notification is sent over an order feed, Phlx Orders, which contains Complex Order information, as well as over the Specialized Quote Feed. *See* Notice, 80 FR at 35998.

[18] *See* Phlx Rule 1080.07(d)(ii)(A)(1) and Notice, 80 FR at 36004.

[19] *See* Phlx Rule 1080.07(d)(ii)(A)(1).

[20] *See* Phlx Rule 1080.07(d)(ii)(A)(4).

[21] Under Phlx Rule 1080.07(a)(vii), as proposed to be amended, ''Phlx XL participant'' ''means SQTs, RSQTs, non-SQT ROTs, specialist and non-Phlx market makers on another exchange; non-broker-dealer customers, Firms and non-market maker off-floor broker-dealers; and Floor Brokers using the Options Floor Broker Management System.

[22] *See* Phlx Rule 1080.07(d)((ii)(B) and Amendment No. 2.

[23] *See* Phlx Rule 1080.07(d)(ii)(B)(3). In contrast, a Complex Order submitted during the COOP Timer that is not marked as a response will be visible to Phlx XL participants upon receipt. *See* Phlx Rule 1080.07(d)((ii)(A)(4).

[24] Under Phlx Rule 1080.07(a)(vii), as proposed to be amended, a Phlx XL market maker is an SQT, RSQT, or a specialist.

[25] *See* Phlx Rule 1080.07(d)(ii)(B). A COOP Sweep is a one-sided electronic quotation at a particular price submitted for execution against opening trading interest in a particular Complex Order Strategy. *See id.*

[26] *See* Phlx Rule 1080.07(d)(ii)(B)(1).

[27] *See* Phlx Rule 1080.07(d)(ii)(B)(2). The System uses a Phlx XL market maker's most recently submitted COOP Sweep at each price level as the market maker's response at that price level, unless the COOP Sweep has a size of zero. A COOP Sweep with a size of zero will remove a Phlx XL market maker's COOP Sweep from that COOP at that price level. *See id.*

[28] *See* Notice, 80 FR at 35999. Similarly, as discussed more fully below, Phlx XL market makers are the only participants that may submit sweeps of non-Complex Orders, COLA Sweeps, and CBOOK Sweeps. *See id.* and Amendment No. 1.

[29] *See id.* The Phlx states that Phlx XL market makers use a particular quoting protocol to submit quotes and sweeps to the Phlx. *See* Notice, 80 FR at 36004.

[30] *See id.*

[31] *See* Notice, 80 FR at 36004.

[32] *See id.* In addition, the Phlx notes that some Phlx XL market makers choose to submit their interest in the form of a Complex Order. *See* Notice, 80 FR at 35999.

[33] *See* Notice, 80 FR at 36004.

[34] *See* Phlx Rule 1080.07(d)(ii)(B)(3).

[35] *See* Notice, 80 FR at 36004.

[36] *See id.*

[37] *See id.*

[38] *See* Amendment No. 2.

[39] *See* Phlx Rule 1080.07(d)(ii)(C).

[40] *See id.* and Amendment No. 1. *See* Notice, 80 FR at 35999, for examples illustrating the handling of all-or-none orders at the opening. The Phlx notes that an all-or-none Complex Order will be executed if the price and size of the all-or-none order meets the criterion of executing the maximum number of contracts possible to establish the COOP Evaluation price. *See* Amendment No. 1.

basis; and, lastly, all other participants on a pro rata basis.[41] The imbalance of Complex Orders that are unexecutable at that price will be placed on the CBOOK.[42]

If the System determines at the end of the COOP Timer that no trade is possible (*i.e.,* there are no market or marketable limit Complex Orders or COOP Sweeps, Complex Orders or COOP Sweeps that are equal to or improve the cPBBO,[43] and/or Complex Orders or COOP Sweeps that cross within the cPBBO in the System), all Complex Orders received during the COOP Timer will be placed on the CBOOK.[44] If the System determines that a trade is possible (*i.e.,* there are market or marketable limit Complex Orders or COOP Sweeps, Complex Orders or COOP Sweeps that are equal to or improve the cPBBO, and/or Complex Orders or COOP Sweeps that cross within the cPBBO in the System), Phlx Rule 1080.07(d)(ii)(C)(2) describes the executions that will occur.[45] The Phlx notes that the opening price logic maximizes the number of contracts executed during the opening process and ensures that residual contracts of partially executed orders or quotes are at a price equal to or inferior to the opening price.[46] The logic ensures that there is no remaining unexecuted interest available at a price that crosses the opening price.[47] If multiple prices exist that ensure that there is no remaining unexecuted interest available through such price(s), the opening logic chooses the midpoint of such price points.[48] A Complex Order Strategy will be open after the COOP even if no executions occur.[49] Thus, a Complex Order Strategy will be open based on the fact that interest was received, regardless of whether the response interest results in an execution.[50]

The proposal revises the rules describing the operation of the COLA to indicate that the System uses the process set forth in Phlx Rule 1080.07(d)(ii)(C)(2) not only to determine executions at the conclusion of the COOP, but also to determine executions against a COLA-eligible order at the conclusion of the COLA.[51] The Phlx believes that the correction of Phlx Rule 1080.07(e)(viii)(C)(3) and the level of detail provided in the revised rule will help Phlx participants understand how their execution price is determined, and that the method is fair and orderly, based on both size and midpoint, which reflect the totality of the remaining interest.[52] In addition, the Phlx believes that this execution process is consistent with just and equitable principles of trade because it is based on the price of the larger sized interest, which affects more options contracts and is likely to result in more executions than the current rule would provide.[53] The Phlx further notes that the provision in Phlx Rules 1080.07(d)(ii)(C)(2) and 1080.07(e)(viii)(C)(3) allowing certain remaining interest to ''leg'' by trading at the PBBO with existing quotes and/or limit orders on the limit order book may provide any opportunity for additional Complex Orders to trade.[54]

B. IOC Orders and Do Not Auction (''DNA'') Orders

The proposal revises the Phlx's rules to describe the handling of IOC and DNA Orders at the opening. Complex Orders marked as IOC or DNA that are received before the COOP is initiated will be cancelled and will not participate in the COOP, although a COOP will occur in that Complex Order Strategy.[55] The Phlx believes that it is appropriate for the COOP to occur even if the IOC or DNA order that triggered the COOP has been cancelled because the opening process is intended to open key strategies in which participants are interested.[56]

IOC Complex Orders received during a COOP will join the COOP and will be treated like any other Complex Order, except that they will be cancelled at the end of the COOP Timer if they are not executed.[57] DNA Complex Orders received during a COOP will be cancelled and will not participate in the COOP because allowing them to join the COOP would involve a delay.[58]

The proposal also revises Phlx Rule 1080.07(b)(iii) to state that Floor Brokers using the Options Floor Broker Management System may enter Complex Orders as IOC only on behalf of ''SQTs, RSQTs, non-SQT ROTs, specialists, non-Phlx market makers on another exchange, and Firms,'' rather than on behalf of ''broker-dealers or affiliates of broker-dealers.'' The Phlx states that this revision merely replaces vague terms (broker-dealers or affiliates of broker-dealers) with more precise terms that are linked to definitions in the rule.[59]

C. Amendments to the COLA Rules

The proposal makes several changes to the rules governing the operation of the COLA. First, the proposal amends and corrects Phlx Rule 1080.07(e)(iv) to add a definition of COLA Sweep and to indicate that only Phlx XL market makers, rather than Phlx XL participants, may submit COLA

[41] *See* Phlx Rule 1080.07(d)(ii)(C).

[42] *See id.*

[43] The cPBBO is the best net debit or credit price for a Complex Order Strategy based on the Phlx best bid and/or offer (''PBBO'') for the individual options components of the Complex Order Strategy and, where the underlying security is a component of the Complex Order Strategy, the national best bid and/or offer for the underlying security. The cPBBO is a calculated number and does not include orders on the CBOOK or interest on other exchanges. *See* Notice, 80 FR at 35999–36000, and Phlx Rule 1080.07(a)(iv).

[44] *See* Phlx Rule 1080.07(d)(ii)(C)(1).

[45] If a trade is possible based on interest in the System, the System will do the following: if such interest crosses and does not match in size, the execution price is based on the highest (lowest) executable offer (bid) price when the larger sized interest is offering (bidding), provided, however, that if there is more than one price at which the interest may execute, the execution price when the larger sized interest is offering (bidding) is the midpoint of the highest (lowest) executable offer (bid) price and the next available executable offer (bid) price rounded, if necessary, down (up) to the closest minimum trading increment. If the crossing interest is equal in size, the execution price is the midpoint of lowest executable bid price and the highest executable offer price, rounded, if necessary, up to the closest minimum trading increment. Executable bids/offers include any interest which could be executed at the net price without trading through residual interest or the cPBBO, or without trading at the cPBBO where there is non-broker-dealer customer interest at the best bid or offer for any leg, consistent with Rule 1080.07(c)(iii). if there is any remaining interest after complex interest has traded against other complex interest, there is no component that consists of the underlying security, and the order is not marked all-or-none, such interest may ''leg'' whereby each options component may trade at the PBBO with existing quotes and/or limit orders on the limit order book for the individual components of the Complex Order; provided that remaining interest may execute against any eligible Complex Orders received before legging occurs. If the remaining interest has a component that consists of the underlying security or is an all-or-none Complex Order, such Complex Order will be placed on the CBOOK. *See* Phlx Rule 1080.07(d)(ii)(C)(2). Examples illustrating the execution of orders pursuant to Phlx Rule 1080.07(d)(ii)(C)(2) appear in the Notice, 80 FR at 36000–36001.

[46] *See* Notice, 80 FR at 36000.

[47] *See id.*

[48] *See id.*

[49] *See* Phlx Rule 1080.07(d)(ii)(C)(3).

[50] *See* Notice, 80 FR at 36004.

[51] *See* Phlx Rule 1080.07(e)(viii)(C)(3) and Notice, 80 FR at 36003.

[52] *See* Notice, 80 FR at 36003.

[53] *See id.* at 36005.

[54] *See id.*

[55] *See* Phlx Rule1080.07(d)(ii)(A)(5). In such cases, a Complex Order Opening Auction Notification is sent with a price and size of zero, and a buy side. *See* Notice, 80 FR at 35998. The Phlx notes that non-Complex Orders marked IOC that are received prior to the opening of the option also are cancelled upon receipt. *See* Notice, 80 FR at 36004.

[56] *See* Notice, 80 FR at 35998.

[57] *See* Notice, 80 FR at 35998. The Phlx notes that this is intended to try to execute the order, because the order may be responding to the Complex Order Opening Auction Notification. *See id.*

[58] *See* Phlx Rule 1080.07(d)(ii)(A)(5) and Notice, 80 FR at 35998.

[59] *See id.* at 36005.

Sweeps.[60] Any COLA Sweeps that remain unexecuted at the end of the COLA Timer once all executions are complete will expire.[61] Phlx XL participants may bid and/or offer on either or both side(s) of the market during the COLA timer by submitting one or more Complex Orders in $0.01 increments.[62] A Complex Order marked as a response will not be visible to any participant and will not be disseminated by the Phlx.[63] A Complex Order marked as a response will expire if it is unexecuted at the end of the COLA Timer.[64] A Complex Order not marked as a response that is not executed during the COLA will be available to be placed on the CBOOK, unless the order is marked IOC.[65]

Second, the proposal revises the specialist allocation provisions in Phlx Rule 1080.07(e)(vi)(C). Phlx Rule 1080.07(e)(vi)(C) currently provides that, after customer marketable Complex Orders have been executed against a COLA-eligible order, a specialist that submits a COLA Sweep for the same price as other COLA Sweeps that are eligible for execution against the COLA-eligible order will be entitled to receive the greater of: (1) The proportion of the aggregate size at the cPBBO associated with such specialist's COLA Sweep, SQT and RSQT COLA Sweeps, and non-SQT ROT Complex Orders on the CBOOK; (2) the Enhanced Specialist Participation as described in Phlx Rule 1014(g)(ii) (which provides a specialist with an enhanced participation of 30% of the remainder of an order under certain circumstances); or (3) 40% of the remainder of the order. The proposal eliminates Phlx Rule 1080.07(e)(vi)(C)(3), which would provide the specialist with 40% of the remainder of a COLA-eligible order.[66] The Phlx states that this provision, which does not currently operate, may have been an error because, given the ''greater of'' language in the rule, the 30% Enhanced Specialist Participation contemplated under Phlx Rule 1080.07(e)(vi)(C)(2) would never have operated.[67] The proposal also corrects Phlx Rule 1080.07(e)(vi)(C)(1) by deleting language that limits the specialist's entitlement to the proportion of the aggregate size ''at the cPBBO'' associated with the specialist's COLA Sweep, SQT and RSQT Sweeps, and non-SQT ROT Complex Orders on the CBOOK. The Phlx states that the System instead looks at all of a specialist's COLA Sweeps at a particular price, not just at the cPBBO, and compares them to all other Phlx XL market maker interest at that price.[68] The revised rule will take into account all expressed interest at each price, instead of interest only at the cPBBO, which should maximize the number of contracts executed.[69] Thus, under Phlx Rule 1080.07(e)(vi)(C), as amended, a specialist would be entitled to receive the greater of: (1) The proportion of the aggregate size associated with the specialist's COOA Sweep, SQT and RSQT COLA Sweeps, and non-SQT ROT Complex Orders on the CBOOK; or the 60/40/30% Enhanced Specialist Participation described in Rule 1014(g)(ii). The Phlx notes that this is the same enhanced pro-rata specialist allocation that applies to non-Complex Orders.[70]

Third, the proposal revises Phlx Rule 1080.07(e)(vii) to indicate that COLA Sweeps that exceed the size of a COLA-eligible order are eligible to trade with other incoming COLA-eligible orders, COLA Sweeps, and any other interest received during the COLA Timer after the initial COLA-eligible order has been executed ''to the fullest extent possible,'' rather than ''in its entirety.'' [71] The Phlx notes that a COLA-eligible order need not be executed in its entirety for other interest to be executed.[72] The Phlx states that permitting executions of responsive interest at a different price, after the COLA-eligible order has been executed to the fullest extent possible, benefits the responsive interest.[73] The Phlx further notes that fewer contracts would have been executed if the System operated as described in the current rule text, because fewer contracts would have been available for execution against the COLA-eligible order and other responsive interest.[74]

Fourth, the proposal deletes from Phlx Rule 1080.07(e)(vi)(B) a provision stating that, for allocation purposes, the size of a COLA Sweep or responsive Complex Order received during the COLA Timer will be limited to the size of the COLA-eligible order.[75] The Phlx accepts size in excess of the COLA-eligible order size, which can be executed against remaining interest after the COLA-eligible order has been executed to the fullest extent possible.[76] This change will reflect the Phlx's current practice and permit the full size of responding interest to trade against non-COLA-eligible interest.[77] The Phlx believes that permitting the trading of interest in excess of the COLA-eligible volume benefits market participants because it helps to ensure that as many contracts as possible are executed.[78]

D. Amendments Concerning Firms and Non-Market Maker Off-Floor Broker-Dealers

The proposal adds a new defined term, ''Firm,'' that will distinguish Firms from other non-market maker off-floor broker-dealers.[79] The proposal amends Phlx Rule 1080.07(e)(i)(B)(1) to indicate that orders from Firms are not COLA-eligible and therefore will not trigger a COLA.[80] In contrast, orders from non-market maker off-floor broker-dealers that are not Firms will be eligible to start a COLA.[81] The proposal amends Phlx Rule 1080.07(e)(viii)(C)(2) to indicate that orders from Firms (like orders from Phlx and non-Phlx market makers) will be treated as non-customer orders for purposes of determining the execution price that their orders receive when executing against COLA-eligible

[60] A COLA Sweep in is a one-sided electronic quotation submitted for execution against other trading interest in a particular Complex Order Strategy. *See* Phlx Rule 1080.07(e)(iv).

[61] *See id.*

[62] *See* Amendment No. 2.

[63] *See id.*

[64] *See id.*

[65] *See id.*

[66] *See* Notice, 80 FR at 36001.

[67] *See* Notice, 80 FR at 36001.

[68] *See id.*

[69] *See* Notice, 80 FR at 36005.

[70] *See* Notice, 80 FR at 36001.

[71] The Phlx also proposes to make this change in Phlx Rules 1080.07(e)(vii), (e)(viii)(B), (e)(viii)(C)(1), (e)(viii)(C)(1)(e), (e)(viii)(C)(2), (e)(viii)(C)(2)(e) and (e)(viii)(C)(3). *See* Notice, 80 FR at 36001.

[72] *See* Notice, 80 FR at 36002. For example, where a COLA-eligible order is bidding $2.00 for 20 contracts, and other interest consists of a $2.10 bid for 10 contracts, a $2.10 offer for 10 contracts, and a $2.00 offer for 10 contracts, the buy and sell orders at $2.10 can execute against each other even though the COLA-eligible order was not fully executed. *See id.*

[73] *See* Notice, 80 FR at 36002.

[74] *See* Notice, 80 FR at 36002.

[75] The proposal also revises Phlx Rule 1080.07(e)(vi)(B) to refer to ''Complex Orders and COLA Sweeps,'' that are eligible for execution against the COLA-eligible order at the same price, rather than Complex Orders, COLA Sweeps, Phlx XL participant Complex Orders, and/or non-customer off-floor broker-dealer Complex Orders that are eligible for execution against the COLA-eligible order at the same price.

[76] The remaining interest consists of any potential interest that has been received, including orders, quotes, COLA Sweeps, and individual leg market interest. *See* Notice, 80 FR at 36001.

[77] *See* Notice, 80 FR at 36002.

[78] *See id.*

[79] Phlx Rule 1080.07(a)(x) defines ''Firm'' to mean ''a broker-dealer trading for its own (proprietary) account that is: a member of The Options Clearing Corporation (''OCC'') or maintains a Joint Back Office (''JBO'') arrangement with an OCC member. Unless otherwise specified, Firms are included in the category of non-market-maker off-floor broker-dealer.''

[80] The proposal also deletes from Phlx 1080.07(e)(i)(B)(1) the requirement that a COLA-eligible Complex Order improve the cPBBO for the specific Complex Order Strategy, because this requirement is already stated in Phlx Rule 1080.07(e)(i)(A).

[81] *See* Notice, 80 FR at 36003.

orders.[82] In addition, the proposal amends Phlx Rule 1080.07(e)(viii)(C)(2)(d) to indicate that the System executes non-customer (*i.e.,* Phlx market maker, Firm, and non-Phlx market maker) Complex Orders not in the order in which they were received, as the rule currently indicates, but on a pro-rata basis among Phlx market maker interest and then, again on a pro-rata basis, among Phlx XL participants at each price level, as described in Phlx Rule 1080.07(vi)(B).[83]

According to the Phlx, the trading style and needs of Firms are more like market makers.[84] The Phlx notes that Firms are large, well-capitalized broker-dealers that trade for their own account and generally submit large orders, including orders that facilitate their clients' orders or offset large positions taken to accommodate their customers.[85] Thus, the Phlx states that Firms, in general, are commonly viewed as providers of liquidity, much like market makers.[86] In addition, the Phlx believes that Firms do not expect or need their Complex Orders to trigger a COLA, because this is a feature more commonly associated with customers than with liquidity providers.[87] The Phlx also states that if Firms' orders were able to start a COLA, this could impede the ability of other Complex Orders to begin a COLA.[88] Finally, the Phlx states that it could impede the submission of competitive responses and/or quoting if market makers are hesitant to provide an aggressive price for a COLA that may have been initiated by a Firm.[89]

Third, the proposal amends Phlx Rule 1080.07(e)(viii)(C)(1) to indicate that orders from non-market maker off-floor broker-dealers that are not Firms will be treated like non-broker-dealer customer orders for purposes of determining the execution price their orders will receive when executing against a COLA-eligible order.[90] For purposes of this rule, the Phlx treats orders from both non-broker-dealer customers and non-market maker off-floor broker-dealers (other than Firms) as customer orders because non-market maker off-floor broker-dealers seek liquidity and are therefore more like customers than other participants, which generally provide liquidity.[91] In addition, the proposal amends Phlx Rule 1080.07(e)(viii)(C)(1)(d) to specify that, rather than executing all customer Complex Orders in the order in which they were received, as the rule currently provides, non-broker-dealer customer orders at the same price are executed in time priority, while non-market-maker off-floor broker-dealer orders at the same price are executed on a pro-rata basis. The Phlx states that the pro rata allocation for non-market maker off-floor broker-dealers is consistent with the priority rules applicable in other aspects of the execution of Complex Orders and simple orders.[92]

E. Amendment to the CBOOK Rules

Phlx Rule 1080.07(f)(i)(F) currently provides that a Complex Order received during the final 10 seconds of the trading session is placed on the CBOOK.[93] The proposal amends this provision to indicate that the System will place a Complex Order on the CBOOK if the Complex Order is received during the final configurable number of seconds of the trading session after any marketable portion of the Complex Order is executed. The Phlx believes that 10 seconds may be too long and could prevent executions from occurring, and that a COLA may be triggered and completed in less than three seconds.[94] Thus, the Phlx believes that a time period of less than 10 seconds would be appropriate to maximize executions.[95] The Phlx will notify participants on its Web site in advance of a change to the number of seconds.[96] The proposal also revises this rule to indicate that a Complex Order will be placed on the CBOOK after the execution of any marketable portion of the Complex Order because the System seeks to execute any portion of any order that can be traded before placing the remainder of the order on the CBOOK.[97]

In addition, the proposal revises Phlx Rule 1080.07(f)(ii) to indicate that Phlx XL market makers may submit one or more CBOOK Sweeps to execute against Complex Order interest on the CBOOK.[98] A CBOOK Sweep, which is similar to a COOP Sweep or a COLA Sweep, will expire if it is not executed immediately.[99] The Phlx notes that a non-Phlx XL market maker participant that wanted to submit interest that would expire if it is not executed

[82] *See* Amendment No. 1. Phlx Rule 1080.07(e)(viii)(C)(2) (2), as amended, provides, in relevant part, that: Incoming non-customer (Phlx market makers, Firms and non-Phlx market makers) Complex Orders that are received during the COLA Timer on the opposite side of the market from the COLA-eligible order with a price equal to or better than the best priced Complex Order or COLA Sweep will be executed against the COLA eligible order (which will be executed in its entirety first as described in subparagraph (B) above) or other Complex Orders or COLA Sweeps as follows:

(a) If such incoming non-customer Complex Order is a limit order at the same price as the best priced Complex Order or COLA Sweep, the incoming non-customer Complex Order will be executed at such price, subject to the provisions set forth sub-paragraph (e) above.

(b) If such incoming non-customer Complex Order is a limit order that improved the best priced Complex Order or COLA Sweep, the incoming non-customer Complex Order will be executed at the limit order price.

(c) If such incoming non-customer Complex Order is a market order or a limit order that crosses the cPBBO, the incoming non-customer Complex Order will be executed at a price of $0.01 better than the cPBBO on the same side of the market as the COLA-eligible order.

[83] *See* Notice, 80 FR at 36002.

[84] *See id.*

[85] *See id.* at 36003–36004.

[86] *See id.* at 36004.

[87] *See id.* at 36005.

[88] *See* Amendment No. 1.

[89] *See id.*

[90] Phlx Rule 1080.07(e)(viii)(C)(1), as amended, defines incoming customer Complex Orders to mean orders from non-broker-dealer customers and non-market-maker off-floor broker-dealers, other than Firms. *See* Amendment No. 1. Phlx Rule 1080.07(e)(viii)(C)(1), as amended, provides, in relevant part, that (1) Incoming customer (non-broker-dealer customer and non-market maker off-floor broker-dealer (other than Firms)) Complex Orders that are received during the COLA Timer on the opposite side of the market from the COLA-eligible order with a price equal to or better than the best priced Complex Order or COLA Sweep will be executed against the COLA eligible order (which will be executed to the fullest extent possible first as described in sub-paragraph (B) above) or other Complex Orders or COLA Sweeps as follows:

(a) If such incoming customer Complex Order is a limit order at the same price as the best priced Complex Order or COLA Sweep, the incoming Complex Order will be executed at such price.

(b) If such incoming Complex Order is a limit order that improved the best priced Complex Order or COLA Sweep, the incoming customer Complex Order will be executed at the mid-point of the best priced Complex Order or COLA Sweep and the limit order price, rounded, if necessary, to the closest minimum trading increment to the benefit of the COLA-eligible order.

(c) If such incoming customer Complex Order is a market order or a limit order that crosses the cPBBO, the incoming Complex Order will be executed at the mid-point of the cPBBO on the same side of the market as the COLA-eligible order and the best priced Complex Order or COLA Sweep, rounded, if necessary, to the closest minimum trading increment to the benefit of the COLA-eligible order.

[91] *See* Notice, 80 FR at 36002. *See also* Amendment No. 1 (clarifying that the non-market maker off-floor broker-dealers referenced in this rule do not include Firms).

[92] *See* Notice, 80 FR at 36002, and Phlx Rules 1080.07(e)(vi)(B) and 1014(g)(vii).

[93] The Phlx notes that the System recently operated such that a Complex Order received during the final three seconds of the trading session, rather than the final 10 seconds of the trading session, was placed on the CBOOK. Accordingly, the Phlx states that more Complex Orders may have started a COLA than the rule provides for and may have been executed, rather than resting on the CBOOK. *See* Notice, 80 FR at 36002.

[94] *See id.*

[95] *See id.*

[96] *See id.*

[97] *See id.* at 36002–36003.

[98] *See* Amendment No.1. A CBOOK Sweep is a one-sided electronic quotation at a particular price submitted for execution against existing interest in a particular Complex Order Strategy on the CBOOK. *See id.*

[99] *See id.*

immediately would be able to submit an IOC order.[100]

F. All-or-None Orders

In the current proposal, the Phlx proposes to accept all-or-none Complex Orders and specify how they are handled.[101] In particular, the proposal revises Phlx Rule 1080.07(d)(ii)(C) to indicate that, during a COOP Evaluation, the System will determine the price at which the maximum number of contracts may trade, taking into account Complex Orders marked all-or-none (which will be executed if possible), unless the maximum number of contracts can only trade without including all-or-none orders.[102] In addition, the proposal amends Phlx Rule 1080.07(e)(vi)(A)(1) to indicate that an all-or-none Complex Order will not leg (*i.e.,* execute against quotes or orders for the individual components comprising the Complex Order) during a COLA, and that an all-or-none Complex Order that is not executed during the COLA will be placed on the CBOOK.[103] Similarly, the proposal amends Phlx Rule 1080.07(f)(iii)(A) to provide that an all-or-none Complex Order on the CBOOK will not execute against quotes or orders on the limit order book for the individual components of the Complex Order.

The Phlx notes that all-or-none orders are commonly available for non-Complex Orders, and that this order type would allow market participants to obtain a certain minimum size.[104] The Phlx believes that this contingency is particularly appropriate for Complex Orders because of the complexity of the strategies employed by users; the size of the order could be relevant to the strategy.[105] The Phlx further believes that not legging all-or-none Complex Orders promotes just and equitable principles of trade because the all-or-none contingency complicates the expeditious execution of such orders against the individual components of the Complex Order.[106] The Phlx does not believe that market participants would expect Complex Orders to leg because all-or-none orders are often treated differently because of the nature of the contingency.[107]

G. Amendments to the Spread Priority Rule

The proposal revises the Phlx Rule 1080.07(c)(iii) to make clear that a Complex Order has priority over established bids or offers in the marketplace for the individual legs that comprise the Complex Order unless the established bid or offer for at least one leg of the Complex Order is a non-broker-dealer customer order.[108] If the established bid or offer for at least one leg of the Complex Order is a non-broker-dealer customer order, then at least one leg of the Complex Order must be executed at a better price than the established bid or offer for that contract by the minimum trading increment.[109] Thus, a Complex Order may not be executed at the cPBBO if there is non-broker-dealer customer interest at the cPBBO.[110] For example, with respect to a Complex Order with four legs, if the established best bid or offer in the individual leg market for one component of the Complex Order is a non-broker-dealer customer order, and the best bids or offers in the individual leg market for the remaining three component legs of the Complex Order are market maker quotes, the Complex Order would be required to trade at a price that is better than the cPBBO.[111] The Phlx believes that the changes to Phlx Rule 1080.07(c)(iii) clarify the rule and preserve customer priority.[112] The Phlx notes that the ability to achieve spread priority over non-customers is common among the options exchanges.[113]

H. Amendment Nos. 1 and 2

In Amendment No.1, the Phlx proposes to further clarify or add detail to several rules, provide additional rationale for certain proposed changes, and specify the time when the Phlx plans to begin accepting all-or-none Complex Orders. Specifically, Amendment No. 1 revises Phlx Rule 1080.07(d)(ii)(C) to indicate that all-or-none Complex Orders received during the COOP will be executed if possible, *i.e.,* when the price and size of the all-or-none order meets the criterion of executing the maximum number of contracts possible to establish a COOP Evaluation price. Amendment No. 1 revises Phlx Rule 1080.07(e)(vi)(A)(1) to indicate that an all-or-none order that is not executed during a COLA will be placed on the CBOOK. In addition, Amendment No. 1 indicates that the Phlx proposes to begin accepting all-or-none Complex Orders within 60 days after approval of the proposal.

Amendment No. 1 revises Phlx Rule 1080.07(e)(viii)(C)(1) to clarify that, for purposes of that rule, the term ''incoming customer orders'' refers to orders from non-broker-dealer customers and non-market maker off-floor broker-dealers other than Firms. The Phlx notes that it is necessary to exclude from this definition Firms, which otherwise would fall within the definition of non-market maker off-floor broker-dealers. Amendment No. 1 also provides additional analysis to support the statutory basis for this proposed change, stating that it is consistent with just and equitable principles of trade to treat both non-broker-dealer customers and non-market-maker, non-Firm off-floor broker-dealers as ''customers'' for purposes of determining the execution price of their orders when executing against a COLA-eligible order because both non-broker-dealer customers and non-market maker, non-Firm off-floor broker-dealers seek liquidity in the marketplace.

[100] *See id.*

[101] *See* Notice, 80 FR at 35999 and 36004. The Phlx previously noted that it stopped accepting all-or-none orders on March 17, 2014, to align the System with its rules. *See* Notice, 80 FR at 36004. The Phlx then adopted a definition of all-or-none orders in June 2014. *See* Securities Exchange Act Release No. 72351 (June 9, 2014), 79 FR 33977 (June 13, 2014) (notice of filing and immediate effectiveness of File No. SR-Phlx-2014–39). Phlx Rule 1080.07 provides that an all-or-none order is an order that is ''to be executed in its entirety or not at all. These orders can only be submitted for non-broker-dealer customers.'' The Phlx proposes to begin accepting all-or-none Complex Orders within 60 days after approval of the proposal. *See* Amendment No. 1.

[102] *See* Amendment No. 1. *See* Section II(A), *supra,* for a discussion of the treatment of all-or-none orders in the COOP.

[103] *See id.*

[104] *See id.*

[105] *See id.*

[106] *See* Notice, 80 FR at 36005.

[107] *See id.*

[108] *See* Amendment No. 1. Phlx Rule 1080.07(c)(iii), as amended, provides: (A) Complex Orders consisting of a conforming ratio may be executed at a total credit or debit price without giving priority to individual bids or offers established in the marketplace that are not better than the bids or offers comprising such total credit or debit, provided that if any of the bids or offers established in the marketplace consist of a non-broker-dealer customer order, at least one option leg is executed at a better price than the established bid or offer for that option contract by the minimum trading increment and no option leg is executed at a price outside of the established bid or offer for that option contract.

(B) Where a Complex Order in a conforming ratio consists of the underlying security (stock or ETF) and one options leg has priority over bids or offers established in the marketplace, except over bids or offers established by non-broker-dealer customer orders. However, where a Complex Order in a conforming ratio consists of the underlying stock or ETF and more than one options leg, the options legs have priority over bids and offers established in the marketplace, including non-broker-dealer customer orders, if at least one options leg improves the existing market for that option.

[109] *See* Phlx Rule 1080.07(c)(iii).

[110] *See* Amendment No. 1. *See also* Phlx Rule 1080.07(d)(ii)(C)(2) (stating that executable bids/offers at the conclusion of the COOP include any interest that could be executed at the net price without trading through residual interest or the cPBBO or without trading at the cPBBO where there is non-broker-dealer customer interest at the best bid or offer for any leg, consistent with Phlx Rule 1080.07(c)(iii)).

[111] *See id.*

[112] *See id.*

[113] *See id.*

Amendment No. 1 revises Phlx Rule 1080.07(e)(viii)(C)(2) to specify that ''non-customer orders'' for purposes of that rule, refers to orders from Phlx market makers, Firms, and non-Phlx market makers.

Amendment No. 1 revises the text of Phlx Rule 1080.07(c)(iii), the Phlx's spread priority rule, to make clear that a Complex Order has priority over established bids or offers in the marketplace for the individual legs of the order unless the established bid or offer for at least one leg is a non-broker-dealer customer order. In addition, Amendment No. 1 explains that if the established bid or offer for at least one leg of the order is a non-broker-dealer customer order, then at least one leg of the Complex Order must be executed at a better price than the established bid or offer for that leg. Thus, a Complex Order cannot be executed at the cPBBO if there is non-broker-dealer customer interest at the cPBBO. For example, with respect to a Complex Order with four legs, if the established best bid or offer in the individual leg market for one component of the Complex Order is a non-broker-dealer customer order, and the best bids or offers in the individual leg market for the remaining three component legs of the Complex Order are market maker quotes, the Complex Order would be required to trade at a price that is better than the cPBBO.[114] Amendment No. 1 notes that the ability to achieve spread priority over non-customers is common among the options exchanges.

Amendment No. 1 deletes the provision in Phlx Rule 1080.07(c)(ii)(D) indicating that Complex Orders will not trade on Phlx XL when the Phlx's automated execution system is disengaged for any options component of a Complex Order. As noted above and in Amendment No. 1, the Phlx cannot disengage its automatic execution system.[115]

Amendment No. 1 revises Phlx Rule 1080.07(f)(ii) to provide for the submission of CBOOK Sweeps. Specifically, Amendment No. 1 revises the rule to indicate that Phlx XL market makers may submit one or more CBOOK Sweeps to execute against Complex Order interest on the CBOOK. A CBOOK Sweep, which is similar to a COOP Sweep or a COLA Sweep, will expire if it is not executed immediately. The Phlx notes that a non-Phlx XL market maker participant that wanted to submit interest that would expire if it is not executed immediately would be able to submit an IOC order.

Finally, Amendment No. 1 provides additional rationale for the proposal to prevent Firm orders from triggering a COLA. Specifically, Amendment No. 1 states that the Phlx believes that if Firm orders were able to start a COLA, this could impede the ability of other Complex Orders to start a COLA. In addition, the Phlx believes that it could impede the submission of competitive responses and/or quoting if market makers are hesitant to provide an aggressive price for COLAs that may have been initiated by Firms.

The Phlx believes that it would be consistent with the Act to approve Amendment No. 1 on an accelerated basis because the changes proposed in Amendment No. 1 provide additional details or clarifications to the proposal, without adding new requirements, or provide additional rationale or analysis to support the proposed changes. As noted above, Amendment No. 1 also specifies that the Phlx proposes to begin accepting all-or-none Complex Orders within 60 days after approval of the proposal.

Amendment No. 2 revises Phlx Rule 1080.07(e)(iv) to indicate that Phlx XL participants may bid and or offer on either or both side(s) of the market during a COLA Timer by submitting one or more Complex Orders in $0.01 increments. Amendment No. 2 further provides that a Complex Order marked as a response will expire if it is unexecuted at the end of the COLA Timer. A Complex Order not marked as a response will be placed on the CBOOK if it is not executed during the COLA, unless the order is marked IOC. Amendment No. 2 indicates that Complex Orders marked as a response will not be visible to any participant and will not be disseminated by the Phlx. The Phlx believes that these changes should be approved on an accelerated basis because they provide additional detail to the rule and clarify the responsive process for a COLA. The Phlx also notes that these COLA provisions parallel the provisions in Phlx Rule 1080.07(d)(ii)(B) related to the COOP.

In addition, Amendment No. 2 revises Phlx Rule 1080.07(d)(ii)(B) to indicate that Phlx XL participants may respond to a Complex Order Opening Auction Notification by submitting Complex Orders in increments of $0.01. Amendment No. 2 also indicates that a Complex Order that is not marked as a response to a Complex Order Opening Auction Notification will be placed on the CBOOK if it is not executed during the opening. The Phlx believes that these changes should be approved on an accelerated basis because they provide additional detail to the rule.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[116] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,[117] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 Commission believes that the COOP rules, as amended, are designed to facilitate an orderly opening for Complex Orders, or an orderly re-opening following a trading halt. The Phlx states that the COOP, which operates in a manner similar to an opening process for single leg orders, is designed to facilitate price discovery and to execute as much trading interest as possible at the best possible price(s).[118] As described more fully above, the Phlx will conduct a COOP for any Complex Order Strategy for which the Phlx received a Complex Order prior to the opening, unless that Complex Order Strategy is already open.[119] Upon the initiation of a COOP for a Complex Order Strategy, the Phlx will send a broadcast message, the Complex Order Opening Auction Notification, that is intended to attract interest to the opening process.[120] The Commission notes that all Phlx XL participants may participate in a COOP by submitting one or more Complex Orders on either or

[114] Amendment No. 1 makes a related technical correction to Phlx Rule 1080.07(d)(ii)(C)(2) to indicate that executable bids/offers during the COOP include any interest that could be executed ''at the net price'' without trading through residual interest or the cPBBO or without trading at the cPBBO where there is broker-dealer customer interest at the best bid or offer for any leg, consistent with Phlx Rule 1080.07(c)(iii).

[115] *See* note 13, *supra.*

[116] In approving the proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[117] 15 U.S.C. 78f(b)(5).

[118] *See* Notice, 80 FR at 36004.

[119] *See* Phlx Rule 1080.07(d)(ii). Following a trading halt, the Phlx will conduct a COOP for any Complex Order Strategy that has a Complex Order present or that had previously opened prior to the trading halt. *See id.*

[120] *See* Notice, 80 FR at 36004, and Phlx Rule 1080.07(d)(ii)(A)(1).

both side(s) of the market in $0.01 increments in response to a Complex Order Opening Auction Notification.[121] The Commission believes that the ability of all Phlx XL participants to participate in a COOP potentially could lead to more competitive opening auctions, to the benefit of investors.

At the conclusion of the COOP Timer, the System conducts a COOP Evaluation to determine the maximum number of contracts that can trade, taking into account Complex Orders marked all-or-none (which will be executed if possible), unless the maximum number of contracts can only trade without including all-or-none orders.[122] The Phlx will open the Complex Order Strategy at that price, executing marketable trading interest in the following order: first, to non-broker-dealer customers in time priority; next, to Phlx XL market makers on a pro rata basis; and then to all other participants on a pro-rata basis.[123] The Commission notes that this allocation methodology is consistent with existing Phlx rules.[124]

The Phlx states that the opening price logic in Phlx Rule 1080.07(d)(ii)(C), as amended, which determines the execution price of crossing interest in the COOP, maximizes the number of contracts executed during the opening process and ensures that residual contracts of partially executed orders or quotes are at a price equal to or inferior to the opening price.[125] Thus, the logic ensures that there is no remaining unexecuted interest available at a price that crosses the opening price.[126] The proposal also applies this execution process to the COLA.[127] The Commission believes that these execution processes should benefit investors by helping to assure the execution of as many contracts as possible during the COOP and the COLA.

In addition to submitting Complex Orders to respond to a Complex Order Opening Auction Notification, Phlx XL market makers may respond by submitting one or more COOP Sweeps.[128] Only Phlx XL market makers may submit COOP Sweeps.[129] Similarly, only Phlx XL market makers may submit COLA Sweeps and CBOOK Sweeps to trade with, respectively, a COLA-eligible order or interest resting on the CBOOK.[130] The Phlx represents that Phlx XL participants that are not Phlx XL market makers are not disadvantaged by their inability to submit Sweeps, just as they are not disadvantaged by their inability to submit quotes or Sweeps for non-Complex Orders.[131] The Phlx notes that Phlx XL participants that are not Phlx XL market makers may submit IOC orders, which behave in the same manner as a Sweep.[132] The Phlx states that the Exchange developed Sweeps to enable Phlx XL market makers to expeditiously submit one-sided responsive interest without having to enter an order, which involves a different protocol and method of entry than that used for submitting quotes and Sweeps; according to the Phlx, Sweeps were intended to encourage Phlx XL market makers to submit responsive interest while managing risk, utilizing a single protocol.[133] Based on the Phlx's representations that Phlx XL participants that are not Phlx XL market makers are not disadvantaged by their inability to submit COOP Sweeps, COLA Sweeps, or CBOOK Sweeps, and by the Phlx's representation that such non-Phlx XL market maker participants may submit IOC orders that behave in the same manner as a Sweep, the Commission believes that it is consistent with the Act for the Phlx to make COOP Sweeps, COLA Sweeps, and CBOOK Sweeps available only to Phlx XL market makers, rather than to all Phlx XL participants.[134] In addition, to the extent that the availability of Sweeps succeeds in encouraging Phlx XL market makers to submit trading interest, Sweeps potentially could result in the availability of additional liquidity in the marketplace, to the benefit of investors.

As discussed above, the proposal also describes the handling of IOC and DNA orders during the opening process.[135] The Commission believes that the handling of these orders during the opening will provide market participants with flexibility to determine the manner in which they will trade at the opening.[136] IOC and DNA orders received prior to the initiation of the COOP will be cancelled, although a COOP will occur in the Complex Order Strategy of the IOC or DNA order.[137] The Commission believes that conducting a COOP for a Complex Order Strategy represented by the cancelled IOC or DNA order could benefit investors by allowing the opening of a Complex Order Strategy that investors had indicated an interest in trading.

Under the proposal, orders from Firms are treated like orders from market makers for purposes of triggering a COLA and for purposes of determining the execution price that their orders will receive when trading against a COLA-eligible order. Specifically, under Phlx Rule 1080.07(e)(i)(B)(1), as amended, proprietary orders from Firms, like orders from market makers, will not be COLA-eligible and therefore will not trigger a COLA. In contrast, orders from non-market maker off-floor broker-dealers that are not Firms will be COLA-eligible.[138] The Phlx believes that the ability of Firm proprietary orders to start a COLA could impede the ability of other orders to initiate a COLA.[139] In addition, the Phlx believes that it could impede the submission of competitive responses or quoting if market makers were hesitant to provide aggressive prices for COLAs that may have been initiated by Firms.[140] The Commission notes that other options exchanges have

[121] *See* Phlx Rule 1080.07(d)(ii)(B) and Amendment No. 2.

[122] *See* Phlx Rule 1080.07(d)(ii)(C) and Amendment No. 1.

[123] *See* Phlx Rule 1080.07(d)(ii)(C).

[124] *See, e.g.,* Phlx Rule 1080.07(vi)(B).

[125] *See* Notice, 80 FR at 36000.

[126] *See id.* If multiple prices exist that ensure that there is no remaining unexecuted interest available through such price(s), the opening logic chooses the midpoint of such price points. *See id.*

[127] *See* Phlx Rule 1080.07(e)(viii)(C)(3).

[128] *See id.* Although Phlx XL market makers may submit either a Complex Order or a COOP Sweep, the Phlx notes that some market makers choose to submit their interest in the form of a Complex Order. *See* Notice, 80 FR at 35999.

[129] *See* Phlx Rule 1080.07(d)(ii)(B).

[130] *See* Phlx Rules 1080.07(e)(iv) and 1080.07(f)(ii).

[131] *See* Notice, 80 FR at 36004. *See also* Notice, 80 FR at 35999.

[132] *See* Notice, 80 FR at 36004. Like Sweeps, IOC orders expire if they are not executed immediately. *See also* Amendment No. 1 (stating that a non-Phlx XL market maker participant seeking to submit interest that would expire if it was not executed immediately would be able to submit an IOC order, and, therefore, that such a participant would not be disadvantaged by its inability to submit CBOOK Sweeps).

[133] *See* Notice, 80 FR at 35999.

[134] The Commission notes that Complex Orders submitted in response to a COOP or a COLA function in the same manner as COOP Sweeps and COLA Sweeps in several respects. Like COOP Sweeps and COLA Sweeps, Complex Orders submitted in response to a COOP or a COLA will not be visible to Phlx XL participants or disseminated by the Phlx. *See* Phlx Rules 1080.07(d)(ii)(B)(3) and 1080.07(e)(iv)(C) and Amendment No. 2. In addition, Complex Orders submitted in response to a COOP or a COLA, like COOP Sweeps and COLA Sweeps, may be submitted in $0.01 increments on either or both sides of the market. *See* Phlx Rules 1080.07(d)(ii)(B) and 1080.07(e)(iv) and Amendment No. 2.

[135] *See* Phlx Rule 1080.07(d)(ii)(A)(5).

[136] Under Phlx Rule 1080.07(d)(ii)(A)(5), IOC orders received during the COOP will join the COOP but will be cancelled at the end of the COOP Timer if they are not executed. DNA orders received during the COOP will be cancelled and will not participate in the COOP.

[137] *See* Phlx Rule 1080.07(d)(ii)(A)(5).

[138] *See* Notice, 80 FR at 36003.

[139] *See* Amendment No. 1.

[140] *See id.*

flexibility in determining the orders that may initiate a complex order auction.[141]

Phlx Rule 1080.07(e)(viii)(C)(2), as amended, treats Firm orders like market maker orders for purposes of determining the execution price that their orders will receive when executing against a COLA-eligible order.[142] The Phlx notes that Firms are large, well-capitalized broker-dealers that generally submit large orders, including orders that facilitate their clients' orders or offset often large positions taken to accommodate their customers.[143] The Phlx states that Firms, like market makers, are commonly viewed as providers of liquidity.[144] The proposal also revises Phlx Rule 1080.07(e)(viii)(C)(2) to indicate that the System executes non-customer orders not in time priority, but on a pro-rata basis among Phlx market-maker interest and then among remaining Firm and non-Phlx market maker interest at each price level. The Commission notes that this allocation methodology is consistent with existing Phlx Rule 1080.07(e)(vi)(B). The proposal amends Phlx Rule 1080.07(e)(viii)(C)(1)(d) to indicate that non-broker-dealer customer orders at the same price will be executed in time priority, while non-Firm, non-market maker off-floor broker-dealer orders at the same price will be executed on a pro-rata basis at each price level. The Commission notes that this allocation methodology also is consistent with existing Phlx rules.[145]

The proposal revises Phlx Rule 1080.07(f)(i)(F) to indicate that a Complex Order received during the final configurable number of seconds of the trading session, rather than during the final 10 seconds of the trading session, will be placed on the CBOOK after any marketable portion of the Complex Order is executed. The Phlx states that a COLA auction may be triggered and completed in less than 10 seconds, and thus that the 10-second time period is too long and could prevent executions from occurring.[146] The Commission believes that the revised rule will provide the Phlx with flexibility to reduce the time period at the end of the trading session during which an order will be placed on the CBOOK, which could permit more COLAs to occur and potentially result in a greater number of order executions, to the benefit of investors. The Commission notes that the Phlx will notify participants on its Web site in advance of a change in the number of seconds at the end of a trading session during which an order will be placed on the CBOOK.[147]

The Commission believes that the proposed changes to the spread priority provisions in Phlx Rule 1080.07(c)(iii) will benefit market participants by clarifying the operation of the rule. Among other things, the proposed changes make clear that a Complex Order may not be executed at the cPBBO if there is non-broker-dealer customer interest at the cPBBO and that, if any of the bids or offers established in the marketplace consist of a non-broker-dealer customer order, than at least one leg of the Complex Order must be executed at a price better than the established price for that leg by the minimum trading increment.[148]

The Commission believes that the proposal to revise Phlx Rule 1080.07(b)(iii) to state that Floor Brokers using the Options Floor Broker Management System may enter Complex Orders as IOC only on behalf of ''SQTs, RSQTs, non-SQT ROTs, specialists, non-Phlx market makers on another exchange, and Firms,'' rather than on behalf of ''broker-dealers or affiliates of broker-dealers'' will clarify the rule by using more precise terms that are defined in Phlx Rule 1080.07.

The proposal also deletes two provisions that refer, incorrectly, to the disengagement of the Phlx's automated execution system.[149] The Phlx notes that the Exchange does not and cannot disengage its automatic execution system, which is a fundamental aspect of the System.[150] The Commission believes that correcting these inaccuracies will benefit investors by helping to assure that the Phlx's rules correctly describe the operation of the System.

Finally, the proposal establishes rules governing the trading of all-or-none Complex Orders, including provisions that describe the treatment of all-or-none Complex Orders at the opening and indicate that all-or-none Complex Orders will not execute against interest in the individual leg market.[151] The Phlx states that the all-or-none contingency is particularly appropriate for Complex Orders because the size of the order may be relevant to a market participant's strategy.[152] The Commission believes that rules governing the trading of all-or-none Complex Orders should provide for the orderly trading of all-or-none Complex Orders on the System. The Commission also believes that all-or-none Complex Orders could provide investors and other market participants with additional flexibility to effectuate their investment strategies. The Commission notes that other options exchanges also provide for the trading of all-or-none complex orders.[153]

IV. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, prior to the 30th day after the date of publication of notice of Amendment Nos. 1 and 2 in the **Federal Register**. In Amendment Nos. 1 and 2, the Phlx revised the proposal to make the changes discussed in detail above. Notably, in Amendment No. 1 the Phlx provides additional rationale for its proposal to prevent Firm orders from triggering a COLA, adds a provision describing the operation of CBOOK Sweeps, clarifies the spread priority provisions in Phlx Rule 1080.07(c)(iii), and establishes an implementation period for all-or-none Complex Orders. Amendment No. 1 also added clarifying

[141] *See, e.g.,* CBOE Rule 6.53C(d)(i)(2) (defining a Complex Order Auction (''COA'')-eligible order as a complex order that, as determined by the CBOE on a class-by-class basis, is eligible for a COA considering, among other things, the complex order origin type (*i.e.,* non-broker-dealer public customer, broker-dealers that are not market makers or specialists on another options exchange, and/or market makers or specialists on another options exchange); and NYSE Arca Rule 6,91(c)(1) (defining a COA-eligible order to mean an Electronic Complex Order that, as determined by NYSE Arca on a class-by-class basis, is eligible for a COA, considering, among other things, the order origin type (*i.e.,* Customers, broker-dealers that are not Market Makers or specialists on an options exchange, and/or Market Makers or specialists on an options exchange).

[142] In contrast, Phlx Rule 1080.07(e)(viii)(C)(1), as amended, treats non-market maker off-floor broker-dealers that are not Firms like non-broker-dealer customers for purposes of determining the execution price that their orders will receive when executing against a COLA-eligible order. The Phlx states that non-market maker off-floor broker-dealers that are not Firms seek liquidity and are therefore more like customers than other participants, which generally provide liquidity. *See* Notice, 80 FR at 36002.

[143] *See* Notice, 80 FR at 36003–36004.

[144] *See* Notice, 80 FR at 36004.

[145] *See, e.g.,* Phlx Rule 1080.07(e)(vi)(B).

[146] *See* Notice, 80 FR at 36002.

[147] *See id.*

[148] *See* Amendment No. 1. *See also* Phlx Rules 1080.07(d)(ii)(C)(2) and 1080.07(e)(viii)(C)(3) (stating that executable interest in the COOP and the COLA, respectively, includes any interest that could be executed without trading through residual Complex Order interest or the cPBBO, or without trading at the cPBBO where there is non-broker-dealer customer interest).

[149] *See* Phlx Rules 1080.07(d)(ii)(A)(2) and 1080.07(c)(ii)(D). *See also* Amendment No. 1.

[150] *See* Notice, 80 FR at 35998.

[151] *See* Phlx Rules 1080.07(d)(ii)(C), 1080.07(e)(vi)(A)(1), and 1080.07(f)(iii)(A). The Phlx states that all-or-none Complex Orders do not execute against individual leg market interest because the all-or-none contingency complicates the expeditious execution of these orders against individual leg market interest. *See* Notice, 80 FR at 36005.

[152] *See* Notice, 80 FR at 36005.

[153] *See, e.g.,* NYSE Arca Rule 6.91(b)(2) and NYSE MKT Rule 980NY(d)(2).

details to several rules. The Commission believes that Amendment No. 1 does not raise any novel regulatory issues and instead provides additional clarity to the rule text, along with additional analysis of how the proposal is consistent with the Act, thus facilitating the Commission's ability to make the findings set forth above to approve the proposal. Amendment No. 2 revises Phlx Rule 1080.07(e)(iv) to indicate that Phlx XL participants may respond to a COLA auction by submitting Complex Orders in $0.01 increments. Amendment No. 2 also describes the treatment of Complex Orders submitted during a COLA and provides additional details regarding Complex Orders submitted during the COOP. The Commission believes that Amendment No. 2 does not raise any novel regulatory issues and provides clarity regarding the manner in which Phlx XL participants may participate in the COLA and the COOP. Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

V. Solicitation of Comments on Amendment Nos. 1 and 2

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1 and 2 to the proposed rule change are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2015–49 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-Phlx-2015–49. 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-Phlx-2015–49 and should be submitted on or before January 19, 2016.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[154] that the proposed rule change (SR–Phlx–2015–49), as modified by Amendment Nos. 1 and 2, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[155]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32654 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76736; File No. SR–NSX–2015–07]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Fee and Rebate Schedule Pursuant to Exchange Rule 16.1

December 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2015, National Stock Exchange, Inc. (''NSX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt a new Fee and Rebate Schedule (the ''Fee Schedule'') pursuant to Exchange Rule 16.1 that the Exchange will use upon the resumption of trading on the Exchange.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement a new Fee Schedule pursuant to NSX Rule 16.1, with the goal of maximizing the effectiveness of its business model and providing Equity Trading Permit (''ETP'') Holders[4] a cost-effective execution venue. Accordingly, as set forth in greater detail below, the Exchange is proposing to adopt a fixed

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[154] 15 U.S.C. 78s(b)(2)).

[155] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On November 9, 2015, the Exchange filed with the Commission a proposed rule change amending NSX Rule 11.1, Hours of Trading, to Rescind Interpretations and Policies .01, Cessation of Trading Operations on NSX in order resume trading operations on the Exchange, and make other amendments to the Exchange's rules in connection with the proposed resumption of trading on NSX. *See* Exchange Act Release No. 76390 (November 9, 2015), 80 FR 70261 (November 13, 2015) (SR–NSX–2015–05). On December 14, 2015, the Commission issued an Order approving the proposed rule change. *See* Exchange Act Release No. 76640 (December 14, 2015), 80 FR 79122 (December 18, 2015).

[4] Exchange Rule 1.5 defines ''ETP'' as the Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's trading facilities.

fee schedule that provides for discrete pricing for shares executed in securities priced at $1.00 and above, and those priced at less than $1.00. Within these pricing structures, the fees will vary based on whether an ETP Holder's order takes liquidity or adds liquidity or if the order is routed. To determine an ETP Holder's monthly cost for shares traded, the Exchange will make order matching computations on a monthly basis for each ETP Holder. The Exchange will also assess regulatory, connectivity, and market data fees. The Exchange proposes to eliminate certain fees and rebates from its former Fee Schedule to conform the schedule to the Exchange's current business model.[5] The Exchange's proposed Fee Schedule is described below.

Securities Priced at $1.00 and Above (All Tapes)[6]

For all securities priced $1.00 and above, the Exchange is proposing competitively priced fees that apply to all ETP Holders uniformly. For all orders that remove liquidity from the NSX Book[7] (referred to as ''taker'' orders), the Exchange proposes to assess a fee of $0.0003 per executed share. If the ETP Holder's order is routed elsewhere, the Exchange will, instead, assess a fee of $0.0030 per executed share. However, a liquidity removing order that is a directed order will cost $0.0035 per executed share.[8]

The Exchange notes that the fee that the Exchange will charge for taking liquidity from the Exchange in securities priced $1.00 or above, while $0.0002 higher than the fee that the Exchange used prior to ceasing trading operations of the close of business on May 30, 2014, is the lowest standard liquidity removing fee of any stock exchange in the National Market System that does not use the inverse pricing model. In light of these minimal taker fees, the fee structure does not provide for rebates to ETP Holders posting liquidity. While ETP Holders will not receive rebates for posting liquidity, ETP Holders will, nonetheless, not have to pay a fee for posting liquidity on the NSX Book (referred to as ''maker'' orders) for all order types. This pricing structure for securities priced $1.00 or more will make for a cost-effective execution venue for ETP Holders and their customers. Furthermore, the fees will not provide an advantage to any ETP Holder or investor over another. Lastly, in order to further incentivize posting and removing liquidity, the Exchange will no longer charge an increased fee for either adding liquidity using a Zero Display Reserve Order (*i.e.,* a ''dark'' order) or removing liquidity by removing a Zero Display Reserve Order from the NSX Book.[9]

Securities Priced Under $1.00 (All Tapes)

For executions in all securities priced under $1.00, the Exchange is proposing to implement a Fee Schedule that is nearly identical to the maker-taker model that the Exchange used prior to the cessation of the Exchange's trading operations. For orders that remove liquidity or are routed, the Exchange proposes to assess a fee of 0.30% of the executed trade value.[10] For directed orders, the Exchange proposes to assess a higher fee of 0.35% of the executed trade value for reasons described above.[11] ETP Holders that add liquidity will receive a rebate of 0.25% of the trade value or 25% of the quote spread,[12] whichever is smaller. The proposed fee and rebate structure will not favor any investor or ETP holder over another as all ETP holders are subject to the same fee and rebate program. The Exchange believes that the proposed fee and rebate structure will provide for a fair and competitive execution venue in securities priced below $1.00.

Regulatory, Market Data, and Connectivity Fees

The Exchange also proposes to assess ETP Holders with regulatory, market data, and connectivity fees. The Exchange proposes to assess a regulatory fee of $500 per calendar month for each ETP Holder. This amount is the same amount that the Exchange charged prior to ceasing trading operations. The regulatory fee is designed to assure that ETP Holders share in the cost of adequately funding the regulatory function for the NSX marketplace.[13]

The Exchange will offer its proprietary market data to ETP Holders and other authorized recipients through the NSX Depth of Book Feed[14] at a price of $500 per calendar month, $100 more per month than the Exchange charged ETP Holders and other authorized recipients prior to the time that the Exchange ceased its trading operations.[15] Additionally, ETP Holders will be assessed the same connectivity or logical port fee of $100 per session per calendar month as ETP Holders were assessed prior to the time that the Exchange ceased its trading operations in May 2014.

Other Fee Adjustments

To provide a more accessible and competitive marketplace, the Exchange is proposing to remove several fees that the Exchange assessed prior to ceasing its trading operations. The proposed Fee Schedule does not provide for the one-time onboarding fee of $5,000 that the Exchange previously assessed applicant ETP Holders applying to become order delivery users. Prior to December 14, 2015, the Exchange offered order delivery as a mode of order interaction with the Exchange's trading system, as provided in Rule 11.13(b) and Interpretations and Policies .01 thereunder. The Exchange has amended

[5] Pursuant to a rule filing with the Commission, the Exchange ceased trading operations as of the close of business on May 30, 2014. *See* Securities Exchange Act Release No. 72107 (May 6, 2014), 79 FR 27017 (May 12, 2014) (SR–NSX–2014–14).

[6] The term ''Tapes'' refers to the designation assigned in the Consolidated Tape Association (''CTA'') Plan for reporting trades with respect to securities in Networks A, B and C. Tape A securities are those listed on the New York Stock Exchange, Inc.; Tape B securities are listed on NYSE MKT, formerly NYSE Amex, and regional exchanges. Tape C securities are those listed on the NASDAQ Stock Market LLC.

[7] The NSX Book is defined in Rule 1.5N.(1) as the Exchange's electronic file of orders.

[8] The term ''directed order'' refers to an order entered by an ETP Holder into the NSX trading system with instructions to route the order to a specified away trading center. The Exchange proposes to assess a higher fee for directed orders, because these orders will be costlier to route and execute than other routed orders. NSX uses third party broker-dealers to send the ETP Holder's directed order to another trading center. The Exchange must pay this third party broker on a per share executed basis, making the routing of these directed orders costlier to execute.

[9] By comparison, prior to ceasing trading operations, the Exchange assessed a fee of $0.0001 per executed share for posting liquidity in securities priced at $1.00 and above, with the exception of posting liquidity using a Zero Display Reserve Order, for which the Exchange assessed a fee of $0.0002 per execute share. ETP Holders removing liquidity in securities priced at $1.00 and above were assessed a fee of $0.0001 and, for removing any Zero Display Reserve Order, a fee of $0.0002.

[10] ''Trade value'' means a dollar amount equal to the price per share multiplied by the number of shares executed.

[11] *See* fn. 8, *supra.*

[12] ''Quote spread'' means a dollar amount equal to the number of shares executed multiplied by the difference at the time of execution between (x) the price per share of the national best bid, and (y) the price per share of the national best offer, in each case as such quotes are disseminated pursuant to an effective National Market System plan and as the terms ''national best bid'' and ''national best offer'' are defined in Rule 600 of Regulation NMS.

[13] The $500 per month regulatory fee was first adopted by the Exchange in 2011. *See* Securities Exchange Act Release No. 64208 (April 6, 2011), 76 FR 20412 (April 12, 2011) (SR–NSX–2011–02).

[14] The NSX Depth of Book Feed is the Exchange's proprietary market data feed. It is available on a uniform basis to all ETP Holders authorized to receive the feed, as well as to any other authorized recipients.

[15] The Exchange proposes to remove from the Depth of Book Feed Section of the Fee Schedule prior text regarding application for and approval of the Depth of Book Feed service. The Exchange believes this text to be extraneous, in light of the purpose of and content of the Fee Schedule.

its rules and no longer offers order delivery as a mode of interaction and therefore the $5,000 onboarding fee is no longer applicable.[16]

The Exchange is also proposing to remove language regarding the assessing of ''Pass Through Fees.'' These fees, which are incurred from the ETP Holder's use of directed orders, will be factored into the cost of sending a directed order, as described above. Also, as described above, the Exchange will no longer assess a greater fee for adding liquidity using a Zero Display Reserve Order or removing a Zero Display Reserve Order from the NSX Book. The Exchange also proposes to remove from the Fee Schedule reference to fees assessed for using a ''Double Play Order,'' because the Exchange no longer offers the Double Play Order functionality.[17]

Pursuant to Exchange Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange'' through the issuance of an Information Circular and will post the Fee Schedule and the instant rule filing on the Exchange's Web site, *www.nsx.com*.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[18] in general and, in particular, Section 6(b)(4) of the Act,[19] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed rule change is also consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the rules of a national securities exchange not permit unfair discrimination between customers, issuers, brokers, or dealers, and be designed 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.

The Exchange submits that the proposed Fee Schedule equitably allocates fees and that the fees contained therein are reasonable, as required by Section 6(b)(4) of the Act. The Exchange is proposing to adopt a model whereby an ETP Holder adding liquidity to the Exchange in securities priced at $1.00 or greater will pay *no* fee, and ETP Holders removing liquidity from the Exchange in securities priced at $1.00 or greater will pay a fee of $0.0003 on a per share executed basis, which is lower than the standard liquidity removing fee of any other stock exchange in the National Market System that does not utilize an inverse pricing structure. The Exchange's fees for routed orders are also reasonable as they are comparable to fees charged by other exchanges for routed orders.[21]

Further, for securities priced below $1.00, the Exchange is proposing to maintain a maker-taker fee structure, as it did as of May 30, 2014, with the exception of charging a higher fee for directed orders that is based on the higher cost associated with routing such orders.

In addition to being reasonable, all of the proposed execution fees are equitably allocated in that they will apply uniformly to all ETP Holders accessing the System. Each ETP Holder will have the ability to determine the extent to which the Exchange's proposed structure will provide it with an economic incentive to use the System, and model its business accordingly. Thus, the Fee Schedule provides for a low-cost, simple, and streamlined approach which will benefit both ETP Holders and the Exchange in determining revenues and expenses, as well as maximizing the Exchange's competitive position.

The Exchange also submits that its proposed regulatory, market data, and connectivity fees are consistent with Section 6(b)(4) of the Act. The fees are competitively and reasonably priced[22] and are equitably allocated in that the regulatory, market data, and connectivity fees are applied uniformly to ETP Holders, with the connectivity fee assessed on a usage basis.

The Exchange further submits that the proposed execution fees satisfy the requirements of Section 6(b)(5) of the Act in that they do not permit unfair discrimination between customers, issuers, brokers, or dealers, and are designed 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. Under the proposed changes to the Fee Schedule, all ETP Holders executing orders on the Exchange will be subject to one fee and/or rebate structure, and such changes are thereby designed to meet the requirements of the Section 6(b)(5) that the rules of the Exchange not permit unfair discrimination among ETP Holders and their customers. The Exchange submits that the proposal will promote just and equitable principles of trade by providing a streamlined Fee Schedule that will reduce the administrative burdens and expenses incurred by ETP Holders in determining the revenues and costs associated with its activity on the Exchange. Moreover, the Exchange believes that offering low execution fees will incentivize market participants to post and to access the liquidity on the NSX Book, which would inure to the benefit of all market participants seeking greater and better execution opportunities. In this regard, the proposed Fee Schedule will promote just and equitable principles of trade and operate to remove impediments to and perfect the mechanism of a free and open market and a national market system under Section 6(b)(5).

The Exchange's market data, regulatory, and connectivity fees are also consistent with Section 6(b)(5) of the Act. These fees will be uniformly applied to all ETP Holders, with the sole variable being the connectivity fee that is derived from the number of connections that the ETP Holder maintains with NSX (*i.e.,* the greater the number of connections, the higher the monthly fee). For these reasons, the proposed fees do not permit unfair discrimination among ETP Holders, as the fees are uniformly applied to each ETP Holder. Further, assessing these fees will operate to remove impediments to and perfect the mechanism of a free and open market and a national market system, because the Fees allow the Exchange to provide the requisite services to function competitively within the National Market System, and also ensure that the Exchange can maintain a consistent source of funding to support its regulatory compliance obligations.

Further, eliminating the Exchange's former fee for adding liquidity by using a Zero Display Reserve Order or removing liquidity provided by a Zero Display Reserve Order from the NSX

[16] *See* fn. 3, *supra.*

[17] *See* fn. 3, *supra.*

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78f(b)(5).

[21] For example, EDGX Exchange, Inc. (''EDGX'') charges a standard rate of $0.0029 per share executed for routing and removing liquidity in securities priced at or above $1.00, as compared to the Exchange's proposed fee of $0.0030 per executed share. For routed orders in securities below $1.00, EDGX charges a standard rate of 0.30% of the dollar value of the trade, as compared to the Exchange charging 0.30% of the dollar value of the trade. For directed orders, EDGX charges $0.0032 per executed share, as compared to the Exchange charging $0.0035 per executed share.

[22] For these fees, the Exchange is charging prices less than or equal to those prices that several of the Exchange's competitors charge their members. For example, EDGX charges $500 per port per month fee and a $500 per month depth of book fee. Further, the Chicago Stock Exchange charges $600 per month for its ''SRO fee,'' which is comparable to the Exchange's regulatory fee.

Book and incorporating pass-through fees into the cost of executing a directed order is consistent with Section 6(b)(5) of the Act. The elimination of these fees will be uniformly applied to current and prospective ETP Holders. Thus, the proposed reduction or removal of the fees do not permit unfair discrimination among ETP Holders. Additionally, reducing or removing the fees will serve to decrease cost and increase liquidity, further removing impediments to and perfecting the mechanism of a free and open market and a national market system.

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 Exchange Act. The proposed rule change seeks to adopt a Fee Schedule that will apply uniformly to all ETP Holders accessing the Exchange. The Exchange further submits that its proposed execution, regulatory, market data, and connectivity fees have been reasonably calibrated such that they should impose no burden on competition. Moreover, the proposed fees and rebates will enhance rather than burden competition by operating to increase liquidity and improve execution quality on the Exchange through reasonable and equitably allocated economic incentives.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [23] and subparagraph (f)(2) of Rule 19b–4.[24]

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.

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

[24] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2015–07 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–NSX–2015–07. 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–NSX–2015–07 and should be submitted on or before January 19, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32650 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76737; File No. SR–Phlx–2015–102]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 1068, Execution of Multi-Part Orders

December 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete Rule 1068, Execution of Multi-Part Orders, as described further below.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 purpose of the filing is to update the Exchange's rulebook by deleting Rule 1068, Execution of Multi-Part Orders.[3] This rule pertains to the execution of a foreign currency options—futures multi-part order, which is a type of spread order that consists of multiple components.[4] Rule 1068 was adopted when the Exchange operated a trading floor for both foreign currency options and foreign currency futures (which were traded on the Philadelphia Board of Trade (''PBOT''), a futures exchange). The rule enumerates the process for representing and executing a foreign currency options—futures multi-part order in the trading crowd.

PBOT has long been replaced by successive futures exchanges (NASDAQ Futures Exchange, Inc. and, most recently, NASDAQ Futures, Inc. (collectively ''NFX'')). NFX operates as an all-electronic futures exchange, such that no trading floor exists[5] upon which an order with a futures component can be executed. Although foreign currency options can be executed on the options trading floor, futures orders cannot. Rule 1068 refers to the execution of this order pursuant to NFX Rule 327, which no longer exists.[6]

Rule 1068 inadvertently remained in the rulebook after NFX no longer operated with a trading floor, and is now proposed to be deleted.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest, by eliminating an obsolete rule and thereby preventing confusion as to whether such a multi-part order can be executed. Eliminating the execution rule associated with multi-part orders promotes just and equitable principles of trade, because the order type itself was previously deleted, and because it is impossible to trade. Eliminating this rule is also consistent with the protection of investors and the public interest because investors would not reasonably expect to be able to execute such an order and there has been no demand for this order.

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. There are no market participants impacted by the deletion of this rule. This rule was specifically intended to permit NFX members to transact business on a trading floor, which no longer exists. Further, the Exchange does not list these products and therefore no market participant may transact foreign currency futures. Those Phlx members desiring to transact foreign currency options may continue to trade those securities on Phlx. Accordingly, there is no impact on intra-market competition. Market participants who seek to trade in foreign currency options along with foreign currency futures can do so by submitting separate orders to various securities and futures exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–102 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–Phlx–2015–102. 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

[3] *See* Securities Exchange Act Release No. 28117 (June 14, 1990), 55 FR 25188 (June 20, 1990) (SR–Phlx–89–58).

[4] In Rule 1066(c), the Exchange previously defined a multi-part order as an order to buy and/or sell a stated number of foreign currency option contracts and a stated number of foreign currency futures contracts. This order type was deleted. *See* Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR–Phlx–2013–09).

[5] *See* SR–NFX–2009–04. This rule self-certification was filed with the Commodity Futures Trading Commission on March 26, 2009 and eliminated open outcry rules in connection with the termination of floor trading.

[6] *Id.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(a)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give 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. The Exchange has satisfied this requirement.

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–Phlx–2015–102 and should be submitted on or before January 19, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32651 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76739; File No. SR–NASDAQ–2015–153]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NASDAQ Options Market—Fees and Rebates

December 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled ''Options Pricing,'' at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market (''NOM''), the Exchange's facility for executing and routing standardized equity and index options.

The Exchange purposes [sic] to remove specific rule text added in SR–NASDAQ–2015–149,[3] which was applicable only to the mid-month pricing change.[4] This proposal removes the specific December 2015 dates from the rule text so the rebates will apply in January 2016. While the changes proposed herein are effective upon filing, the Exchange has designated the amendments [sic] become operative on January 4, 2016.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant 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 Chapter XV, Section 2, entitled ''NASDAQ Options Market—Fees and Rebates'' to amend Tier 8 of the Customer and Professional Penny Pilot Options[5] Rebates to Add Liquidity. The proposed rule change is detailed below.

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

Today, the Exchange offers Participants tiered Customer and Professional rebates based on various criteria, with rebates ranging from $0.20 to $0.48 per contract.[6] The Exchange filed SR–NASDAQ–2015–149,[7] on December 2, 2015, to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebates to Add Liquidity tiers. Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier.[8]

The Exchange proposes to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity, which states ''Participant adds Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This proposed rule change is not yet published. This proposed rule change was filed on December 2, 2015.

[4] The Commission notes that after the Exchange filed this proposal, the notice for SR–NASDAQ–2015–149 was published for public comment. *See* Securities Exchange Act Release No. 76651 (December 15, 2015), 80 FR 79387 (December 21, 2015).

[5] *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness [sic] extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 [sic] (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014) [sic], 79 FR 71477 (November 25, 2014) [sic] (SR–NASDAQ–2014–115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot). *See also* NOM Rules, Chapter VI, Section 5.

[6] *See* NOM's Rules at Chapter XV, Section 2(1).

[7] *See* note 3 above.

[8] Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker, and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. *See* note ''b'' in Section 2(1) of Chapter XV. The Exchange utilizes data from The Options Clearing Corporation (''OCC'') to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) the Participant has certified for the Investor Support Program [9] set forth in Rule 7014 from December 2, 2015 through December 31, 2015'' to remove the reference to the December dates. The date range, from December 2, 2015 to December 31, 2015, was added to accommodate a mid-month pricing change that impacted that specific timeframe. The Exchange intends to continue to offer Participants the opportunity to earn the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity and therefore proposes to remove the specific date range. Tier 8 will be offered to Participants as of January 4, 2016 and forward.

The Exchange believes the Tier 8 Customer and Professional Penny Pilot Option Rebate to Add Liquidity will continue to incentivize market participants to send order flow to NOM, the resulting liquidity will benefit all market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[10] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[11] 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. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established Professional pricing in order to ''. . . bring additional revenue to the Exchange.'' [12] The Exchange noted in the Professional Filing that it believes ''. . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.'' [13] In addition, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.[14]

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the December 2, 2015 to December 31, 2015 date range is reasonable because the Exchange seeks to continue to incentivize Participants to send order flow to NOM. The Exchange believes that the heightened volume requirement to qualify for Tier 8, as compared with other tier volume requirements, combined with the requirement to continue to certify for the Investor Support Program will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange notes that incentivizing Participants to add options liquidity through the payment of an additional rebate is not novel as, today, Tier 8 permits the additional [sic] of equity volume to qualify for this rebate. The concept of participating in the equities market as a means to qualify for an options rebate exists today. This participation benefits the Nasdaq Market Center as well as the NOM market by incentivizing order flow to these markets. This rebate recognizes the prevalence of trading in which members simultaneously trade different asset classes within the same strategy. Participants will continue to be required to add liquidity to both the options and equities requirement if they qualify for the Tier 8 rebate utilizing the second method.[15] Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center.

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the December 2, 2015 to December 31, 2015 date range is equitable and not unfairly discriminatory because all Participants may continue to qualify for Tier 8. Qualifying Participants will continue to be uniformly paid a $0.48 per contract rebate.

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.

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the December 2, 2015 to December 31, 2015 date range does not impose an undue burden on intra-market competition because all Participants are eligible to qualify for the Tier 8 Customer or Professional Rebate to Add Liquidity, provided they meet the qualifications. Also, the Tier 8 rebate will be uniformly paid to those Participants that are eligible for the rebate.

As noted above, continuing to incentivize Participants to add not only options but equities volume does not impose an undue burden on intra-market competition because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other; the Exchange believes that pricing incentives that encourage market

[9] For a detailed description of the Investor Support Program (''ISP''), *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ–2010–153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ–2010–154) (notice of filing and immediate effectiveness).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066) (''Professional Filing''). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[13] *See* Professional Filing.

[14] *See* Professional Filing. The Exchange also [sic] in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

[15] There are two ways to qualify for the Tier 8 rebate, as amended by this proposal, either: (1) Participant adds Customer, Professional, Firm, Non-NOM Market Maker, and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month; or (2) Participant adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and the Participant has certified for the Investor Support Program set forth in Rule 7014.

participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, the pricing incentives require significant levels of liquidity provision, which benefits all market participants on NOM and the Nasdaq Market Center.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–153 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–2015–153. 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–NASDAQ–2015–153, and should be submitted on or before January 19, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2015–32653 Filed 12–28–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No SSA–2015–0076]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)
Office of Management and Budget,
Attn: Desk Officer for SSA,
Fax: 202–395–6974,
Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)
Social Security Administration, OLCA,
Attn: Reports Clearance Director,
3100 West High Rise,
6401 Security Blvd.,
Baltimore, MD 21235,
Fax: 410–966–2830,
Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0076].

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than February 29, 2016. Individuals can obtain copies of the collection instrument by writing to the above email address.

Statement for Determining Continuing Eligibility for Supplemental Security Income Payment—20 CFR 416.204—0960–0145

SSA uses Form SSA–8202–BK to conduct low-and middle-error-profile telephone or face-to-face redetermination interviews with Supplemental Security Income (SSI) recipients and representative payees. The information SSA collects during the interview is necessary to determine whether SSI recipients met and continue to meet all statutory and regulatory requirements for SSI eligibility, and whether they received, and still receive the correct payment amount.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8202–BK	10,307	1	21	3,607
MSSICS	2,289,599	1	20	763,200
Totals	2,299,906			766,807

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than January 28, 2016. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov*.

Promoting Readiness of Minors in SSI (PROMISE) Evaluation—0960–0799

Background

The Promoting Readiness of Minors in SSI (PROMISE) demonstration pursues positive outcomes for children with disabilities who receive SSI and their families by reducing dependency on SSI. The Department of Education (ED) awarded six cooperative agreements to states to improve the provision and coordination of services and support for children with disabilities who receive SSI and their families to achieve improved education and employment outcomes. ED awarded PROMISE funds to five single-state projects, and to one six-state consortium.[1] With support from ED, the Department of Labor (DOL), and the Department of Health and Human Services (HHS), SSA is evaluating the six PROMISE projects. SSA contracted with Mathematica Policy Research to conduct the evaluation. Under PROMISE, targeted outcomes for youth include an enhanced sense of self-determination; achievement of secondary and post-secondary educational credentials; an attainment of early work experiences culminating with competitive employment in an integrated setting; and long-term reduction in reliance on SSI. Outcomes of interest for families include heightened expectations for and support of the long-term self-sufficiency of their youth; parent or guardian attainment of education and training credentials; and increases in earnings and total income. To achieve these outcomes, we expect the PROMISE projects to make better use of existing resources by improving service coordination among multiple state and local agencies and programs.

ED, SSA, DOL, and HHS intend the PROMISE projects to address key limitations in the existing service system for youth with disabilities. By intervening early in the lives of these young people, at ages 14–16, the projects engage the youth and their families well before critical decisions regarding the age 18 redetermination are upon them. We expect the required partnerships among the various state and Federal agencies that serve youth with disabilities to result in improved integration of services and fewer dropped handoffs as youth move from one agency to another. By requiring the programs to engage and serve families and provide youth with paid work experiences, the initiative is mandating the adoption of critical best practices in promoting the independence of youth with disabilities.

Project Description

SSA is requesting clearance for the collection of data needed to implement and evaluate PROMISE. The evaluation provides empirical evidence on the impact of the intervention for youth and their families in several critical areas, including: (1) Improved educational attainment; (2) increased employment skills, experience, and earnings; and (3) long-term reduction in use of public benefits. We base the PROMISE evaluation on a rigorous design that entails the random assignment of approximately 2,000 youth in each of the six projects to treatment or control groups (12,000 total). The PROMISE projects provide enhanced services for youth in the treatment groups; whereas youth in the control groups are eligible only for those services already available in their communities independent of the interventions.

The evaluation assesses the effect of PROMISE services on educational attainment, employment, earnings, and reduced receipt of disability payments. The three components of this evaluation include:

- The process analysis, which documents program models, assesses the relationships among the partner organizations, documents whether the grantees implemented the programs as planned, identifies features of the programs that may account for their impacts on youth and families, and identifies lessons for future programs with similar objectives.
- The impact analysis, which determines whether youth and families in the treatment groups receive more services than their counterparts in the control groups. It also determines whether treatment group members have better results than control group members with respect to the targeted outcomes noted above.
- The cost-benefit analysis, which assesses whether the benefits of PROMISE, including increases in employment and reductions in benefit receipt, are large enough to justify its costs. We conduct this assessment from a range of perspectives, including those of the participants, state and Federal governments, SSA, and society as a whole.

SSA planned several data collection efforts for the evaluation. These include: (1) Follow-up interviews with youth and their parent or guardian 18 months and 5 years after enrollment; (2) phone and in-person interviews with local program administrators, program supervisors, and service delivery staff at two points in time over the course of the demonstration; (3) two rounds of focus groups with participating youth in the treatment group; (4) two rounds of focus groups with parents or guardians of participating youth; (5) staff activity logs which provide data on aspects of service delivery; and (6) collection of administrative data. At this time, SSA requests clearance for the staff activity logs. SSA will request clearance for the 5-year survey interviews in a future submission. The respondents are the administrative and direct service staff, as well as some subcontractors whose primary roles with their organizations involve PROMISE service delivery.

Type of Request: Revision to an OMB-approved information collection.

Time Burden on Respondents

[1] The six-state consortium project goes by the name Achieving Success by Promoting Readiness for Education and Employment (ASPIRE) rather than by PROMISE.

2014—INTERVIEWS AND FOCUS GROUP DISCUSSIONS

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	24	1	66	26
Staff Interviews with PROMISE Project Staff	48	1	66	53
Youth Focus Groups—Non-participants	100	1	5	8
Youth Focus Groups—Participants	20	1	100	33
Parents or Guardian Focus Groups—Non-participants	100	1	5	8
Parents or Guardian Focus Groups—Participants	20	1	100	33
Totals	312			161

2015—INTERVIEWS AND FOCUS GROUP DISCUSSIONS, AND 18-MONTH SURVEY INTERVIEWS

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	51	1	66	56
Staff Interviews with PROMISE Project Staff	97	1	66	107
Youth Focus Groups—Non-participants	220	1	5	18
Youth Focus Groups—Participants	60	1	100	100
Parents or Guardian Focus Groups—Non-participants	220	1	5	18
Parents or Guardian Focus Groups—Participants	60	1	100	100
18 Month Survey Interviews—Parent	850	1	41	595
18 Month Survey Interviews—Youth	850	1	30	425
Totals	2,408			1,405

2016—INTERVIEWS AND FOCUS GROUP DISCUSSIONS, STAFF ACTIVITY LOGS, AND 18 MONTH SURVEY INTERVIEWS

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	75	1	66	83
Staff Interviews with PROMISE Project Staff	145	1	66	160
Activity Logs for Administrators or Directors	45	14	5	52
Activity Logs for PROMISE Project Staff	160	14	5	187
Youth Focus Groups—Non-participants	320	1	5	27
Youth Focus Groups—Participants	80	1	100	133
Parents or Guardian Focus Groups—Non-participants	320	1	5	27
Parents or Guardian Focus Groups—Participants	80	1	100	133
18 Month Survey Interviews—Parent	5,100	1	41	3,485
18 Month Survey Interviews—Youth	5,100	1	30	2,550
Totals	11,425			6,837

2017—18 MONTH SURVEY INTERVIEWS

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
18 Month Survey Interviews—Parent	4,250	1	41	2,904
18 Month Survey Interviews—Youth	4,250	1	30	2,125
Totals	8,500			5,029

GRAND TOTAL

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Grand Total	22,645			13,432

Cost Burden on Respondents

2014—ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	100	1	5	7.38	61.00
Parent or Guardian Focus Group—Participants	20	1	100	7.38	246.00
Total	120				307.00

2015—ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	220	1	5	7.38	135.00
Parent or Guardian Focus Group—Participants	60	1	100	7.38	738.00
Total	280				873.00

2016—ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	320	1	5	7.38	196.00
Parent or Guardian Focus Group—Participants	80	1	100	7.38	984.00
Total	400				1,180.00

GRAND TOTAL

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Grand Total	800				2,360.00

Dated: December 22, 2015.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–32643 Filed 12–28–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 9394]

Notice of Public Meeting

The Department of State will conduct an open meeting at 10:30 a.m. on Monday, January 25, 2016, at the headquarters of the Radio Technical Commission for Maritime Services (RTCM) in Suite 605, 1611 N. Kent Street, Arlington, Virginia 22209. The primary purpose of the meeting is to prepare for the fortieth Session of the International Maritime Organization's (IMO) Facilitation Committee to be held at the IMO Headquarters, United Kingdom, April 4–8, 2016. This meeting is the first of two public meetings and is being held to solicit public comment on the cyber-related agenda items.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Consideration and adoption of proposed amendments to the Convention
—Comprehensive review of the FAL Convention
—Requirements for access to, or electronic versions of, certificates and documents, including record books required to be carried on ships
—Guidelines on the facilitation aspects of protecting the maritime transport network from cyberthreats
—Technical cooperation activities related to facilitation of maritime traffic
—Relations with other organizations
—Application of the Committee's Guidelines
—Work programme
—Any other business

To better understand all aspects of the maritime industry's use of cyber systems, we are seeking specific input on the following questions:

—How has the maritime industry's increased reliance on digital information increased cyber risks associated with trade-related information (general declaration, cargo declaration, ship's stores declaration, crew's effects declaration, crew list, passenger list, dangerous goods manifest, universal postal convention, and maritime declaration of health)?

—What cyber risk management processes currently exist in the maritime industry to address the ongoing surge in the number, severity, and complexity of cyber attacks?
—To what extent would those involved in maritime trade benefit from guidance for the protection of trade-related information?
—What are industry constraints and limitations that should be addressed or recognized in any future guidance?

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, Mr. David Du Pont, by email at *David.A.DuPont@uscg.mil,* or by phone at (202) 372–1497, not later than January 18, 2016. Requests made after January 18, 2016 might not be able to be accommodated. Additional information regarding this and other public meetings relating to IMO may be found at: *www.uscg.mil/imo.*

Dated: December 21, 2015.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2015–32748 Filed 12–28–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Request for Change in Designation of On-Airport Property Purchased With Airport Improvement Program (AIP) Funding From Aeronautical to Non-Aeronautical at the Lancaster Airport, Lititz, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of a request for a change in designation of on-airport property purchased with AIP funding from aeronautical to non-aeronautical use.

SUMMARY: The FAA is requesting public comment on the Lancaster Airport Authority's proposal to change 6.191 acres of airport property at Lancaster Airport, Lititz, Pennsylvania from aeronautical to non-aeronautical use. This acreage was purchased with federal financial assistance through the Airport Improvement Program under Grant Agreements 3–42–0049–13–95, 3–42–0049–16–98, and 3–42–0049–19–01 under 49 U.S.C. 47107(c). In accordance with 49 U.S.C. 47107(h), this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before January 28, 2016.

ADDRESSES: Comments on this application may be mailed or delivered to the following address: David Eberly, Manager, Lancaster Airport, 500 Airport Road, Suite G, Lititz, PA 17543–9340, 717–569–1221 and at the FAA Harrisburg Airports District Office: Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011, (717) 730–2830.

FOR FURTHER INFORMATION CONTACT: Charles Sacavage, Project Manager, Harrisburg Airports District Office, location listed above.

The request for change in designation of on-airport property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION:

The following is a brief overview of the request:

The Lancaster Airport Authority requests to change the designation of 6.191 acres of on-airport property from aeronautical to non-aeronautical use. No land shall be sold as part of this land request. The property is situated on the northwest corner of the intersection of Stauffer Road and Millport Road in Warwick Township. The 6.191 acres are part of a 29.855 acre parcel that was purchased on June 27, 1997 to protect the Runway 26 Runway Protection Zone (RPZ) from incompatible development. The subject area itself, however, is located outside the designated RPZ. The 6.191 acre area requested to be designated as non-aeronautical is unable to be utilized for aviation purposes because it is located across a public road (Millport Road) from the air operations area and is inaccessible by aircraft. The subject acreage is currently being used as a yard waste reclamation collection center. The purpose of this request is to permanently change the designation of the property given there is no potential for future aviation use, as demonstrated by the Airport Layout Plan. Subsequent to the implementation of the proposed redesignation, rents received by the airport from this property must be used in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, December 17, 2015.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2015–32641 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on State Highway (SH) 365 From Farm-to-Market Road (FM) 1016/Conway Avenue to U.S. Highway (US) 281/Military Highway in Hidalgo County, Texas

AGENCY: Federal Highway Administration (FHWA), U.S. DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by TxDOT and Federal Agencies.

SUMMARY: This notice announces actions taken by Texas Department of Transportation (TxDOT) and Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, SH 365 from FM 1016/Conway Avenue to US 281/Military Highway in Hidalgo County in the State of Texas. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 27, 2016. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Carlos Swonke, P.G., Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: The SH 365 project would initially be developed as a four-lane divided controlled access toll facility divided by a grassy median with Rights-of-Way (ROW) reserved for future widening for the ultimate facility when necessary. The ultimate facility

would consist of six travel lanes divided by a flushed median with a concrete barrier. The 16.53-mile-long proposed tolled facility is primarily on new location within a typical 300-foot ROW, which varies from 160 feet to 400 feet. Construction of the proposed project would be in three phases. Phase I construction would include a non-tolled facility from 0.45 mile east of SP 600 to FM 2557 (Stewart Road) along US 281 (Military Highway), including a grade-separated interchange at the SH 365/US 281 (Military Highway) intersection, and a 0.70-mile one way, one-lane non-tolled border safety inspection facility connector from US 281 (Military Road) to SP 29 (Veterans Boulevard). Phase II construction would include a 13.4-mile tolled facility from FM 396 (Anzalduas Highway) to US 281 (Military Highway). Phase III construction would include a 3.13-mile tolled facility from FM 1016 (Conway Avenue) to FM 396 (Anzalduas Highway), with transition westward past FM 1016 (Conway Avenue). The purpose of the project is to improve mobility and interconnectivity in the area, enhance safety, and reduce community disruption because of increasing freight traffic.

The actions by TxDOT and the Federal agencies, and the laws under which such actions were taken, are described in the final Environmental Assessment (EA) issued in June, 2015 for the project, for which a Finding of No Significant Impact (FONSI) was issued on July 2, 2015, and in other documents in the TxDOT administrative record. The EA, FONSI, and other documents in the administrative record file are available by contacting TxDOT at the address provided above. The FONSI may also be viewed and downloaded from the project sponsor Web site at *http://www.hcrma.net/sh365.html*.

This notice applies to all TxDOT decisions and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Clean Water Act [33 U.S.C. 1251–1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13287, Preserve America; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 11514, Protection and Enhancement of Environmental Quality; E.O. 13112, Invasive Species; E.O. 12372, Intergovernmental Review of Federal Programs.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

Authority: 23 U.S.C. 139(l)(1).

Issued on: December 17, 2015.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2015–32521 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Minnesota

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, Trunk Highway (TH) 1/169 in the vicinity of Eagles Nest Lake from approximately 0.1 miles west of Sixmile Road to approximately 0.1 mile east of Bradach Road in the County of St. Louis, Minnesota. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 27, 2016. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: William Lohr, FHWA Minnesota Division Office, 380 Jackson Street, Suite 500, Saint Paul, MN 55101, telephone at 651–291–6100, or via email at *william.lohr@dot.gov*. Regular office hours are Monday through Friday, 8:00 a.m. to 4:00 p.m., c.t. For the Minnesota Department of Transportation (MnDOT): Michael Kalnbach, Project Manager, MnDOT District 1 Duluth, 1123 Mesaba Ave, Duluth, MN 55811, telephone 218–725–2700, email at *michael.kalnbach@state.mn.us*. Regular office hours are Monday through Friday, 8:00 a.m. to 4:00 p.m., c.t.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Minnesota: The proposed project will address deteriorating pavement conditions and provide safety improvements to a 5.7-mile long segment of TH 1/169 in the vicinity of Eagles Nest lake from approximately 0.1 mile west of Sixmile Road to approximately 0.1 mile east of Bradach Road in rural Saint Louis County, Minnesota. Approximately 3.5

miles of the roadway at the east end of the project will be reconstructed on or directly adjacent to the existing roadway alignment, while the western approximately 2.2 miles will be constructed on new alignment south of the existing roadway.

The actions by the agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on December 11, 2014, in the FHWA Finding of No Significant Impact (FONSI) issued on November 3, 2015, and in other documents in the project records. The EA, FONSI, and other project records are available by contacting FHWA or the MnDOT at the addresses provided above. The Environmental Assessment (EA) can be viewed and downloaded from the project Web site at *http://www.dot.state.mn.us/d1/projects/Hwy169eagles/EA-EAW.html,* or obtained from any contact listed above. The FONSI may be obtained from any of the contacts listed above.

This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351); Federal-Aid Highway Act (23 U.S.C. 109 and 128).

2. Air: Clean Air Act (42 U.S.C. 7401–7671q).

3. Wildlife: Endangered Species Act (16 U.S.C. 1531–1544).

4. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); Archeological Resources Protection Act of 1977 (16 U.S.C. 470aa–470mm).

5. Wetlands and Water Resources: Clean Water Act (Sections 319, 401, and 404 (33 U.S.C. 1251–1387); Rivers and Harbors Act of 1899 (33 U.S.C. 401–406); Wetlands Mitigation (23 U.S.C. 119(g) and 133(b)(14)).

6. Executive Orders (E.O.): E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (l)(1)

Issued on: December 16, 2015.

David J. Scott,

Assistant Division Administrator, FHWA, Saint Paul, Minnesota.

[FR Doc. 2015–32520 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0340]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 55 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before January 28, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0340 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time 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. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

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

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ‘‘such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.’’ The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 55 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

William G. Adams

Mr. Adams, 63, has had ITDM since 2015. His endocrinologist examined him

in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Adams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Elmer W. Barrall

Mr. Barrall, 44, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barrall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barrall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Delaware.

Earl Bland

Mr. Bland, 59, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bland understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Richard W. Bostwick, II

Mr. Bostwick, 47, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bostwick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bostwick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

Kevin Bracken

Mr. Bracken, 53, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bracken understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bracken meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Donald L. Callahan

Mr. Callahan, 41, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Callahan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Callahan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

Mark A. Carlson

Mr. Carlson, 60, has had ITDM since 1981. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carlson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carlson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Michigan.

Charles W. Clark

Mr. Clark, 43, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Korey D. Clark

Mr. Clark, 44, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the requirements

of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a chauffeur's license from Michigan.

Michael A. Craig

Mr. Craig, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Craig understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Craig meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Roderick E. Dean

Mr. Dean, 43, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dean understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dean meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Mary K. Dillon

Ms. Dillon, 30, has had ITDM since 1995. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Dillon understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Dillon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2015 and certified that she has stable nonproliferative diabetic retinopathy. She holds an operator's license from Pennsylvania.

Eugene N. Dirl

Mr. Dirl, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dirl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dirl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Kevin F. Dykes

Mr. Dykes, 40, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dykes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dykes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Richard L. Engle

Mr. Engle, 55, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Engle understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Engle meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

Christopher J. Frank

Mr. Frank, 21, has had ITDM since 2006. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frank understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frank meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Matthew E. Fry

Mr. Fry, 46, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kansas.

Al Glover, Jr.

Mr. Glover, 69, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Glover understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Glover meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Louisiana.

Jimmy H. Goacher

Mr. Goacher, 75, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Goacher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Goacher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Jim B. Gonzalez

Mr. Gonzalez, 32, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gonzalez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gonzalez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Oregon.

Nathaniel K. Hamilton

Mr. Hamilton, 30, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hamilton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hamilton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Michael D. Henry

Mr. Henry, 66, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Henry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Henry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Douglas E. Hensley

Mr. Hensley, 56, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hensley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hensley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Jon C. Hicks

Mr. Hicks, 57, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hicks understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hicks meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Kevin F. Hoffman

Mr. Hoffman, 55, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hoffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Jerry A. Huffman

Mr. Huffman, 65, has had ITDM since 2006. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Huffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Daurell A. Jones

Mr. Jones, 56, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Larry C. Krueger

Mr. Krueger, 51, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Krueger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Krueger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Chad M. Kuck

Mr. Kuck, 43, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kuck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kuck meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Alaska.

Stephen B. Lenhart

Mr. Lenhart, 59, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lenhart understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lenhart meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Donald R. Leonard, Jr.

Mr. Leonard, 56, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Leonard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Leonard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Hampshire.

Jack D. McAlister

Mr. McAlister, 56, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McAlister understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McAlister meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Hampshire.

John K. Moorhead

Mr. Moorhead, 70, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moorhead understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moorhead meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

Sandra R. Moultrie

Ms. Moultrie, 60, has had ITDM since 2012. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Moultrie understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Moultrie meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Georgia.

John M. Olmstead

Mr. Olmstead, 52, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Olmstead understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Olmstead meets the requirements of the vision standard at

49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Dustin M. Parker

Mr. Parker, 34, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Parker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Parker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Vermont.

Patrick E. Patch

Mr. Patch, 62, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Patch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Howard L. Peacock

Mr. Peacock, 64, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peacock understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peacock meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Carl F. Piekenbrock, Jr.

Mr. Piekenbrock, 59, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Piekenbrock understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Piekenbrock meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Chauncey W. Pittman

Mr. Pittman, 52, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pittman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pittman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

William Raben

Mr. Raben, 23, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Raben understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Raben meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

James E. Richardson

Mr. Richardson, 54, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Richardson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Richardson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Gerald C. Rosencrans

Mr. Rosencrans, 61, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rosencrans understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rosencrans meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Henry J. Russo

Mr. Russo, 44, has had ITDM since 2005. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Russo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Russo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Richard G. Schumann

Mr. Schumann, 62, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schumann understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schumann meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Jefferson L. Smith

Mr. Smith, 45, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Massachusetts.

Troy T. Sunnarborg

Mr. Sunnarborg, 39, has had ITDM since 1982. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sunnarborg understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sunnarborg meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Ohnedaruth M. Swain, Sr.

Mr. Swain, 46, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Swain understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Swain meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

George W. Toro

Mr. Toro, 50, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Toro understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Toro meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Hugh S. Wacker

Mr. Wacker, 53, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wacker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wacker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Kristopher L. Ward

Mr. Ward, 45, has had ITDM since 1978. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ward understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ward meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative and stable proliferative diabetic retinopathy. He holds an operator's license from Wisconsin.

David C. Wheat

Mr. Wheat, 59, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wheat understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Wheat meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

William R. White

Mr. White, 62, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Curtis L. Worsfold

Mr. Worsfold, 58, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Worsfold understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Worsfold meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

Jason D. Zagorski

Mr. Zagorski, 36, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zagorski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zagorski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0340 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0340 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 15, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–32709 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2015–0007–N–32]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requests (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than February 29, 2016.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Information Collection Clearance Officer Office of Safety, Regulatory Safety Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130-__.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kim.Toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Regulatory Safety Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the currently approved ICRs that FRA will submit for clearance by OMB as required under the PRA:

Title: System for Telephonic Notification of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings.

OMB Control Number: 2130–0591.

Abstract: The collection of information is set forth under 49 CFR part 234. The rule is intended specifically to help implement Section 205 of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110–432, Division A, which was enacted on October 16, 2008. Generally, the rule is intended to increase safety at highway-rail and pathway grade crossings. Section 205 of the RSIA mandates that the Secretary of Transportation require certain railroad carriers to take a series of specified actions related to setting up and using systems by which the public is able to notify the railroad by toll-free telephone number of safety problems at its highway-rail and pathway grade crossings. Such systems are commonly known as Emergency Notification Systems (ENS) or ENS programs. 49 CFR part 234 implements Section 2015 of the RSIA. The information collected is used by FRA to ensure that railroad carriers establish and maintain a toll-free telephone service to report emergencies at all public, private, and pedestrian grade crossings for rights-of-way over which they dispatch trains.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: Railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
234.303(b)—Receipt by dispatching RR of report of unsafe condition at highway-rail grade crossing.	594 railroads	63,891 reports	1 minute	1,065
—(d)—Receipt by dispatching RR of report of unsafe condition at pathway grade crossing.	594 railroads	1,850 reports/ 1,860 records.	1 minute + 1 minute.	62

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
234.305(a)(2)—Immediate contact by dispatching RR not having maintenance responsibility of all trains authorized to operate through the crossing in response to credible report of warning system malfunction at highway-rail grade crossing.	594 railroads	465 contacts	1 minute	8
—(a)(2)—Contact of crossing maintenance RR by dispatching RR not having maintenance responsibility in response to credible report of warning system malfunction at highway-rail grade crossing.	594 railroads	465 contacts + 465 records.	1 minute + 1 minute.	16
—(b)(1)—In response to public report of warning system malfunction at highway-rail grade crossing immediate contact by dispatching RR having maintenance duty for crossing of all trains authorized to operate through that crossing.	594 railroads	925 contacts + 925 records.	1 minute + 1 minute.	30
—Dispatching RR having maintenance duty for crossing contact of appropriate law enforcement authority with necessary information regarding reported malfunction.	594 railroads	925 contacts	1 minute	15
234.305(b)(2)—In response to public report of warning system malfunction at highway-rail grade crossing immediate contact by dispatching RR not having maintenance duty for that crossing of all trains authorized to operate through that crossing.	594 railroads	920 contacts	1 minute	15
—Dispatching RR contact of law enforcement authority to direct traffic/maintain safety.	594 railroads	920 contacts	1 minute	15
—Dispatching RR contact of maintaining RR re: reported malfunction and maintaining record of unsafe condition.	594 railroads	920 contacts + 920 records.	1 minute + 1 minute.	30
—(c)(1)—In response to report of warning system failure at pathway grade crossing dispatching RR having maintenance duty contact of all trains authorized to operate through it and record of unsafe condition.	594 railroads	2 contacts + 2 records.	1 minute	.06666
—Dispatching RR contact of law enforcement authority agencies to direct traffic/maintain safety after above report.	594 railroads	2 contacts	1 minute	03333
234.305(d)(1)—Dispatching RR having maintenance authority contact of all trains operating through highway-rail or pathway grade crossing after report of disable vehicle.	594 railroads	7,440 contacts +7,440 rcds..	1 minute + 1 minute.	248
—Dispatching RR having maintenance duty contact of law enforcement authority after report of disabled vehicle/other obstruction.	594 railroads	7,440 contacts	1 minute	124
(d)(2)—Dispatching RR not having maintenance authority contact of all trains operating through highway-rail or pathway grade crossing after report of disable vehicle/unsafe condition.	594 railroads	2,556 contacts	1 minute	43
—Dispatching RR contact not having maintenance authority contact of all trains operating through highway-rail or pathway grade crossing after report of disable vehicle/other unsafe condition.	594 railroads	2,556 contacts	1 minute	43
—Dispatching RR contact of maintaining RR regarding unsafe condition at crossing & record of unsafe condition.	594 railroads	2,556 contacts + 2,556 record.	1 minute + 1 minute.	86
(h)—Provision of contact information by maintaining RR to dispatching RR for reports of unsafe conditions at highway-rail and pathway grade crossings.	594 railroads	10 contacts	594 railroads	.1667
234.306(a)—Appointment of one (1) dispatching RR as primary dispatching RR where multiple RRs dispatch trains through the same highway-rail and pathway grade crossing to provide info. for ENS sign.	594 railroads	50 indications & records.	60 minutes	50
(b)—Appointment of one (1) maintaining RR as primary maintaining RR where multiple RRs dispatch trains through the same highway-rail and pathway grade crossing to provide info. for ENS sign.	594 railroads	50 indications/ records.	60 minutes	50
234.307(b)—3rd Party telephone service report of unsafe condition at highway-rail or pathway grade crossing to maintaining RR and maintaining RR record of unsafe condition.	594 railroads	50 reports + 50 records.	1 minute + 1 minute.	2
(c)—3rd Party telephone service report to dispatching RR of unsafe condition.	594 railroads	50 reports	1 minute	1
(d)(1)—Provision of contact information to 3rd party telephone service or maintaining RR using that service to receive reports of unsafe condition at highway-rail or pathway grade crossings.	594 railroads	17 contact calls ...	15 minutes	4
(d)(2)—Written notice by RR to FRA of intent to use 3rd party service.	594 railroads	17 letters	60 minutes	17
(d)(3)—RR written notification e by RR of any changes in use or discontinuance of 3rd party service.	594 railroads	5 letters	60 minutes	5
234.309(a)—ENS Signs—General—Provision of ENS telephone number to maintaining RR by dispatching RR if two RRs are not the same.	594 railroads	10 contacts	30 minutes	5
(b)—ENS Signs located at highway-rail or pathway grade crossings as required by § 234.311 with necessary information to receive reports required under § 234.303.	594 railroads	81,948 signs	30 minutes	40,974

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
234.311(c)—Repair or replacement of ENS after discovery by responsible railroad of missing, damaged, or otherwise unusable/illegible sign to vehicular/pedestrian traffic.	594 railroads	4,000 signs	15 minutes	1,000
234.313—Recordkeeping—Records of reported unsafe conditions pursuant to § 234.303.	594 railroads	186,000 signs	4 minutes	12,400

Total Estimated Responses: 56,445.

Total Estimated Total Annual Burden: 56,308 hours.

Type of Request: Extension of a currently approved collection.

Title: Control of Alcohol and Drug Use in Railroad Operations: Addition of Post-Accident Toxicological Testing for Non-Controlled Substances.

OMB Control Number: 2130–0598.

Abstract: Since 1985, as part of its accident investigation program, FRA has conducted post-accident alcohol and drug tests on railroad employees who have been involved in serious train accidents (50 FR 31508, Aug. 2, 1985). If an accident meets FRA's criteria for post-accident testing (*see* 49 CFR 219.201), FRA conducts tests for alcohol and for certain drugs classified as controlled substances under the Controlled Substances Act (CSA), Title II of the Comprehensive Drug Abuse Prevention Substances Act of 1970 (CSA, 21 U.S.C. 801 *et seq.*). Controlled substances are drugs or chemicals that are prohibited or strictly regulated because of their potential for abuse or addiction. The Drug Enforcement Agency (DEA), which is primarily responsible for enforcing the CSA, oversees the classification of controlled substances into five schedules. Schedule I contains illicit drugs, such as marijuana and heroin, which have no legitimate medical use under Federal law. Currently, FRA routinely conducts post-accident tests for the following drugs: marijuana, cocaine, phencyclidine (PCP), and certain opiates, amphetamines, barbiturates, and benzodiazepines. Controlled substances are drugs or chemicals that are prohibited or strictly regulated because of their potential for abuse or addiction.

FRA research indicates that prescription and OTC drug use has become prevalent among railroad employees. For this reason, FRA has added certain non-controlled substances to its routine post-accident testing program, which currently routinely tests only for alcohol and controlled substances. At this time, FRA is adding two types of non-controlled substances, tramadol (a synthetic opioid) and sedating antihistamines. Publication of the PATT Final Rule, however, in no way limits FRA's post-accident testing to the identified substances or in any way restricts FRA's ability to make routine amendments to its standard post-accident testing panel without prior notice. Furthermore, in addition to its standard post-accident testing panel, FRA always has the ability to test for ''other impairing substances specified by FRA as necessary to the particular accident investigation.'' *See* 49 CFR 219.211(a). This flexibility is essential, since it allows FRA to conduct post-accident tests for any substance (*e.g.,* carbon monoxide) that its preliminary investigation shows may have played a role in an accident.

FRA uses the additional information collected for research and accident investigation purposes. The addition of non-controlled substances to the post-accident testing panel helps inform FRA about a broader range of potentially impairing prescription and OTC drugs that may be currently contributing to the cause or severity of train accidents/incidents. Research generated by these data will inform future agency policy decisions regarding these non-controlled substances.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 698 railroads.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
219.211(a)(b)(c)—RR Medical Review Officer (MRO) review of employee post-accident toxicological testing result reported as positive for alcohol or a controlled substance by designated laboratory and MRO report to FRA of Review Results.	698 railroads	16 reports + 16 report copies.	15 minutes + 5 minutes.	5

Total Estimated Responses: 32.

Total Estimated Annual Burden: 5 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on December 23, 2015.

Corey Hill,

Acting Executive Director.

[FR Doc. 2015–32713 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0143]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel U TURN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build

requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0143. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel U TURN is:

Intended Commercial Use of Vessel: ''To carry passengers for hire to explore the waters surrounding Puerto Rico and is protected bays''

Geographic Region: ''Puerto Rico''

The complete application is given in DOT docket MARAD–2015–0143 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32795 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0148]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NEUVA OLA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0148. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NEUVA OLA is:

Intended Commercial Use of Vessel: ''Sailing and Sport-fishing Charters''

Geographic Region: ''Florida, Puerto Rico''

The complete application is given in DOT docket MARAD–2015–0148 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: December 17, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32804 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0147]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CARPE VITA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0147. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CARPE VITA is:

Intended Commercial Use of Vessel: ‘‘Hourly and Multi day charters’’

Geographic Region: ‘‘Maine, New Hampshire, Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Texas’’

The complete application is given in DOT docket MARAD–2015–0147 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: December 17, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32803 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0141]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel THE DUCHESS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0141. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel THE DUCHESS is:

Intended Commercial Use of Vessel: ‘‘The intended use of the vessel is for recreational cruising/sightseeing and/or fishing charters, offering a service different than what is typically offered. Our service would provide private cruising/sightseeing and/or fishing charters on an upscale vessel which would not compete with the larger commercial vessels presently in the area. This service is geared towards an overall on the water experience in a personal setting’’

Geographic Region: ‘‘California’’

The complete application is given in DOT docket MARAD–2015–0141 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32801 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD 2015–0140]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration (MARAD), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 7, 2015 (**Federal Register** 18706, Vol. 80, No.66).

DATES: Comments must be submitted on or before January 28, 2016.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Jan Downing, 202–366–0783, Office of Cargo and Commercial Sealift, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Monthly Report of Ocean Shipments Moving under Export-Import Bank Financing

OMB Control Number: 2133–0013

Type of Request: Renewal of a Previously Approved Information Collection

Abstract: 46 U.S.C. 55304, requires MARAD to monitor and enforce the U.S.-flag shipping requirements relative to the loans/guarantees extended by the Export-Import Bank (Ex-Im Bank) to foreign borrowers. Public Resolution 17 requires that shipments financed by Ex-Im Bank and that move by sea, must be transported exclusively on U.S.-flag registered vessels unless a waiver is obtained from MARAD.

Affected Public: Shippers subject to Ex-Im Bank Financing.

Form(s): MA–518

Estimated Number of Respondents: 28

Annual Estimated Total Annual Burden Hours: 196

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.93.

Dated: December 7, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32786 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0146]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SHERYL ANN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0146. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SHERYL ANN is:

Intended Commercial Use of Vessel: ''Lake Union, Lake Washington, Puget Sound to the Canadian Border of Washington State. Custom planned tours for up to 6 paying passengers''

Geographic Region: ''Washington State''

The complete application is given in DOT docket MARAD–2015–0146 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: December 17, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32802 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0142]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LOWCOUNTRY NATIVE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0142. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LOWCOUNTRY NATIVE is:

Intended Commercial Use of Vessel: ''6 pack sunset charter''

Geographic Region: ''South Carolina''

The complete application is given in DOT docket MARAD–2015–0142 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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By Order of the Maritime Administrator.

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32794 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0144]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CALYPSO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0144. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CALYPSO is:

Intended Commercial Use of Vessel: ''Offer family sailing charters, sleep 6 to 7 guests in 3 Staterooms. From Day charters to week long charters. From Miami area to Florida Keys ''

Geographic Region: ''Florida, Georgia, South and North Carolina, Virginia, Pennsylvania, New York, Maine, Vermont, Ohio, Michigan, Illinois, Tennessee and Mississippi ''

The complete application is given in DOT docket MARAD–2015–0144 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses

U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32800 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0145]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ISLAND FLYER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0145. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel ISLAND FLYER is:

Intended Commercial Use of Vessel: ''Day tour ''

Geographic Region: ''Florida, Georgia''

The complete application is given in DOT docket MARAD–2015–0145 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32793 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0138]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel EROS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0138. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel EROS is:

Intended Commercial Use of Vessel: ''Occasional small charter groups ''

Geographic Region: ''Rhode Island, Massachusetts, New York, Maine, Puerto Rico and Florida''

The complete application is given in DOT docket MARAD–2015–0138 at *http://www.regulations.gov.* Interested parties may comment on the effect this

action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: December 7, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32788 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0139]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel THE GOLDFISCH; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 28, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0139. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel THE GOLDFISCH is:

Intended Commercial Use of Vessel: ''Fishing charter''

Geographic Region: ''Maryland''

The complete application is given in DOT docket MARAD–2015–0139 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: December 15, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–32789 Filed 12–28–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Application for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of application for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before January 13, 2016.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and

Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, December 7, 2015.

Don Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
8178–M		National Aeronautics & Space Administration (NASA) Washington, DC.	49 CFR 173.302(a); 173.34(d); 175.3.	To modify the special permit by extending the service life of the cylinder from 32 years to 43 years.
8451–M		Veolia ES Technical Solutions, L.L.C. Flanders, NJ.	49 CFR 173.320, 173.54(a), 173.56(b), 173.57, 173.58, 173.60.	To modify the special permit to authorize transportation to a final disposal and facility.
11516–M		Honeywell International, Inc. Morristown, NJ.	49 CFR 173.306(a)(3)	To modify the special permit to authorize an additional Division 2.2 material.
11624–M		Belshire Transportation Services, Inc. Foothill Ranch, CA.	49 CFR 173.173(b)(2)	To modify the special permit to authorize Class 8, PG II and PG III hazardous materials.
14298–M		Air Products and Chemicals, Inc. Allentown, PA.	49 CFR 180.209(a) and (b)	To modify the special permit to authorize DOT specification 3A or 3AA tubes with a capacity greater than 125 lbs mounted in an ISO or tube trailer frame to not be removed from bundles or be hammer tested prior to refilling and to align the markings requirements for ISO or tube trailer frame mounted DOT specification 3A or 3AA cylinders with those for DOT specification DOT 3A, 3AA, 3AX, 3AAX or 3T cylinders in tube trailers.
14692–M		Airgas USA, LLC, Tulsa, OK.	49 CFR 180.209	To modify the special permit to increase the maximum cycling (fillings) of each cylinder in a 10 year period to 600 from 300 cycles (fillings).
15507–M		Yiwu Jinyu Machinery Factory, Jiangwan Town, Yiwu City.	49 CFR 173.304(d)	To modify the special permit to authorize an additional non- refillable, non-DOT specification inner container similar to a DOT specification 2Q.
16061–M		Battery Solutions, LLC, Howell, MI.	49 CFR 172.200, 172.300, 172.400.	To modify the special permit to authorize dry cell batteries each with a marked rating up to 12 volts to be transported without short circuit protection; to increase the quantity of lithium metal authorized in each battery from 5 grams to 25 grams; to increase the weight of each non-spillable battery authorized from 11 pounds to 25 pounds; and to correct the Packing Groups in paragraph 6.
16514–M		Robert Bosch Tool Corporation, Mt. Prospect, IL.	49 CFR 172.301(c), 173.185(c)(1)(iii), 173.185(c)(3)(i).	To modify the special permit to increase the watt- hour (Wh) rating of lithium ion cells and batteries from 20 Wh to 60 Wh for cells and from 100 Wh to 300 Wh for batteries.

[FR Doc. 2015–32394 Filed 12–28–15; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Actions on Special Permit Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given of the actions on special permits applications in (October to October 2014). The mode of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

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

Don Burger,

Chief, Special Permits and Approvals Branch.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		MODIFICATION SPECIAL PERMIT GRANTED	
12549–M	TRISTAR Engineering Consulting Logistic SA 78311 Bucharest.	49 CFR 178.245–1(a)	To modify the special permit to an offer special permit and add “no new construction to this package is authorized” and company name change.
15146–M	ITW Tech Spray LLC Kennesaw, GA.	49 CFR 173.304(d)	To modify the special permit to authorize two additional non-specification inside metal containers similar to a DOT specification 2Q.
16394–M	Cellco Partnership, Basking Ridge, NJ.	49 CFR Subparts C through H of Part 172, 173.185(f).	To modify the special permit to authorize cargo vessel.
		NEW SPECIAL PERMIT GRANTED	
1652I–N	Sentry Equipment Corp., Oconomowoc, WI.	49 CFR 173.201, 173.301(f), 173.302a, 173.304a.	To authorize the manufacture, mark, sale and use of stainless steel nin-DOT specification cylinders designed and manufactured in accordance with ASME Section VIII, Division I, and which conform in part to the specification DOT 3A. (modes 1, 2, 3, 4)
16485–N	Entegris, Inc., Billerica, MA	49 CFR 173.302c(a), 173.302c(i)(5), 180.205(f), 180.205(g), IMDG Code 6.2.1.1.2.	To authorize the transportation in commerce of adsorbed gases in cylinders conforming to Specifications DOT 3AA and DOT 3E, (modes 1,2,3)
16478–N	Sentry Equipment Corp., Oconomowoc, WI.	49 CFR 173.201, 173.301(f), 173.302a, 173.404a.	To authorize the manufacture, mark, sale and use of stainless steel non-DOT specification cylinders designed and manufactured in accordance with ASME Section VIII, Division 1, and which conform in part to specification DOT 3A. (modes 1, 2, 3, 4)
		EMERGENCY SPECIAL PERMIT GRANTED	
16572–N	Samsung Austin Semiconductor, LLC, Austin, TX.	49 CFR 173.158(b), 173.158(e), 173.158(f).	To authorize the transportation in commerce of nitric acid not exceeding 70% concentration in UN 1H1 drums. (mode 1)
16609–N	Hollywood Pyrotechnics, Inc., Eagan, MN.	49 CFR 173.56	To authorize the transportation in commerce of fireworks without approved EX numbers. (mode 1)
16610–N	Kalitta Air, LLC, Ypsilanti, MI	49 CFR 172.101 Table Column (9B), 172.204(c)(3), 172.27(b)(2), (3), 175.30(a)(1).	To authorize the one-time transportation in commerce of certain explosives and that are forbidden for transportation by cargo only aircraft. (mode 4)
16581–N	Int'l Repo-Depo, Inc., Waller, TX.	49 CFR 172.101 Column (9B), 172.204(c)(3), 175.78, 176.144.	To authorize the transportation in commerce of an explosive, which is otherwise forbidden by the regulations. (modes 3, 4)
16580–N	Int'l Repo-Depo, Inc., Waller, TX.	49 CFR 172.101 Column (9B), 172.204(c)(3).	To authorize the transportation in commerce of an explosive, which is otherwise forbidden by the regulations. (modes 3, 4)
		DENIED	
15610–M	Request by WavesinSolids LLC, State College, PA, November 3, 2015.		
16320–N	Request by Digital Wave Corporation, Centennial, CO, November 23, 2015. To authorize the extension of the service life of certain DOT–CFFC cylinders which are subjected to certain requalification and operational controls.		
16462–N	Request by Helimax Aviation, Inc., McClellan, CA, November 20, 2015. To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft without being subject to certain hazard communication requirements, quantity limitations and certain loading and stowage requirements.		
16484–N	Request by Rotarex North America, Mount Pleasant, PA, November 18, 2015. To authorize the manufacture, mark, sale and use of certain piston accumulators.		
16526–N	Request by Helimax Aviation, Inc., McClellan Park, CA, November 20, 2015. To authorize the transportation in commerce in the U.S. only of certain hazardous materials by 14 CFR part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft and 14 CFR part 135 operations transporting hazardous materials on board an aircraft. Such transportation is in support of construction operations when the use of cranes or other lifting devices is impracticable or unavailable or when aircraft is the only means of transportation, without being subject to certain hazard communication requirements, quantity limitations, packaging and loading and storage requirements.		
16564–N	Request by Carrier Corporation, Farmington, CT, November 20, 2015. To authorize the transportation in commerce of new (unused) refrigerating machines containing up to 6,500 pounds of a Group A1 refrigerant in each pressure vessel.		

[FR Doc. 2015–32393 Filed 12–28–15; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 28, 2016.

ADDRESSES: Send comments to Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hanrdous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

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

Don Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
		NEW SPECIAL PERMITS		
16606–N	....	5-State Helicopters Inc., Royse City, TX.	49 CFR 172.101 Hazardous Materials Table Column (9B), Subpart C of Part 172, 172.301(c), 175.30.	To authorize the transportation in commerce in the U.S. only of certain hazardous materials by 14 CFR part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft. Such transportation is in support of construction operations when the use of cranes or other lifting devices is impracticable or unavailable or when aircraft is the only means of transportation, without being subject to certain hazard communication requirements, quantity limitations, packaging and loading and storage requirements. (mode 4)
16612–N	....	Unipart North America, Limited Oxford, United Kingdom.	49 CFR 172.102(c), Special Provision A54, ICAO TI Special Provision A99.	To authorize the transportation in commerce of lithium ion batteries with a net weight exceeding 35 kg per package aboard cargo aircraft only. (mode 4)
16615–N	....	Special Devices, Incorporated, Simi Valley, CA.	49 CFR 172.320, 173.54(a), 173.54(j), 173.56(b), 173.57, 173.58.	To authorize the transportation in commerce of new pyrotechnic articles as commercial samples without being examined, tested, and approved when conforming to the terms of this special permit. (modes 1, 4)
		NEW SPECIAL PERMITS		
16618–N	....	Farmers Grain Company, Pond Creek, OK.	49 CFR 173.315(m)(1)(iv), 173.315(m)(1)(v), 173.315(m)(1)(vi).	To authorize the transportation in commerce of anhydrous ammonia in cargo tanks exceeding the authorized tank capacity and loaded to more than the authorized filling density percentage. (mode 1)
16620–N	....	Westeel Canada Inc., Winnipeg, Canada.	49 CFR 177.834(h), 178.75(d).	To authorize the manufacture, mark sale and use of Intermediate Bulk Containers (IBCs) each have a capacity less than 450 L for the transportation in commerce of certain Class 3 hazardous materials. Additionally, the discharge of these hazardous materials from the IBCs without removing them from the motor vehicle on which they are transported is authorized. (mode 1)

[FR Doc. 2015–32408 Filed 12–28–15; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Delayed Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of application delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
R—Renewal Request.
P—Party To Exemption Request.

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

Donald Burger,
Chief, General Approvals and Permits.

Application No.	Applicant	Reason for delay	Estimated date of completion
MODIFICATION TO SPECIAL PERMITS			
16142–M	Nantong CIMC Tank Equipment Co. Ltd. Jiangsu, Province	4	01–20–2016
14808–M	Amtrol-Alfa Metalomecanica, S.A. West Warwick, RI	4	01–31–2016
15972–M	EnTrans International, Athens, TN	4	12–15–2015
15628–M	Chemours Company FC, LLC. Wilmington, DE	4	01–31–2016
14437–M	Columbiana Boiler Company (CBCo) LLC Columbiana, OH	4	12–31–2015
NEW SPECIAL PERMIT APPLICATIONS			
15767–N	Union Pacific Railroad Company Omaha, NE	3	02–29–2016
16220–N	Americase Waxahache, TX	4	03–31–2016
16249–N	Optimized Energy Solutions, LLC Durango, CO	3	04–30–2016
16337–N	Volkswagen Group of America (VWGoA) Herndon, VA	4	12–31–2015
16366–N	Department of Defense Scott AFB, IL	4	12–15–2015
16371–N	Volkswagen Group of America (VWGoA) Herndon, VA	4	12–30–2015
16416–N	INOX India Limited Gujarat, India	4	12–31–2105
16461–N	Coastal Hydrotesting LLC Baltimore, MD	4	12–20–2015
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[FR Doc. 2015–32407 Filed 12–28–15; 8:45 am]

BILLING CODE M

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information; Regulations Governing U.S. Treasury Securities—State and Local Government Series

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Regulations Governing U.S. Treasury Securities—State and Local Government Series.

DATES: Written comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dwayne Boothe, Branch Manager, Special Investments Branch; 200 Third Street Room 119, Parkersburg, WV 26106–1328, or *dwayne.boothe@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Titles: Regulations Governing United States Treasury Certificates of Indebtedness—State and Local Government Series, Unites States Treasury Notes—State and Local Government Series, and United States Treasury Bonds—State and Local Government Series.

OMB Number: 1530–0044 (Previously approved as 1535–0091 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.)

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Abstract: The information is requested to establish consideration for a waiver of regulations.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: State or local governments.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 434.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 22, 2015.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2015–32707 Filed 12–28–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Claim for United States Savings Bonds Not Received

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Claim for United States Savings Bonds Not Received.

DATES: Written comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Ron Lewis; 200 Third Street, Room 515, Parkersburg, WV 26106–1328, or *ron.lewis@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Claim for United States Savings Bonds Not Received.

OMB Number: 1530–0048 (Previously approved as 1535–0098 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.) Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Numbers: FS Form 3062–4.

Abstract: The information is used to support a request for relief on account of the nonreceipt of United States Savings Bonds.

Current Actions: Extension of a previously approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 22, 2015.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2015–32708 Filed 12–28–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills.

DATES: Written comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Ron Lewis; 200 Third Street Room 515, Parkersburg, WV 26106–1328, or *ron.lewis@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills.

OMB Number: 1530–0043 (Previously approved as 1535–00068 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.)

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Abstract: The regulations govern book-entry Treasury bonds, notes, and bills.

Current Actions: Extension of a previously approved collection.

Type of Review: Regular

Affected Public: Individuals or Households, businesses or other for-profit, and state and local governments

Estimated Total Annual Burden Hours: 1

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 22, 2015.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2015–32706 Filed 12–28–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request by Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request by Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available.

DATES: Written comments should be received on or before February 29, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A.

Sharp, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Ron Lewis; 200 Third Street, Room 515, Parkersburg, WV 26106–1328, or *ron.lewis@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request by Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available.

OMB Number: 1530–0024 (Previously approved as 1535–00063 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.) Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Numbers: FS Form 4239.

Abstract: The information is requested to establish ownership and request reissue or payment when original custody receipts are not available.

Current Actions: Extension of a previously approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 9,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 1,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 22, 2015.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2015–32705 Filed 12–28–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Proposed Information Collection; Comment Request; Treasury Financial Empowerment Innovation Fund Evaluation of a Near-Peer Counseling Program for High School and College Students on Pursuing and Financing Their Higher Education

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Treasury is soliciting comments concerning a proposed information collection under a Treasury Financial Empowerment Innovation Fund project to assess the effectiveness of financial decision-making components of near-peer counseling for high school and college students.

DATES: Written comments must be submitted on or before February 29, 2016 to be assure of consideration.

ADDRESSES: Comments regarding this information collection should be addressed to the Treasury Office of Consumer Policy contact listed below. All responses to this notice will be included in the request for OMB's approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to James Gatz, Senior Policy Analyst, Office of Consumer Policy, Room 1426, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, by telephone on 202–622–3946, or by email at *James.Gatz@Treasury.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 1505—NEW.

Title: Information Collections for Evaluation of a Near-Peer Counseling Program for High School and College Students on Pursuing and Financing their Higher Education.

Abstract: The Department of the Treasury, Office of Consumer Policy, will use a combination of web-based information collection tools and in-person interviews to survey high school and college students who are participating in a near-peer counseling program that seeks to inform them about options for pursuing and financing their higher education. The data collected will be used to evaluate the effectiveness of the near-peer counseling program. The information collections are planned for 2016.

Type of Review: New information collection.

Affected Public: Individuals and households.

Respondent's Obligation: Voluntary. Web-based Information Collection.

Estimated Number of Respondents: Approximately 1,200–1,500 students.

Estimated Average Time per Respondents: 15 minutes per student.

Estimated Total Annual Burden Hours: Approximately 300–375 hours. Focus Groups and In-Person Interviews.

Estimated Number of Respondents: Approximately 75–150 students.

Estimated Average Time per Respondents: 30 minutes per student.

Estimated Total Annual Burden Hours: Approximately 37.5–50 hours.

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 Office of Consumer Policy, including whether the information shall have practical utility; (b) the accuracy of the above 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; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information

Dated: December 23, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–32754 Filed 12–28–15; 8:45 am]

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