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COMMODITY FUTURES TRADING COMMISSION

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RIN 3038–AE27

Initial Response to District Court Remand Order in Securities Industry and Financial Markets Association, et al. v. United States Commodity Futures Trading Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplementation of rulemaking preambles and request for comments.

SUMMARY: This release is the Commodity Futures Trading Commission's (''Commission'' or ''CFTC'') initial response to the order of the United States District Court for the District of Columbia in *Securities Industry and Financial Markets Association, et al.* v. *United States Commodity Futures Trading Commission* remanding eight swaps-related rulemakings to the Commission to address what the court held to be inadequacies in the Commission's consideration of costs and benefits, or its explanation of its consideration of costs and benefits, in those rulemakings. In this release, the Commission: supplements the preambles to the remanded rulemakings by clarifying that the costs and benefits identified therein applied both to domestic swaps activities and activities outside the United States that are subject to the Commission's swaps rules by operation of section 2(i) of the Commodity Exchange Act (''CEA''); and solicits comments on whether there are cross-border costs or benefits associated with the remanded rules that differ from those associated with activities within the United States. Following its review of the comments, the Commission will publish a further response to the District Court remand order which would include any supplementation of or changes to its consideration of the costs and benefits of the relevant rules as set forth in the rule preambles. The Commission will also consider whether to amend any of these rules in light of information developed in this process.

DATES: Comments must be received on or before May 11, 2015.

ADDRESSES: You may submit comments, identified by RIN 3038–AE27, by any of the following methods:

- *Agency Web site: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Rob Schwartz, Deputy General Counsel, (202) 418–5958, *rschwartz@cftc.gov*; Martin White, Assistant General Counsel, (202) 418–5129, *mwhite@cftc.gov*; or Kavita Kumar Puri, Counsel, (202) 418–5291, *kpuri@cftc.gov*, in the Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Overview

This release is the Commission's initial response to the order of the United States District Court for the District of Columbia in *Securities Industry and Financial Markets Association, et al.* v. *United States Commodity Futures Trading Commission,* No. 13–1916 (PLF) (D.D.C. September 16, 2014) [2] (''*SIFMA* v. *CFTC*'') remanding eight swaps-related rulemakings to the Commission to address what the court held to be inadequacies in the Commission's explanation of its consideration of costs and benefits in those rulemakings. The eight remanded rulemakings are:

Real-Time Public Reporting of Swap Transactions Data [3] (''Real-Time Reporting Rule'')

Swap Data Recordkeeping and Reporting Requirements [4] (''SDR Reporting Rule'')

Registration of Swap Dealers and Major Swap Participants [5] (''Swap Entity Registration Rule'')

Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflict of Interest Rules; and Chief Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants [6] (''Daily Trading Records,'' ''Risk Management,'' and ''Chief Compliance Officer'' Rules)

Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant,'' and ''Eligible Contract Participant'' [7] (''Entity Definition Rule'')

[1] 17 CFR 145.9.

[2] —F. Supp. 3d—, 2014 WL 4629567 (''Op.'').

[3] 77 FR 1182 (January 9, 2012).

[4] 77 FR 2136 (January 13, 2012).

[5] 77 FR 2613 (January 19, 2012).

[6] 77 FR 20128 (April 3, 2012).

[7] 77 FR 30596 (May 23, 2012).

Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps [8] (''Historical SDR Reporting Rule'')

Confirmations, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants [9] (''Portfolio Reconciliation Rule'')

Core Principles and Other Requirements for Swap Execution Facilities [10] (''SEF Registration Rule'')

The court directed the Commission to address explicitly whether the costs and benefits the Commission identified in those rulemakings apply to activities outside the United States, and to address any differences that may exist. In this release, the Commission takes two actions:

First, the Commission supplements the preambles to the eight remanded rulemakings by clarifying that, unless otherwise specified, the costs and benefits identified therein addressed both domestic swaps activities and overseas swaps activities subject to the Commission's jurisdiction by operation of CEA section 2(i).[11] In considering those costs and benefits, the Commission considered all evidence in the record, regardless of whether the evidence pertained to activities in the United States or overseas. The rule preambles, including the Commission's discussions of costs and benefits, reflect the Commission's understanding that the swaps market operates across borders, that some regulated activity would occur overseas, and that Congress expressly provided that the Commission's swaps regulations would apply to activities outside the United States to the extent of CEA section 2(i). As with other variations in the universe of covered swaps activities, where the record evidence contained no information indicating a material difference in costs and benefits based on the geographic locus of swaps activities, the Commission addressed its consideration of costs and benefits of the rules to all swaps activities to which the rules apply. In the small number of instances where commenters raised issues specific to overseas activities or provided data about those activities, the Commission addressed those issues and data.[12] Consistent with this approach, and subject to the limitations of the information available in the rulemaking records, the costs and benefits identified in the rule preambles applied to all covered activity within the Commission's jurisdiction.

Second, the Commission is soliciting comments on whether there are costs or benefits of the remanded rules as applied to business activities outside the United States that differ from those of the rules as applied to activities within the United States. Following its review of the comments, the Commission will publish a further response to the District Court remand order which would include any supplementation of, or changes to, its consideration of the costs and benefits of the rules as set forth in the rule preambles. The Commission will also consider proposing changes to the rules based on information developed in this process and other relevant considerations.

II. Background

A. The District Court Litigation and Decision

On December 4, 2013, three trade associations sued the Commission in the United States District Court for the District of Columbia, challenging, on various grounds, the Commission's Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations [13] (''Cross-Border Guidance'') as well as the extraterritorial application of fourteen of the rules promulgated by the Commission to implement the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act [14] regarding swaps.[15] The fourteen challenged rules were promulgated by the Commission in twelve rulemakings.[16] On September 16, 2014, the court issued a decision, granting summary judgment to the Commission on most issues.

The court summarized the case by observing,

> The majority of plaintiffs' claims fail because Congress has clearly indicated that the swaps provisions within Title VII of the Dodd-Frank Act—including any rules or regulations prescribed by the CFTC—apply extraterritorially whenever the jurisdictional nexus in 7 U.S.C. 2(i) is satisfied. In this regard, plaintiffs' challenges to the extraterritorial application of the Title VII Rules merely seek to delay the inevitable.[17]

Major holdings by the court regarding the cross-border application of the Commission's swaps rules included the following:

1. The Commission's Cross-Border Guidance is not subject to judicial review because it is in part a non-binding general statement of policy and in part an interpretive rule, neither of which is subject to judicial review under the Administrative Procedure Act.[18]

2. Section 2(i) of the CEA is a self-effectuating provision that makes Commission swaps rules apply to business activities outside the United States to the extent they meet the test set forth in the statutory language.[19] No Commission rulemaking is needed to make swaps rules extend to the geographic reach established by Congress in this provision.[20] Thus, the Commission's substantive rules regarding swaps do not need to specify their international scope since that was done by statute.[21]

3. Because Congress determined that the Commission's swaps rules apply to certain overseas activities and established the test for determining when the rules would apply to those activities, the Commission was not tasked with reconsidering the costs and benefits of those legislative decisions.[22]

4. Because section 2(i) establishes the extraterritorial scope of the Commission's swaps rules, the Commission can enforce those rules overseas relying on that provision. However, to the extent that it may be useful to develop a more refined interpretation of how section 2(i) applies in particular circumstances, the Commission has discretion to address

[8] 77 FR 35200 (June 12, 2012).

[9] 77 FR 55904 (September 11, 2012).

[10] 78 FR 33476 (June 4, 2013).

[11] 7 U.S.C. 2(i).

[12] *See* infra n.52.

[13] 78 FR 45292 (July 26, 2013).

[14] Public Law 111–203, 124 Stat. 1376.

[15] Op. at *1, *5. The plaintiffs were the Securities Industry and Financial Markets Association, the International Swaps and Derivatives Association, and the Institute of International Bankers. Op. at *1.

[16] *See* Op. at *5. Three of the fourteen challenged rules, informally identified by the court as the ''Daily Trading Records,'' ''Risk Management,'' and ''Chief Compliance Officer'' Rules, were promulgated as part of a single rulemaking. *Id.*

[17] Op. at *42.

[18] Op. at *34.

[19] Op. at *34. Section 2(i), 7 U.S.C. 2(i), provides that the provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities—(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or (2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Wall Street Transparency and Accountability Act of 2010.

Section 2(i)(2), regarding anti-evasion rules, was not at issue in the *SIFMA* v. *CFTC* litigation.

[20] Op. at *33 (''As already noted, Section 2(i) provides the authority—without implementing regulations, see *infra* Section III.A—to enforce the Title VII Rules extraterritorially whenever activities'' meet the test set forth in the statute).

[21] Op. at *36–*37.

[22] Op. at *38.

those interpretive issues via either rulemaking or case-by-case adjudication.[23] Whichever choice it makes, the Commission is not required to define the precise scope of section 2(i) each time it promulgates a substantive swaps rule; it can address issues of the scope of section 2(i) as they arise.[24]

Based on these principles, the court held that the rules challenged by the plaintiffs apply to swaps activities outside the United States to the extent specified by section 2(i).[25] The court also held that, even though some commenters asked the Commission to address the geographical scope of the rules, the Commission reasonably determined not to address issues of geographical scope in these particular proceedings and to simply rely on the statute (*i.e.,* section 2(i)) to define the rules' application to activities outside the United States.[26]

On the other hand, the court further held that, in the preambles for ten of the challenged rules, promulgated as part of eight rulemakings,[27] the Commission should have, but did not, state whether the costs and benefits identified in the rule preambles applied not only to domestic swaps activities, but also to swaps activities outside the United States.[28] The eight remanded rulemakings are listed above. Specifically, the court held that the Commission should have discussed whether and to what extent the costs and benefits as to overseas activity may differ from those related to domestic application of the rules.[29] On that basis, the court described the rules as ''inadequately explained.'' [30] It stated, however, that it was ''willing to assume for now'' that the issue was ''one of form and not of substance.'' [31] It also held that this perceived shortcoming was ''not so serious as to favor vacatur'' of the rules.[32] The court further reasoned that vacatur of these rules would ''produce a bevy of disruptive consequences,'' in part because ''after vacatur, U.S.-based swap dealers would be able to avoid Title VII regulations by engaging in transactions through their foreign subsidiaries and affiliates, even if the transactions' risk remained with the U.S.-based corporation.'' [33] Based on its analysis of the statute and rules, the court determined that there ''exists at least a serious possibility'' that the affected rules would remain unchanged as a result of proceedings on remand to elaborate on the geographic element of the identified costs and benefits.[34] The court therefore remanded without vacatur the eight rulemakings encompassing the rules in question for the Commission to better explain its position on whether the costs and benefits identified in the rule preambles applied to overseas activities, and to explain any relevant differences.[35]

B. The District Court's Rulings on Consideration of Costs and Benefits

The district court remanded the eight rulemakings ''for further proceedings consistent with the Opinion issued this same day.'' [36] The court's opinion included a number of holdings and observations that provide guidance as to the actions the Commission must take on remand with respect to the consideration of the costs and benefits of the extraterritorial application of the rules in question.

1. The court held that, because Congress made the determination that the swaps rules apply overseas to the extent specified in section 2(i), CEA section 15(a) does not require the Commission to consider whether it is necessary or desirable for particular rules to apply to overseas activities as specified in section 2(i).[37] Indeed, the court explained, the Commission cannot, based on a consideration of costs and benefits, second-guess Congress's decision that swaps rules apply to certain overseas activities.[38] As a result, the court stated that ''the only issues necessarily before the CFTC on remand would be the *substance* of the Title VII rules, *not* the scope of those Rules' extraterritorial applications under 7 U.S.C. 2(i).'' [39]

2. At the same time, the court held that, in considering costs and benefits of the substantive regulatory choices it makes when promulgating a swaps rule, the Commission is required to take into consideration the fact that the rule, by statute, will apply to certain overseas activity.[40] Thus, the Commission's consideration of costs and benefits of the application of the rule must encompass both foreign and domestic business activities.[41] The court held that the Commission failed to meet this requirement because, the court stated, in the cost-benefit discussions for the rules at issue the Commission did not give explicit consideration to costs and benefits specific to overseas activities.[42]

3. The court held that the Commission has discretion either to consider costs and benefits of the international application of swaps rules separately from domestic application or to evaluate them together, ''so long as the cost-benefit analysis makes clear that the CFTC reasonably considered both.'' [43] The district court found that, at the time the rules at issue in the litigation were promulgated, foreign swaps regulations were still under development so that costs of possible duplicative regulation were hypothetical and did not have to be considered.[44] The court noted that this fact raised the possibility that the costs and benefits of the rules' extraterritorial application ''were essentially identical to those of the Rules' domestic applications'' so that the Commission ''functionally considered the extraterritorial costs and benefits'' of the rules ''by considering the Rules' domestic costs and benefits.'' [45] However, the court concluded that it did not need to address that possibility because the cost-benefit discussions in the rule preambles gave ''no indication'' that this

[23] Op. at *35.

[24] Op. at *36–*37.

[25] Op. at *35.

[26] Op. at *36.

[27] As noted above, three of the rules at issue were promulgated as part of a single rulemaking.

[28] Although the Commission believes that it was sufficiently clear that the discussion of costs and benefits in the rule preambles applied to all swaps activity within the Commission's jurisdiction unless otherwise specified, the Commission has declined to appeal the district court's ruling. Thus, the court's remand order is final and binding on the Commission.

[29] Op. at *39–*40.

[30] Op. at *40, *42.

[31] Op. at *41 (internal quotation and citation omitted).

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] Op. at *41, *42–43. The plaintiffs' challenge to the ''Trade Execution Rule,'' Process for a Designated Contract Market or Swap Execution Facility to Make a Swap Available to Trade, Swap Transaction Compliance and Implementation Schedule, and Trade Execution Requirement Under the Commodity Exchange Act, 78 FR 33606 (June 4, 2013), was dismissed for lack of standing. Op. at *23. For three other rules—the ''Large Trader Reporting Rule,'' Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851 (July 22, 2011); the ''Straight-Through Processing Rule,'' Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management, 77 FR 21278 (April 9, 2012); and the ''Clearing Determination Rule,'' Clearing Requirement Determination Under Section 2(h) of the CEA, 77 FR 74284 (December 13, 2012)—the court granted summary judgment to the Commission without reaching the merits because the plaintiffs did not identify comments submitted to the Commission during the rulemaking proceedings that raised issues regarding the extraterritorial applications of these rules or the associated costs and benefits. Op. at *36 n.30.

[36] Op. at *43.

[37] Op. at *38.

[38] Op. at *39; *see also id.* at *41 n.35.

[39] Op. at *41.

[40] Op. at *39.

[41] *Id.*

[42] *Id.*

[43] Op. at *40.

[44] Op. at *39.

[45] Op. at *40.

was so.[46] The court further noted that foreign swaps regulations passed since the promulgation of the rules at issue in the litigation ''may now raise issues of duplicative regulatory burdens'' but that ''the CFTC may well conclude that its policy of substituted compliance largely negates these costs.'' [47]

4. Finally, the court noted that ''[p]laintiffs raise no complaints regarding the CFTC's evaluation of the general, often unquantifiable, benefits and costs of the domestic application of the Title VII Rules.'' [48] As a result, the court held, ''[o]n remand, the CFTC would only need to make explicit which of those benefits and costs similarly apply to the Rules' extraterritorial applications.'' [49]

III. Supplement to Preambles of Remanded Rulemakings Regarding the Scope of the Commission's Consideration of Costs and Benefits

The Commission hereby clarifies that it considered costs and benefits based on the understanding that the swaps market functions internationally, with many transactions involving U.S. firms taking place across international boundaries; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. The Commission considered all evidence in the record, and in the absence of evidence indicating differences in costs and benefits between foreign and domestic swaps activities, the Commission did not find occasion to characterize explicitly the identified costs and benefits as foreign or domestic. Thus, where the Commission did not specifically refer to matters of location, its discussion of costs and benefits referred to the effects of its rules on all business activity subject to its regulations, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under section 2(i).[50] In the language of the district court, the Commission ''functionally considered the extraterritorial costs and benefits,'' [51] and this was because the evidence in the record did not suggest that differences existed, with certain limited exceptions that the Commission addressed.[52] For example, as the district court found, at the time of the promulgation of the rules at issue, foreign swaps regulations generally were still being developed so any costs associated with potentially duplicative or inconsistent regulations remained hypothetical.[53] Thus, as the court noted, the plaintiffs in *SIFMA* v. *CFTC* did not ''identify any specific data that the CFTC failed to take into account.'' [54]

IV. Request for Comments

As noted above, the district court stated that, on remand, the Commission ''would only need to make explicit'' which of the costs and benefits identified in the rule preambles ''similarly apply to the Rules' extraterritorial applications.'' [55] In order to assist the Commission in determining whether any further consideration or explanation—beyond that contained in the original rule preambles and this release—is needed to respond to this mandate, the Commission requests comments on the following questions:

1. Are there any benefits or costs that the Commission identified in any of the rule preambles that do not apply, or apply to a different extent, to the relevant rule's extraterritorial applications?

2. Are there any costs or benefits that are unique to one or more of the rules' extraterritorial applications? If so, please specify how.

3. Put another way, are the types of costs and benefits that arise from the extraterritorial application of any of the rules different from those that arise from the domestic application? If so, how and to what extent?

4. If significant differences exist in the costs and benefits of the extraterritorial and domestic application of one or more of the rules, what are the implications of those differences for the substantive requirements of the rule or rules?

Comments should specify, in the header of the comment, the particular rule or rules that they address. The Commission requests that comments focus on information and analysis specifically relevant to the inquiry specified by the district court's remand order. Consistent with the district court's holding that the Commission is not required to address the issue of what the geographical scope of its rules should be in the challenged rulemakings,[56] the purpose of this request for comments is to further consider the cross-border costs and benefits of the substance of the rules, not to initiate a process to address the rules' cross-border scope, which, as the district court held, is prescribed by section 2(i).[57] The Commission further requests that commenters supply the Commission with relevant data to support their comments.

Issued in Washington, DC, on March 4, 2015, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Initial Response to District Court Remand Order in Securities Industry and Financial Markets Association, et al. v. United States Commodity Futures Trading Commission—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Wetjen, Bowen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2015–05413 Filed 3–9–15; 8:45 am]

BILLING CODE 6351–01–P

[46] *Id.*

[47] Op. at *41.

[48] Op. at *41.

[49] *Id.*

[50] The statement in the text reflects the Commission's approach in its consideration of costs and benefits for all of its Dodd-Frank rules, unless otherwise specified for a particular issue or issues in a particular rulemaking.

[51] Op. at *40.

[52] *See, e.g.,* Portfolio Reconciliation Rule, 77 FR at 55945–46, 55948–49 & nn.79, 84, 98, 108 (considering ISDA data regarding U.S. and foreign firms, and factoring in European proposals); Risk Management Rule, 77 FR at 20177 n.104 (relying on UK FSA study); Swaps Entity Registration Rule, 77 FR at 2624–25 (stating in response to comments that Commission ''does not believe that foreign-based Swaps Entities will bear higher costs associated with the registration process'' and giving explanation); SDR Reporting Rule, 77 FR at 2192 (considering costs and benefits of swap identifiers, including in cross-border activities).

[53] Op. at *39.

[54] Op. at *39.

[55] Op. at *41.

[56] Op. at *36–*37.

[57] However, as it has done in the past, the Commission will continue to consider the proper interpretation and application of section 2(i) in particular circumstances.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 317

[DOD–2008–OS–0068]

RIN 0790–AJ23

DCAA Privacy Act Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Defense Contract Audit Agency (DCAA) is amending the DCAA Privacy Act Program Regulation. Specifically, DCAA is adding an exemption section to include an exemption for RDCAA 900.1, DCAA Internal Review Case Files. This rule

provides policies and procedures for the DCAA's implementation of the Privacy Act of 1974, as amended.

DATES: This rule is effective on April 9, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Mastromichalis, FOIA/PA Management Analyst, DCAA HQ, 703–767–1022.

SUPPLEMENTARY INFORMATION: The revisions to this rule are part of DoD's retrospective plan under EO 13563 completed in August 2011. DoD's full plan can be accessed at *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=N%252BFR%252BPR%252BO;D=DOD-2011-OS-0036.*

Executive Summary

I. Purpose of This Regulatory Action

a. This rule provides policies and procedures for DCAA's implementation of the Privacy Act of 1974, as amended.

b. Authority: Privacy Act of 1974, Pub. L. 93–579, Stat. 1896 (5 U.S.C. 552a).

II. Summary of the Major Provisions of This Regulatory Action

DCAA is adding an exemption section to include an exemption for RDCAA 900.1, DCAA Internal Review Case Files.

III. Costs and Benefits of This Regulatory Action

This regulatory action imposes no monetary costs to the Agency or public. The benefit to the public is the accurate reflection of the Agency's Privacy Program to ensure that policies and procedures are known to the public.

Public Comments

On Thursday, February 6, 2014 (79 FR 7114–7117), the Department of Defense published a proposed rule requesting public comment. No comments were received on the proposed rule, and no changes have been made in the final rule.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this rule is not a significant regulatory action under these Executive Orders. This rule does not (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 these Executive Orders.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C Chapter 6)

It has been certified that this rule does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act within the Department of Defense.

Public Law 95–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this rule imposes no information collection requirements on the public under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that this rule does not involve a Federal mandate 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 and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that this rule does not have federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 317

Privacy.

Accordingly 32 CFR part 317 is revised to read as follows:

PART 317—DCAA PRIVACY ACT PROGRAM

Sec.

317.1 Purpose.
317.2 Applicability and scope.
317.3 Policy.
317.4 Responsibilities.
317.5 Procedures.
317.6 Procedures for exemptions.

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

§ 317.1 Purpose.

This part provides policies and procedures for the Defense Contract Audit Agency's (DCAA) implementation of the Privacy Act of 1974 (5 U.S.C. 552a) and 32 CFR part 310, and is intended to promote uniformity within DCAA.

§ 317.2 Applicability and scope.

(a) This part applies to all DCAA organizational elements and takes precedence over all regional regulatory issuances that supplement the DCAA Privacy Program.

(b) This part shall be made applicable by contract or other legally binding action to contractors whenever a DCAA contract provides for the operation of a system of records or portion of a system of records to accomplish an Agency function.

§ 317.3 Policy.

(a) It is DCAA policy that personnel will comply with the DCAA Privacy Program; the Privacy Act of 1974; and the DoD Privacy Program (32 CFR part 310). Strict adherence is necessary to ensure uniformity in the implementation of the DCAA Privacy Program and create conditions that will foster public trust. It is also Agency policy to safeguard personal information contained in any system of records maintained by DCAA organizational elements and to make that information available to the individual to whom it pertains to the maximum extent practicable.

(b) DCAA policy specifically requires that DCAA organizational elements:

(1) Collect, maintain, use, and disseminate personal information only when it is relevant and necessary to achieve a purpose required by statute or Executive Order.

(2) Collect personal information directly from the individuals to whom it pertains to the greatest extent practical.

(3) Inform individuals who are asked to supply personal information for inclusion in any system of records:

(i) The authority for the solicitation.

(ii) Whether furnishing the information is mandatory or voluntary.

(iii) The intended uses of the information.

(iv) The routine disclosures of the information that may be made outside of DoD.

(v) The effect on the individual of not providing all or any part of the requested information.

(4) Ensure that records used in making determinations about individuals and those containing personal information are accurate,

relevant, timely, and complete for the purposes for which they are being maintained before making them available to any recipients outside of DoD, other than a Federal agency, unless the disclosure is made under DCAA Regulation 5410.8, DCAA Freedom of Information Act Program.

(5) Keep no record that describes how individuals exercise their rights guaranteed by the First Amendment to the U.S. Constitution, unless expressly authorized by statute or by the individual to whom the records pertain or is pertinent to and within the scope of an authorized law enforcement activity.

(6) Notify individuals whenever records pertaining to them are made available under compulsory legal processes, if such process is a matter of public record.

(7) Establish safeguards to ensure the security of personal information and to protect this information from threats or hazards that might result in substantial harm, embarrassment, inconvenience, or unfairness to the individual.

(8) Establish rules of conduct for DCAA personnel involved in the design, development, operation, or maintenance of any system of records and train them in these rules of conduct.

(9) Assist individuals in determining what records pertaining to them are being collected, maintained, used, or disseminated.

(10) Permit individual access to the information pertaining to them maintained in any system of records, and to correct or amend that information, unless an exemption for the system has been properly established for an important public purpose.

(11) Provide, on request, an accounting of all disclosures of the information pertaining to them except when disclosures are made:

(i) To DoD personnel in the course of their official duties.

(ii) Under DCAA Regulation 5410.8, DCAA Freedom of Information Act Program.

(iii) To another agency or to an instrumentality of any governmental jurisdiction within or under control of the United States conducting law enforcement activities authorized by law.

(12) Advise individuals on their rights to appeal any refusal to grant access to or amend any record pertaining to them, and file a statement of disagreement with the record in the event amendment is refused.

§ 317.4 Responsibilities.

(a) The Assistant Director, Resources has overall responsibility for the DCAA Privacy Act Program and will serve as the sole appellate authority for appeals to decisions of respective initial denial authorities.

(b) The Chief, Administrative Management Division under the direction of the Assistant Director, Resources, shall:

(1) Establish, issue, and update policies for the DCAA Privacy Act Program; monitor compliance with this part; and provide policy guidance for the DCAA Privacy Act Program.

(2) Resolve conflicts that may arise regarding implementation of DCAA Privacy Act policy.

(3) Designate an Agency Privacy Act Advisor, as a single point of contact, to coordinate on matters concerning Privacy Act policy.

(4) Make the initial determination to deny an individual's written Privacy Act request for access to or amendment of documents filed in Privacy Act systems of records. This authority cannot be delegated.

(c) The DCAA Privacy Act Advisor under the supervision of the Chief, Administrative Management Division shall:

(1) Manage the DCAA Privacy Act Program in accordance with this part and applicable DCAA policies, as well as DoD and Federal regulations.

(2) Provide guidelines for managing, administering, and implementing the DCAA Privacy Act Program.

(3) Implement and administer the Privacy Act program at the Headquarters.

(4) Ensure that the collection, maintenance, use, or dissemination of records of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose; that the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information.

(5) Prepare promptly any required new, amended, or altered system notices for systems of records subject to the Privacy Act and submit them to the Defense Privacy Office for subsequent publication in the **Federal Register**.

(6) Conduct training on the Privacy Act program for Agency personnel.

(d) Heads of Principal Staff Elements are responsible for:

(1) Reviewing all regulations or other policy and guidance issuances for which they are the proponent to ensure consistency with the provisions of this part.

(2) Ensuring that the provisions of this part are followed in processing requests for records.

(3) Forwarding to the DCAA Privacy Act Advisor, any Privacy Act requests received directly from a member of the public, so that the request may be administratively controlled and processed.

(4) Ensuring the prompt review of all Privacy Act requests, and when required, coordinating those requests with other organizational elements.

(5) Providing recommendations to the DCAA Privacy Act Advisor regarding the releasability of DCAA records to members of the public, along with the responsive documents.

(6) Providing the appropriate documents, along with a written justification for any denial, in whole or in part, of a request for records to the DCAA Privacy Act Advisor. Those portions to be excised should be bracketed in red pencil, and the specific exemption or exemptions cites which provide the basis for denying the requested records.

(e) The General Counsel is responsible for:

(1) Ensuring uniformity is maintained in the legal position, and the interpretation of the Privacy Act; 32 CFR part 310; and this part.

(2) Consulting with DoD General Counsel on final denials that are inconsistent with decisions of other DoD components, involve issues not previously resolved, or raise new or significant legal issues of potential significance to other Government agencies.

(3) Providing advice and assistance to the Assistant Director, Resources; Regional Directors; and the Regional Privacy Act Officer, through the DCAA Privacy Act Advisor, as required, in the discharge of their responsibilities.

(4) Coordinating Privacy Act litigation with the Department of Justice.

(5) Coordinating on Headquarters denials of initial requests.

(f) Each Regional Director is responsible for the overall management of the Privacy Act program within their respective regions. Under his/her direction, the Regional Resources Manager is responsible for the management and staff supervision of the program and for designating a Regional Privacy Act Officer. Regional Directors will, as designee of the Director, make the initial determination to deny an individual's written Privacy Act request for access to or amendment of documents filed in Privacy Act systems of records. This authority cannot be delegated.

(g) Regional Privacy Act Officers will:

(1) Implement and administer the Privacy Act program throughout the region.

(2) Ensure that the collection, maintenance, use, or dissemination of records of identifiable personal information is in compliance with this part to assure that such action is for a necessary and lawful purpose; that the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information.

(3) Prepare input for the annual Privacy Act Report when requested by the DCAA Information and Privacy Advisor.

(4) Conduct training on the Privacy Act program for regional and FAO personnel.

(5) Provide recommendations to the Regional Director through the Regional Resources Manager regarding the releasability of DCAA records to members of the public.

(h) Managers, Field Audit Offices (FAOs) will:

(1) Ensure that the provisions of this part are followed in processing requests for records.

(2) Forward to the Regional Privacy Act Officer, any Privacy Act requests received directly from a member of the public, so that the request may be administratively controlled and processed.

(3) Ensure the prompt review of all Privacy Act requests, and when required, coordinating those requests with other organizational elements.

(4) Provide recommendation to the Regional Privacy Act Officer regarding the releasability of DCAA records to members of the public, along with the responsive documents.

(5) Provide the appropriate documents, along with a written justification for any denial, in whole or in part, of a request for records to the Regional Privacy Act Officer. Those portions to be excised should be bracketed in red pencil, and the specific exemption or exemptions cited which provide the basis for denying the requested records.

(i) DCAA Employees will:

(1) Not disclose any personal information contained in any system of records, except as authorized by this part.

(2) Not maintain any official files which are retrieved by name or other personal identifier without first ensuring that a notice for the system has been published in the **Federal Register**.

(3) Report any disclosures of personal information from a system of records or the maintenance of any system of records that are not authorized by this part to the appropriate Privacy Act officials for their action.

§ 317.5 Procedures.

Procedures for processing material in accordance with the Privacy Act of 1974 are outlined in DoD 5400.11–R, DoD Privacy Program (32 CFR part 310).

§ 317.6 Procedures for exemptions.

(a) *General information.* There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Privacy Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If a new system of records originates for which an exemption is proposed, or an additional or new exemption for an existing system of records is proposed, the exemption shall be submitted with the system of records notice. No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve significant and legitimate Government purposes.

(b) *Specific exemptions.* (1) System identifier and name: RDCAA 900.1, DCAA Internal Review Case Files

(i) Exemption: Any portions of this system of records which fall under the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (f).

(ii) Authority: 5 U.S.C. 552a(k)(2) and (k)(5)

(iii) Reason: (A) From subsection (c)(3) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents.

(B) From subsection (d) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Disclosures could also subject sources and witnesses to harassment or intimidation which jeopardize the safety and well-being of themselves and their families.

(C) From subsection (e)(1) because the nature of the investigation functions creates unique problems in prescribing specific parameters in a particular case as to what information is relevant or necessary. Due to close liaison and working relationships with other Federal, state, local, foreign country law enforcement agencies, and other governmental agencies, information may be received which may relate to a case under the investigative jurisdiction of another government agency. It is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(4)(G) through (H) because this system of records is exempt from the access provisions of subsection (d).

(E) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(2) [Reserved]

Dated: March 4, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–05374 Filed 3–9–15; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0275; A–1–FRL–9924–17–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Transportation Conformity

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island on February 21, 2014. This revision includes a regulation adopted by Rhode Island that establishes procedures to follow for transportation conformity

determinations. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The intended effect of this action is to approve Rhode Island's transportation conformity regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective May 11, 2015, unless EPA receives adverse comments by April 9, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0275 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0275, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No EPA–R01–OAR–2014–0275. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

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

FOR FURTHER INFORMATION CONTACT: Anne Arnold, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1047, fax number (617) 918–1047, email *arnold.anne@epa.gov.*

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

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

I. Background
A. What is transportation conformity?
B. What are the transportation conformity provisions of SAFETEA–LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users)?
II. Rhode Island's SIP Revision
III. EPA's Evaluation of Rhode Island's SIP Revision
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background

A. What is transportation conformity?

Transportation conformity is required under Section 176(c) of the Clean Air Act (CAA) to ensure that Federally supported highway, transit projects, and other activities are consistent with (''conform to'') the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment, and those redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the Clean Air Act, for the following transportation related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR part 93, subpart A and provisions related to conformity SIPs are found in 40 CFR 51.390.

In the CAA, Congress recognized that actions taken by Federal agencies could affect State, Tribal, and local agencies' ability to attain and maintain the NAAQS. Congress added section 176(c) (42 U.S.C. 7506) to the CAA to ensure Federal agencies' proposed actions conform to the applicable SIP, Tribal Implementation Plan (TIP) or Federal Implementation Plan (FIP) for attaining and maintaining the NAAQS. That section requires Federal entities to find that the emissions from the Federal action will conform with the purposes of the SIP, TIP, or FIP, or not otherwise interfere with the State's or Tribe's ability to attain and maintain the NAAQS.

The CAA Amendments of 1990 clarified and strengthened the

provisions in section 176(c). Because certain provisions of section 176(c) apply only to highway and mass transit funding and approval actions, EPA published two set of regulations to implement section 176(c). The Transportation Conformity Regulations (40 CFR 51, Subpart T, and 40 CFR 93, Subpart A), first published on November 24, 1993 (58 FR 62188), address Federal actions related to highway and mass transit funding and approval actions. The General Conformity Regulations (40 CFR 51, Subpart W, and 40 CFR 93, Subpart B), published on November 30, 1993 (58 FR 63214), cover all other Federal actions. These two conformity regulations have been revised numerous times. Today's action focuses only on transportation conformity.

When promulgated in 1993, the Federal transportation conformity rule at 40 CFR 51.395 mandated that the transportation conformity SIP revision incorporate several provisions [1] of the rule in verbatim form, except in so far as needed to give effect to a stated intent to establish criteria and procedures more stringent than the requirements stated in these sections.

B. What are the transportation conformity provisions of SAFETEA–LU?

On August 10, 2005, SAFETEA–LU was signed into law streamlining the requirements for conformity SIPs. Prior to SAFETEA–LU being signed into law, states were required to address all of the Federal conformity rule's provisions in their conformity SIPs.

Under SAFETEA–LU, states are required to address and tailor only three sections of the conformity rule in their conformity SIPs. These three sections of the Federal rule which must meet a state's individual circumstances are: 40 CFR 93.105, which addresses consultation procedures; 40 CFR 93.122(a)(4)(ii), which requires that written commitments be obtained for control measures that are not included in a Metropolitan Planning Organization's transportation plan and transportation improvement program prior to a conformity determination, and that such commitments be fulfilled; and, 40 CFR 93.125(c) which requires that written commitments be obtained for mitigation measures prior to a project level conformity determination, and that project sponsors must comply with such commitments. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule. This provision took effect on August 10, 2005, when SAFETEA–LU was signed into law.

[1] Specifically, those sections are: 51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51,448, 51.450, 51.460, and 51.462.

II. Rhode Island's SIP Revision

On February 21, 2014, the Rhode Island Department of Environmental Management (RI DEM) submitted a SIP revision to EPA. This SIP revision includes Rhode Island's Air Pollution Control Regulation No. 49, ''Transportation Conformity.'' The stated purpose of this regulation is to fulfill the requirement to establish a SIP revision that addresses the three sections of the Federal transportation conformity rule discussed above.

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

We have reviewed Rhode Island's SIP submittal to ensure consistency with the Clean Air Act, as amended by SAFETEA–LU, and EPA regulations governing state procedures for transportation conformity and interagency consultation (40 CFR part 93, subpart A and 40 CFR 51.390) and have concluded that the SIP submittal is approvable. Specifically, Rhode Island's Regulation No. 49, ''Transportation Conformity,'' adequately addresses the three sections of the Federal transportation conformity rule discussed above (consultation procedures, written commitments for control measures and mitigation measures, and project sponsors' compliance with such commitments).

In addition, Rhode Island's February 21, 2014 SIP revision meets the requirements set forth in section 110 of the CAA with respect to adoption and submission of SIP revisions. The approval of Rhode Island's transportation conformity SIP revision will strengthen the Rhode Island SIP and will assist the state in complying with the Federal NAAQS. Therefore, EPA is approving Rhode Island's transportation conformity SIP revision to comply with the most recent Federal transportation conformity requirements.

IV. Final Action

EPA is approving, and incorporating into the Rhode Island SIP, Rhode Island's Air Pollution Control Regulation No. 49, ''Transportation Conformity.''

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective May 11, 2015 without further notice unless the Agency receives relevant adverse comments by April 9, 2015.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 11, 2015 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 4, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart OO—Rhode Island

■ 2. In § 52.2070 the table in paragraph (c) is amended by adding a new entry entitled ''Air Pollution Control Regulation 49'' after the entry for ''Air Pollution Control Regulation 45'' to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) *EPA Approved regulations.*

EPA-APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Air Pollution Control Regulation 49.	Transportation Conformity	10/20/2011	3/10/2015 [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2015–05260 Filed 3–9–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Part 819

RIN 2900–AM92

Department of Veterans Affairs Acquisition Regulation: Service-Disabled Veteran-Owned and Veteran-Owned Small Business Status Protests

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim final rule published in the **Federal Register** on September 30, 2013. This document implements a portion of the Veterans Benefits, Health Care, and Information Technology Act of 2006, which requires the Department of Veterans Affairs (VA) to verify ownership and control of Veteran-owned small businesses (VOSBs), including service-disabled Veteran-owned small businesses (SDVOSBs), in order for these firms to participate in

VA acquisitions set asides for SDVOSB/VOSBs. Specifically, VA amends its adjudication procedures for SDVOSB and VOSB status protests, to provide that VA's Director, Center for Verification and Evaluation (CVE), shall initially adjudicate SDVOSB and VOSB status protests, and to provide that protested businesses, if they are denied status, may appeal to VA's Executive Director, Office of Small and Disadvantaged Business Utilization (OSDBU). SDVOSB/VOSB status protests occur when during a particular SDVOSB/VOSB set aside acquisition, a competing vendor in acquisition challenges the status of the putative awardee as an actual SDVOSB or VOSB, as applicable. Additionally, VA amends the title of CVE from the Center for Veterans Enterprise to the Center for Verification and Evaluation, to more appropriately represent the function of this office.

DATES: *Effective Date:* This final rule is effective March 10, 2015.

FOR FURTHER INFORMATION CONTACT: Cheryl Duckett-Moody, Senior Procurement Analysis (003A2A), Department of Veterans Affairs, 425 I ST. NW., Washington, DC 20001, (202) 632–5319. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On September 30, 2013, VA published in the **Federal Register** (78 FR 59861) an interim final rule that revised the interim adjudication procedures for SDVOSB and VOSB status protests to provide that VA's Director of CVE shall initially adjudicate SDVOSB and VOSB status protests and to provide that either the protesting party or the protested business may appeal the Director of CVE's decision to the Executive Director of OSDBU. In addition, the interim final rule described procedures used by both VA's Director of CVE and the Executive Director of OSDBU to use in status protest and appeals of status protests. As noted in the preamble to the interim final rule, VA has concluded that it will not utilize the U.S. Small Business Administration (SBA) to consider and decide VA SDVOSB and VOSB status protests on behalf of VA because this program is founded in Title 38 of the U.S. Code, solely applicable to VA acquisitions, and VA has developed appropriate internal expertise in adjudicating SDVOSB/VOSB status protests.

We provided a 60-day comment period that ended on November 29, 2013. We received one comment. The commenter discussed the SBA's view expressed in the Government Accountability Office (GAO) bid protest case *Latvian Connection LLC,* (GAO Case Number B–408633) that under 15 U.S.C. 644(j)(1) and 13 CFR 125.2(f)(1) there is an automatic small business set-aside requirement imposed even where the competition takes place outside of the United States. This comment addressed an issue that is beyond the scope of the request for comments. Therefore, we make no changes based on this comment. Based on the rationale set forth in the interim final rule, we adopt the interim final rule as a final rule without change.

Administrative Procedure Act

This document affirms the amendments in the interim final rule that is already in effect. In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of VA concluded that there was good cause to dispense with advance public notice and the opportunity to comment on this rule, and also good cause to publish this rule with an immediate effective date. VA provided that the Executive Director, OSDBU, shall consider and decide SDVOSB and VOSB status protests until VA and SBA executed an interagency agreement for SBA to consider and decide SDVOSB and VOSB status protests. For the reasons stated in 78 FR 59861, that VA has developed the necessary expertise to administer a SDVOSB/VOSB set aside program, including associated status protests, enacted in statute solely applicable to VA, we have determined that adjudication of SDVOSB and VOSB status protests shall remain within VA. Therefore, we are adopting as final the interim provision to provide that the Director, CVE, shall initially adjudicate SDVOSB and VOSB status protests and to provide that either the protester or the protested business may appeal the Director, CVE, decision to the Executive Director, OSDBU. Thus, the final rule continues to authorize an administrative appeal at the agency level, where the lack thereof had been criticized in *Miles Construction, LLC* v. *United States,* 108 Fed. Cl. 792 (2013), as not providing a party adequate due process and the opportunity to be heard at a meaningful time in a meaningful manner.

Regulatory Flexibility Act

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, 5 U.S.C. 601–612. The final arbiter of VA SDVOSB and VOSB status protests remains the Executive Director, OSDBU, as previously promulgated. The main change is that the Secretary has determined that SBA should not be involved in VA SDVOSB or VOSB status protests because these status protests are solely associated with title 38 SDVOSB and VOSB set-aside acquisitions where SDVOSB or VOSB status is to be determined by the Secretary pursuant to 38 U.S.C. 8127(f). On this basis, the Secretary certifies that the adoption of 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, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, at 2 U.S.C. 1532, requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an 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.

Paperwork Reduction Act

This final rule contains no collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

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 the Office of Management and Budget (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 regulatory action 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.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number or title for this program.

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. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on March 2, 2015, for publication.

List of Subjects in 48 CFR Part 819

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements, Small businesses, Veterans.

Dated: March 5, 2015.

Michael P. Shores,

Chief, Impact Analyst, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

Accordingly, VA adopts the interim final rule amending 48 CFR part 819, which was published in the **Federal Register** at 78 FR 59861 on September 30, 2013, as a final rule without change.

[FR Doc. 2015–05505 Filed 3–9–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2015–0007; 4500030113]

RIN 1018–BA73

Endangered and Threatened Wildlife and Plants; Taxonomy of the Hawaiian Monk Seal

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending the List of Endangered and Threatened Wildlife to reflect the scientifically accepted taxonomy and nomenclature of the Hawaiian monk seal (*Neomonachus schauinslandi* (=*Monachus schauinslandi*)). This amendment is based on a previously published determination by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for this species.

DATES: This rule is effective March 10, 2015.

FOR FURTHER INFORMATION CONTACT: Jean Higgins, NMFS, Pacific Islands Regional Office, (808) 725–5151; or Marta Nammack, NMFS, Office of Protected Resources, (301) 427–8469.

SUPPLEMENTARY INFORMATION: In accordance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the Hawaiian monk seal.

On November 17, 2014, NMFS published a direct final rule (79 FR 68371) to announce the revised taxonomy of the Hawaiian monk seal. Because NMFS did not receive any adverse comments during the first 30 days of the direct final rule's comment period, that direct final rule's effective date is January 16, 2015. Please refer to that rule for information on the taxonomy of the Hawaiian monk seal.

While NMFS has jurisdiction over the Hawaiian monk seal, we are responsible for updating the List of Endangered and Threatened Wildlife (List) in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11(h). This final rule is an administrative action to adopt the change already published by NMFS. This action ensures that the List shows the Hawaiian monk seal's most recently accepted scientific name in accordance with 50 CFR 17.11(b).

Administrative Procedure Act

Because NMFS provided a public comment period on the direct final rule to update the taxonomy and nomenclature of the Hawaiian monk seal, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. This rule is an administrative action to reflect the scientifically accepted taxonomy and nomenclature of the Hawaiian monk seal in the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Seal, Hawaiian monk'' under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Seal, Hawaiian monk	*Neomonachus schauinslandi* (=*Monachus schauinslandi*).	U.S.A. (HI)	Entire	E	18	226.201	NA
*	*	*	*	*	*	*	

* * * * *

Dated: February 25, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–05330 Filed 3–9–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140904754–5188–02]

RIN 0648–BE27

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015–2016 Biennial Specifications and Management Measures; Amendment 24

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

ACTION: Final rule.

SUMMARY: This final rule would establish the 2015–2016 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), and approve Amendment 24 to the PCGFMP. This final rule would also revise the management measures that are intended to keep the total catch of each groundfish species or species complex within the harvest specifications. This action also includes regulations to implement Amendment 24 to the PCGFMP, which establishes default harvest control rules for setting harvest specifications after 2015–2016.

DATES: This final rule is effective March 10, 2015, except for the modifications to sorting requirements at §§ 660.130(d)(1)(i), 660.230(c)(2)(i), and 660.330(c)(2)(i), which are effective April 1, 2015.

ADDRESSES: Information relevant to this final rule and Amendment 24, which includes a final environmental impact statement (EIS), the Record of Decision (ROD), a regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), and amended PCGFMP, are available from William Stelle, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Electronic copies of this final rule are also available at the NMFS West Coast Region Web site: *http://www.westcoast.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Williams, phone: 206–526–4646, fax: 206–526–6736, or email: *sarah.williams@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html* and at the Council's Web site at *http://www.pcouncil.org.*

Executive Summary

Purpose of the Regulatory Action

This final rule implements the 2015–2016 harvest specifications and management measures for groundfish species taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The purpose of this action is to conserve and manage Pacific Coast groundfish fishery resources to prevent overfishing, to rebuild overfished stocks, to ensure conservation, to facilitate long-term protection of essential fish habitats (EFH), and to realize the full potential of the Nation's fishery resources. The need for this action is to set catch limit specifications for 2015–2016 consistent with existing or revised harvest control rules for all stocks, and establish management measures designed to keep catch within the appropriate limits. These harvest specifications are set consistent with the optimum yield (OY) harvest management framework described in Chapter 4 of the PCGFMP. This final rule also implements Amendment 24 to PCGFMP. Amendment 24 establishes the default harvest control rules used to determine harvest specifications after 2015–2016. This rule is authorized by 16 U.S.C. 1854–55 and by the PCGFMP.

Major Provisions

This final rule contains two types of major provisions. The first are the harvest specifications (overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)), and the second are management measures designed to keep fishing mortality within the ACLs. The harvest specifications (OFLs, ABCs, and ACLs) in this rule have been developed through a rigorous scientific review and decision-making process, which is described in detail in the proposed rule for this action (80 FR 687, January 6, 2015) and is not repeated here.

In summary, the OFL is the maximum sustainable yield (MSY) harvest level and is an estimate of the catch level above which overfishing is occurring. OFLs are based on recommendations by the Council's Scientific and Statistical Committee (SSC) as the best scientific information available. The ABC is an annual catch specification that is the stock or stock complex's OFL reduced by an amount associated with scientific uncertainty. The SSC-recommended method for incorporating scientific uncertainty is referred to as the P star-sigma approach and is discussed in detail in the proposed and final rules for the 2011–2012 (75 FR 67810, November 3, 2010 and 76 FR 27508, May 11, 2011)

and 2013–2014 (77 FR 67974, November 12, 2012, and 78 FR 580, January 3, 2013) biennial harvest specifications and management measures. The ACL is a harvest specification set equal to or below the ABC. The ACLs are decided in a manner to achieve OY from the fishery, which is the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and considering the protection of marine ecosystems. The ACLs are based on consideration of conservation objectives, socio-economic concerns, management uncertainty, and other factors. All known sources of fishing and scientific research catch are counted against the ACL.

This final rule includes ACLs for the seven overfished species managed under the PCGFMP. For the 2015–2016 biennium only one species, cowcod, requires rebuilding plan changes to its T_{MAX} and T_{TARGET} rebuilding parameters. T_{MAX} is the maximum permissible time period for rebuilding the stock to its target biomass. T_{TARGET} is the year by which the stock can be rebuilt as soon as possible, taking into account the status and biology of the stock, the needs of fishing communities, and the interaction of the stock of fish within the marine ecosystem. The changes are necessary because the rebuilding analyses prepared showed that the current T_{TARGET} is 9 years longer than the new T_{MAX}. Accordingly, for cowcod, the T_{TARGET} is revised from 2068 to 2020, which is the median time to rebuild based on the established harvest control rule. The remaining overfished species (bocaccio, canary rockfish, darkblotched rockfish, Pacific ocean perch, petrale sole and yelloweye rockfish) are making adequate progress towards rebuilding or are estimated to be rebuilt in 2015. Therefore, this rule establishes harvest specifications consistent with the existing rebuilding plan provisions for those species.

This action also approves and implements regulations for Amendment 24 to the PCGFMP. Amendment 24 consists of three components: (1) Default harvest control rules; (2) a suite of minor changes, including clarification of routine management measures and adjustments to those measures, clarification to the harvest specifications decision making schedule, changes to the description of biennial management cycle process, updates to make the PCGFMP consistent with SSC guidance on the FMSY proxy for elasmobranchs, and clarifications to definitions; and (3) addition of two rockfish species to the PCGFMP and the designation of ecosystem component (EC) species.

With respect to the Council's recommendations for EC species, in the preamble to the proposed rule, NMFS noted that reclassification of Pacific grenadier from a stock ''in the fishery'' to an EC species is arguably inconsistent with the NS 1 Guidelines, which state that EC species should not be a target stock and should generally not be retained. Recent Pacific grenadier landings average about 130 mt per year, and Pacific grenadier is landed, marketed, and possibly targeted in some regions, mainly in central California. However, despite relatively high amounts of catch when compared to catch of other proposed EC species, only about 10 percent of the estimated OFL contribution for Pacific grenadier was caught annually between 2009 and 2011. In addition, because the stocks that are currently in the PCGFMP and are proposed to be reclassified as EC species were previously managed as part of the Other Fish complex rather than as individual species, the EC classification results in very limited changes from existing management practices. Because of this, NMFS believes that the change to EC status will not result in additional fishing pressure on Pacific grenadier. Therefore, NMFS is approving the Council's recommendation to designate Pacific grenadier as an EC species with the understanding that continued monitoring and evaluation of the stocks' classifications will occur.

Like Pacific grenadier, big skate is also currently in the Groundfish FMP as part of the Other Fish complex, and is designated as an EC species through Amendment 24 and this final rule. The information the Council had before it at the time of its recommendations indicated that recent average catches of big skate were only 18 percent of the estimated OFL. However, at its February 2–6, 2015, work session the Council's Groundfish Management Team (GMT) discussed new information about the catch data that was used to review whether big skate was an appropriate stock for EC species classification. The GMT noted that it was recently discovered that the majority of landings contributing to an ''unspecified skate'' market category were in fact predominantly big skate and that recent catches of big skate were much closer to the estimated OFL. Anecdotal evidence also indicates targeting and marketing exist. The Council and its other advisory bodies have not yet reviewed the preliminary information described by the GMT. However, if accurate, big skate would likely be in need of conservation and management and not an acceptable candidate for EC species classification. Because this new information came to light after Amendment 24 was submitted for NFMS' review, and only a few weeks before the statutorily-mandated deadline for a decision on the amendment, it was not practicable for the information to be incorporated into Amendment 24. However, NMFS understands that the Council intends to review the new information regarding big skate at its April 2015 meeting. If trip limits in the trawl fishery are needed to prevent overfishing, the Council and NMFS have authority under existing regulations to implement those changes via inseason action. If the GMT verifies this preliminary information, the Council would need to initiate a process to reclassify big skate as a stock in need of conservation and management rather than an EC species.

In order to keep mortality of the species managed under the PCGFMP within the ACLs the Council also recommended management measures for recreational and commercial fisheries. Generally speaking, management measures are intended to rebuild overfished species, prevent ACLs from being exceeded, and allow for the harvest of healthy stocks. Management measures include time and area restrictions, gear restrictions, trip or bag limits, size limits, and other management tools. Management measures may vary by fishing sector because different fishing sectors require different types of management to control catch. Most of the management measures the Council recommended for 2015–2016 were slight variations to existing management measures and do not represent a change from current management practices. These types of changes include changes to trip limits, bag limits, closed areas, etc. Additionally, several new management measures were recommended by the Council and proposed by NMFS. Those measures are described in detail in the proposed rule for this action.

This final rule implements the same regulations that were described in the proposed rule with a few exceptions. All of these changes are discussed in detail below in Changes from the Proposed Rule.

Background

The Pacific Coast Groundfish fishery is managed under the PCGFMP. The PCGFMP was prepared by the Council, approved on July 30, 1984, and has been amended numerous times. Regulations at 50 CFR part 660, subparts C through G, implement the provisions of the PCGFMP.

The PCGFMP requires the harvest specifications and management measures for groundfish to be set at least biennially. This final rule is based on the Council's final recommendations that were made at its June 2014 meeting with updated harvest specifications for some stocks adopted at its November 2014 meeting. The Notice of Availability for the FEIS for this action was published on January 16, 2015 (80 FR 2414). The final preferred alternative in the FEIS is the same as the Council's preferred alternative from June 2014, and includes the updated harvest specifications that the Council recommended at its November 2014 meeting. The final preferred alternative, including updated harvest specifications from November 2014, was described in the proposed rule for this action. See the preamble to the proposed rule for additional background information on the fishery and the provisions implemented in this final rule.

Comments and Responses

NMFS published a proposed rule on January 6, 2015 (80 FR687) with a comment period that closed on January 26, 2015. NMFS received three letters of comment on the proposed rule. NMFS received one letter from the Department of the Interior stating it had no comment, one letter from an anonymous commenter, and one letter from the Washington Department of Fish and Wildlife.

Comment 1: An anonymous commenter requested that PCGFMP Amendment 24 incorporate mandatory protocols for when a species is discovered to be overfished or threatened, including reporting of that information.

Response: Amendment 24 establishes NMFS' ability to implement harvest specifications based on the harvest control rules from the previous biennium, applied to the best available science, in the absence of Council action. If the best available science indicates that a species is subject to overfishing or is in an overfished condition, Section 4.6 of the PCGFMP describes procedures for the use of precautionary harvest control rules that will apply for that species in the interim until a rebuilding plan can be developed and implemented (*e.g.* the harvest control rules that applied in the previous biennium would change based on the best available science). Section 4.6.3.7 of the PCGFMP also describes the protocols used with regard to species listed as threatened or endangered under the Endangered Species Act (ESA). Accordingly, the PCGFMP already addresses the issues raised by the commenter and this action does not change those protocols. Development of new rebuilding plans and steps taken to ensure the conservation of species listed under the ESA are considered through the Council process, which is open to the public.

Comment 2: The Washington Department of Fish and Wildlife requested that NMFS delay the addition of shortraker and blackspotted/rougheye rockfish to the list of species that must be sorted coastwide because data is collected on a quarterly basis and April 1st is the beginning of a quarter.

Response: NMFS supports this delay in effectiveness and therefore has modified the effective date of the sorting requirement changes. This delay does not change the current sorting requirements, only the addition of the new species. NMFS does not believe that the short delay in effectiveness with result in conservation concerns.

Changes From the Proposed Rule

For the recreational fishery in California, the Council recommended changes for California scorpionfish and black rockfish which are incorporated into this rule. NMFS requested comments on these changes in the proposed rule but did not include the necessary regulatory text at that time. Therefore, this rule will modify regulations at § 660.360(c)(3)(v)(A)(*1*) through (*4*) to prohibit retention of California scorpionfish in the California recreational fisheries from September through December. Additionally, this rule will add a 5 fish sub-bag limit for black rockfish within the Rockfish-Cabezon-Greenling limits at § 660.360(c)(3)(ii)(B). These changes are consistent with the Council's recommendations at the November 2014 meeting and with the description of these changes in the proposed rule for this action.

Classifications

The Administrator, West Coast Region, NMFS, determined that the 2015–2016 groundfish harvest specifications and management measures and Amendment 24 to the PCGFMP, which this final rule implements, are necessary for the conservation and management of the Pacific Coast Groundfish fishery and are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective upon publication in the **Federal Register**, except in the case of the sorting requirements for rougheye/blackspotted and shortraker rockfish, which will become effective on April 1, 2015. Because this final rule increases the catch limits for several species for 2015, leaving 2014 harvest specifications in place could unnecessarily delay fishing opportunities until later in the year, potentially reducing the total catch for these species in 2015. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities or result in harvest levels inconsistent with the best available scientific information. This final rule also approves the Council's 2015–2016 management measures, which respond to the needs of the fisheries in each state. Therefore, allowing the 2014 management measures to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2015 management measures. For example, due to higher than expected catches in California, the Council recommended implementing a 5 fish sub-bag limit for black rockfish in order to slow catches and provide for year round opportunity while managing to the California harvest guideline for black rockfish. Because of the potential harm to fish stocks and fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in effectiveness.

NMFS prepared an FEIS for the 2015–2016 groundfish harvest specifications and management measures and Amendment 24 to the PCGFMP. The Environmental Protection Agency published a notice of availability for the FEIS on January 16, 2015 (80 FR 2414.) A copy of the FEIS is available online at *http://www.pcouncil.org/.* In approving the 2015–2016 groundfish harvest specifications and management measures, NMFS issued a Record of Decision (ROD) identifying the selected alternatives. A copy of the ROD is available from NMFS (see **ADDRESSES**).

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see **ADDRESSES**) and a summary of the FRFA, per the requirements of 5 U.S.C. 604(a), follows:

NMFS received no comments to the RIR/IRFA. NMFS agrees that the Council's choice of preferred alternatives would best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on harvesters, processors, fishing support industries, and associated communities. The preamble above provides a statement and need for, and objective of this rule. The MSA provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. This final rule would not introduce any changes to current reporting, recordkeeping, and other compliance requirements.

This rule regulates businesses that harvest groundfish. This rule directly affects limited entry fixed gear permit holders, trawl Quota Share (QS) and whiting catch history endorsed permit holders (which includes shorebased whiting processors), tribal vessels, charterboat vessels, and open access vessels. QS holders are directly affected because the amount of Quota Pounds (QP) they receive based on their QS are affected by the ACLs. Vessels that fish under the trawl rationalization program receive their QP from the QS holders, and thus are indirectly affected if they only own vessel accounts rather than QS. Similarly, Mothership processors are indirectly affected as they receive the fish they process from limited entry permits that are endorsed with whiting catch history assignments.

According to the Small Business Administration (SBA), a small commercial harvesting business is one that has annual receipts under $20.5 million (including its affiliates), a small charterboat business is one with receipts under $7.5 million, and a small processor employs less than 500 employees. Small non-profit organizations must be independently owned and operated and not dominant in its field. Small government jurisdictions must have populations less than 50,000. For purposes of rulemaking, NMFS is applying the $20.5 million standard to catcher processors because whiting catcher processors are involved in the commercial harvest of finfish.

To determine the number of small entities potentially affected by this rule, NMFS reviewed analyses of fish ticket data and limited entry permit data. NMFS also reviewed the EIS associated with this rulemaking. The EIS includes information on charterboat, tribal, and open access fleets, available cost-earnings data developed by Northwest Fisheries Science Center (NWFSC). NMFS also reviewed responses associated with the permitting process for the trawl rationalization program—applicants were asked if they considered themselves a small business based on SBA definitions. This rule would regulate businesses that harvest groundfish.

NMFS makes the following conclusions based primarily on analyses associated with fish ticket data, limited entry permit data, previous analysis of the charterboat and tribal fleets, NMFS expertise, and the EIS associated with this rule making. As part of the permitting process for the Trawl rationalization program or to participate in non-trawl limited entry permit fisheries, applicants were asked if they considered themselves a small business. NMFS reviewed the ownership and affiliation relationships of quota share permit holders, vessel account holders, catcher processor permits, Mothership processing, and first receiver/shore processor permits. Based on this review, there are an estimated 102 unique small businesses and 21 large businesses that participate in this Trawl Rationalization Program. In the non-trawl limited entry program, there are 222 small businesses.

Open access vessels are not federally permitted so counts based on landings can provide an estimate of the affected. The Draft EIS analysis for the 2013–14 Pacific Groundfish Specifications and Management Measures contained the following assessment, which is deemed reasonable estimates for this rule, as these fisheries have not changed significantly in recent years. In 2011, 682 directed open access vessels fished while 284 incidental open access vessels fished for a total of 966 vessels. Over the 2005–2010 period, 1583 different directed open access vessels fished and 837 different incidental open access vessels fished for a total of 2420 different vessels. According to the Draft EIS, over the 2008–2010 period, 447 to 470 charterboats participated in the groundfish fishery, 447 in 2010. The four tribal fleets sum to a total of 54 longline vessels, 5 whiting trawlers, and 5 non-whiting trawlers, for a grand total of 64 vessels. Available information on average revenue per vessel suggests that all the entities in these groups can be considered small.

These regulations implement the Council's preferred alternative. The key economic effects of the Council's preferred alternative and the other alternatives were described in detail in the proposed rule for this action. The economic effects of the Council's preferred alternative were compared with the no action alternative where the no action alternative reflects maintaining 2013–2014 harvest specifications and management measures into 2015–2016. Total shoreside sectors' ex-vessel revenue under the Preferred Alternative is projected to be the highest among the action alternatives. Compared with No Action, total non-whiting shoreside ex-vessel revenue under the preferred alternative is projected to increase by $16 million (20 percent) in 2015. Projected revenues are higher than under No Action for every shorebased groundfish sector. The greatest absolute and percentage increase in revenue is projected for the IFQ sector: $12.8 million (45 percent) in 2015. There is no projected change from No Action for the incidental Open Access Sector. Future rulemaking will address the amount of whiting that is to be harvested by shoreside IFQ, mothership catcher vessels, catcher-processors, and tribal fleets. This rule making does affect the amount of bycatch that these fleets will have for their directed whiting fisheries.

Under the Preferred Alternative, an increase of 11,600 angler trips is projected from No Action coastwide. All of the increase occurs in California. Trips increase by 1,600 (20 percent) in the Mendocino region, 5,600 (11 percent) in the San Francisco region and 4,400 (4 percent) in the Central region. No change from No Action is projected for California's Northern and Southern management areas or for recreational fisheries in Washington and Oregon. This represents a coastwide income increase of $1,471,000 compared to No Action alternative.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the PCGFMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the PCGFMP is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or

result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006 concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ''no jeopardy'' conclusion. NMFS also reaffirmed its prior determination that implementation of the PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

NMFS has reinitiated section 7 consultation on the PCGFMP with respect to its effects on listed salmonids. In the event the consultation identifies either reasonable and prudent alternatives to address jeopardy concerns or reasonable and prudent measures to minimize incidental take, NMFS would exercise necessary authorities in coordination, to the extent possible, with the Council to put such additional alternatives or measures into place. After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify any designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. The opinion also concluded that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The (FWS) also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, or bull trout critical habitat.

This final rule would not alter the effects on marine mammals over what has already been considered for the fishery. West Coast pot fisheries for sablefish are considered Category II fisheries under the MMPA's List of Fisheries, indicating occasional interactions. All other West Coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. On February 27, 2012, NMFS published notice that the incidental taking of Steller sea lions in the West Coast groundfish fisheries is addressed in NMFS' December 29, 2010, Negligible Impact Determination (NID) and this fishery has been added to the list of fisheries authorized to take Steller sea lions (77 FR 11493, February 27, 2012). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for a period of three years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553, September 4, 2013).

Pursuant to Executive Order 13175, this final rule was developed after meaningful collaboration with Tribal officials from the area covered by the PCGFMP. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian Tribe with Federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the PCGFMP establish a procedure by which the Tribes with treaty fishing rights in the area covered by the PCGFMP request new allocations or regulations specific to the Tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.50(d)(2) further state ''the Secretary will develop Tribal allocations and regulations under this paragraph in consultation with the affected Tribe(s) and, insofar as possible, with Tribal consensus.'' The Tribal management measures in this final rule have been developed following these procedures.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: March 3, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 773 *et seq.*

■ 2. In § 660.11, in the definition for ''Groundfish,'' revise paragraphs (1), (2), (5), (7) introductory text, (7)(i) introductory text, (7)(ii), (7)(iii), (9) and (10); in the definition for ''North-South management area'' revise paragraph (2)(v) and revise the definitions for ''Office of Law Enforcement or OLE'', ''Regional Administrator'', and ''Sustainable Fisheries Division or SFD'' to read as follows:

§ 660.11 General definitions.

* * * * *

Groundfish * * *

(1) *Sharks:* Leopard shark, *Triakis semifasciata;* soupfin shark, *Galeorhinus zyopterus;* spiny dogfish, *Squalus suckleyi.*

(2) *Skates:* ''Skates'' in the PCGFMP include all genera and species in the family Arhynchobatidae that occur off Washington, Oregon, and California, including but not limited to Aleutian skate, *Bathyraja aleutica;* Bering/sandpaper skate, *B. interrupta;* big skate, *Raja binoculata;* California skate, *R. inornata;* longnose skate, *R. rhina;* roughtail/black skate, *B. trachura.*

* * * * *

(5) *Grenadiers:* ''Grenadiers'' in the PCGFMP include all genera and species in the family Macrouridae that occur off Washington, Oregon, and California, including but not limited to Giant grenadier, *Albatrossia pectoralis;* Pacific grenadier, *Coryphaenoides acrolepis.*

* * * * *

(7) *Rockfish:* ''Rockfish'' in the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below, including longspine thornyhead, *Sebastolobus altivelis,* and shortspine thornyhead, *S. alascanus.* Where species below are listed both in a geographic category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10′

N. lat.) those species are managed within a ''minor'' rockfish complex in that area-specific listing.

(i) *Nearshore rockfish* includes black rockfish, *Sebastes melanops* and the following nearshore rockfish species managed in ''minor rockfish'' complexes:

* * * * *

(ii) *Shelf rockfish* includes bocaccio, *Sebastes paucispinis;* canary rockfish, *S. pinniger;* chilipepper, *S. goodei;* cowcod, *S. levis;* shortbelly rockfish, *S. jordani;* widow rockfish, *S. entomelas;* yelloweye rockfish, *S. ruberrimus;* yellowtail rockfish, *S. flavidus* and the following shelf rockfish species managed in ''minor rockfish'' complexes:

(A) *Shelf Rockfish North of 40°10′ N. lat.:* Bronzespotted rockfish, *S. gilli;* bocaccio, *S. paucispinis;* chameleon rockfish, *S. phillipsi;* chilipepper, *S. goodei;* cowcod, *S. levis;* dusky rockfish, *S. ciliatus;* dwarf-red rockfish, *S. rufianus;* flag rockfish, *S. rubrivinctus;* freckled rockfish, *S. lentiginosus;* greenblotched rockfish, *S. rosenblatti;* greenspotted rockfish, *S. chlorostictus;* greenstriped rockfish, *S. elongatus;* halfbanded rockfish, *S. semicinctus;* harlequin rockfish, *S. variegatus;* honeycomb rockfish, *S. umbrosus;* Mexican rockfish, *S. macdonaldi;* pink rockfish, *S. eos;* pinkrose rockfish, *S. simulator;* pygmy rockfish, *S. wilsoni;* redstripe rockfish, *S. proriger;* rosethorn rockfish, *S. helvomaculatus;* rosy rockfish, *S. rosaceus;* silvergray rockfish, *S. brevispinis;* speckled rockfish, *S. ovalis;* squarespot rockfish, *S. hopkinsi;* starry rockfish, *S. constellatus;* stripetail rockfish, *S. saxicola;* sunset rockfish, *S. crocotulus;* swordspine rockfish, *S. ensifer;* tiger rockfish, *S. nigrocinctus;* vermilion rockfish, *S. miniatus.*

(B) *Shelf Rockfish South of 40°10′ N. lat.:* Bronzespotted rockfish, *S. gilli;* chameleon rockfish, *S. phillipsi;* dusky rockfish, *S. ciliatus;* dwarf-red rockfish, *S. rufianus;* flag rockfish, *S. rubrivinctus;* freckled rockfish, *S. lentiginosus;* greenblotched rockfish, *S. rosenblatti;* greenspotted rockfish, *S. chlorostictus;* greenstriped rockfish, *S. elongatus;* halfbanded rockfish, *S. semicinctus;* harlequin rockfish, *S. variegatus;* honeycomb rockfish, *S. umbrosus;* Mexican rockfish, *S. macdonaldi;* pink rockfish, *S. eos;* pinkrose rockfish, *S. simulator;* pygmy rockfish, *S. wilsoni;* redstripe rockfish, *S. proriger;* rosethorn rockfish, *S. helvomaculatus;* rosy rockfish, *S. rosaceus;* silvergray rockfish, *S. brevispinis;* speckled rockfish, *S. ovalis;* squarespot rockfish, *S. hopkinsi;* starry rockfish, *S. constellatus;* stripetail rockfish, *S. saxicola;* sunset rockfish, *S. crocotulus;* swordspine rockfish, *S. ensifer;* tiger rockfish, *S. nigrocinctus;* vermilion rockfish, *S. miniatus;* yellowtail rockfish, *S. flavidus.*

(iii) *Slope rockfish* includes darkblotched rockfish, *S. crameri;* Pacific ocean perch, *S. alutus;* splitnose rockfish, *S. diploproa;* and the following slope rockfish species managed in ''minor rockfish'' complexes:

(A) *Slope Rockfish North of 40°10′ N. lat.:* Aurora rockfish, *Sebastes aurora;* bank rockfish, *S. rufus;* blackgill rockfish, *S. melanostomus;* blackspotted rockfish, *S. melanostictus;* redbanded rockfish, *S. babcocki;* rougheye rockfish, *S. aleutianus;* sharpchin rockfish, *S. zacentrus;* shortraker rockfish, *S. borealis;* splitnose rockfish, *S. diploproa;* yellowmouth rockfish, *S. reedi*.

(B) *Slope Rockfish South of 40°10′ N. lat.:* Aurora rockfish, *Sebastes aurora;* bank rockfish, *S. rufus;* blackgill rockfish, *S. melanostomus;* blackspotted rockfish, *S. melanostictus;* Pacific ocean perch, *S. alutus;* redbanded rockfish, *S. babcocki;* rougheye rockfish, *S. aleutianus;* sharpchin rockfish, *S. zacentrus;* shortraker rockfish, *S. borealis;* yellowmouth rockfish, *S. reedi.*

* * * * *

(9) *''Other fish'':* kelp greenling (*Hexagrammos decagrammus*), leopard shark (*Trakis semifasciata*), and cabezon (*Scorpaenichthys marmoratus*) in waters off Washington.

(10) ''Ecosystem component species'' means species that are included in the PCGFMP but are not ''in the fishery'' and therefore not actively managed and do not require harvest specifications. Ecosystem component species are not targeted in any fishery, not generally retained for sale or personal use, and are not determined to be subject to overfishing, approaching an overfished condition, or overfished, nor are they likely to become subject to overfishing or overfished in the absence of conservation and management measures. Ecosystem component species include: All skates listed here in paragraph (2), except longnose skate; all grenadiers listed here in paragraph (5); soupfin shark; ratfish; and finescale codling.

* * * * *

North-South management area * * *

(2) * * *

(v) Columbia River—46°16.00′ N. lat.

* * * * *

Office of Law Enforcement or OLE refers to the National Marine Fisheries Service, Office of Law Enforcement, Western Division.

* * * * *

Regional Administrator means the Administrator, West Coast Region, NMFS.

* * * * *

Sustainable Fisheries Division or SFD means the Assistant Regional Administrator, Sustainable Fisheries Division, West Coast Regional Office, NMFS, or a designee.

* * * * *

■ 3. In § 660.40, revise paragraph (c) to read as follows:

§ 660.40 Overfished species rebuilding plans.

* * * * *

(c) *Cowcod.* Cowcod was declared overfished in 2000. The target year for rebuilding the cowcod stock south of 40°10′ N. lat. to B_{MSY} is 2020. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 82.7 percent.

* * * * *

■ 4. In § 660.50, revise paragraphs (f)(2)(ii), (f)(5) and (7), and add paragraph (f)(8) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(2) * * *

(ii) The Tribal allocation is 479 mt in 2015 and 524 mt in 2016 per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N. lat.) ACL. The Tribal allocation is reduced by 1.6 percent for estimated discard mortality.

* * * * *

(5) *Pacific cod.* There is a tribal harvest guideline of 500 mt of Pacific cod per year. The tribes will manage their fisheries to stay within this harvest guideline.

* * * * *

(7) *Yellowtail rockfish.* Yellowtail rockfish taken in the directed tribal mid-water trawl fisheries are subject to a catch limit of 1,000 mt for the entire fleet, per year.

(8) *Spiny dogfish.* Spiny dogfish taken in the treaty fisheries are subject to an overall expected total spiny dogfish catch of 275 mt per year.

* * * * *

■ 5. In § 660.60, add paragraphs (b)(1) and reserved (b)(2) and revise paragraph (c)(1)(i) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(b) * * *

(1) Except for Pacific whiting, every biennium, NMFS will implement OFLs, ABCs, and ACLs, if applicable, for each species or species group based on the harvest controls used in the previous biennium (referred to as default harvest control rules) applied to the best available scientific information. The default harvest control rules for each species or species group are listed in Appendix F to the PCGFMP and the biennial SAFE document. NMFS may implement OFLs, ABCs, and ACLs, if applicable, that vary from the default harvest control rules based on a Council recommendation.

(2) [Reserved]

(c) * * *

(1) * * *

(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: Widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue rockfish, splitnose rockfish, blackgill rockfish in the area south of 40°10' N. lat., chilipepper, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the other flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.11; Pacific whiting; lingcod; Pacific cod; spiny dogfish; longnose skate; cabezon in Oregon and California and ''other fish'' as a complex described at § 660.11. In addition to the species and species groups listed above, sub-limits or aggregate limits may be specified, specific to the Shorebased IFQ Program, for the following species: Big skate, California skate, California scorpionfish, leopard shark, soupfin shark, finescale codling, Pacific rattail (grenadier), ratfish, kelp greenling, shortbelly, and cabezon in Washington. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

* * * * *

■ 6. In § 660.72:

■ a. Revise paragraph (c);

■ b. Redesignate paragraphs (f)(199) through (211) as paragraphs (f)(200) through (212);

■ c. Add new paragraph (f)(199); and

■ d. Revise newly redesignated paragraph (f)(207);

The revisions and addition read as follows:

§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

* * * * *

(c) * * *

(1) 34°08.40′ N. lat., 120°33.78′ W. long.;

(2) 34°07.80′ N. lat., 120°30.99′ W. long.;

(3) 34°08.42′ N. lat., 120°27.92′ W. long.;

(4) 34°09.31′ N. lat., 120°27.81′ W. long.;

(5) 34°05.85′ N. lat., 120°17.13′ W. long.;

(6) 34°05.73′ N. lat., 120°05.93′ W. long.;

(7) 34°06.14′ N. lat., 120°04.86′ W. long.;

(8) 34°05.70′ N. lat., 120°03.17′ W. long.;

(9) 34°05.67′ N. lat., 119°58.98′ W. long.;

(10) 34°06.34′ N. lat., 119°56.78′ W. long.;

(11) 34°05.57′ N. lat., 119°51.35′ W. long.;

(12) 34°07.08′ N. lat., 119°52.43′ W. long.;

(13) 34°04.49′ N. lat., 119°35.55′ W. long.;

(14) 34°04.73′ N. lat., 119°32.77′ W. long.;

(15) 34°02.02′ N. lat., 119°19.18′ W. long.;

(16) 34°01.03′ N. lat., 119°19.50′ W. long.;

(17) 33°59.45′ N. lat., 119°22.38′ W. long.;

(18) 33°58.68′ N. lat., 119°32.36′ W. long.;

(19) 33°56.43′ N. lat., 119°41.13′ W. long.;

(20) 33°56.04′ N. lat., 119°48.20′ W. long.;

(21) 33°57.32′ N. lat., 119°51.96′ W. long.;

(22) 33°59.32′ N. lat., 119°55.59′ W. long.;

(23) 33°57.52′ N. lat., 119°55.19′ W. long.;

(24) 33°56.26′ N. lat., 119°54.29′ W. long.;

(25) 33°54.30′ N. lat., 119°54.83′ W. long.;

(26) 33°50.97′ N. lat., 119°57.03′ W. long.;

(27) 33°50.25′ N. lat., 120°00.00′ W. long.;

(28) 33°50.03′ N. lat., 120°03.00′ W. long.;

(29) 33°51.06′ N. lat., 120°03.73′ W. long.;

(30) 33°54.49′ N. lat., 120°12.85′ W. long.;

(31) 33°58.90′ N. lat., 120°20.15′ W. long.;

(32) 34°00.71′ N. lat., 120°28.21′ W. long.;

(33) 34°02.20′ N. lat., 120°30.37′ W. long.;

(34) 34°03.60′ N. lat., 120°30.60′ W. long.;

(35) 34°06.96′ N. lat., 120°34.22′ W. long.;

(36) 34°08.01′ N. lat., 120°35.24′ W. long.; and

(37) 34°08.40′ N. lat., 120°33.78′ W. long.

* * * * *

(f) * * *

(199) 32°56.00′ N. lat., 117°19.16′ W. long.;

* * * * *

(207) 32°44.89′ N. lat., 117°21.89′ W. long.;

* * * * *

■ 7. In § 660.73, revise paragraph (a)(123) to read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(a) * * *

(123) 43°56.07′ N. lat., 124°55.41′ W. long.;

* * * * *

■ 8. In § 660.74:

■ a. Remove paragraphs (l)(80) through (82);

■ b. Redesignate paragraphs (l)(83) through (245) as (l)(87) through (249); and

■ c. Add paragraphs (l)(80) through (l)(86).

The additions read as follows:

§ 660.74 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.

* * * * *

(l) * * *

(80) 44°48.25′ N. lat., 124°40.61′ W. long.;

(81) 44°42.24′ N. lat., 124°48.05′ W. long.;

(82) 44°41.35′ N. lat., 124°48.03′ W. long.;

(83) 44°40.27′ N. lat., 124°49.11′ W. long.;

(84) 44°38.52′ N. lat., 124°49.11′ W. long.;

(85) 44°21.73′ N. lat., 124°49.82′ W. long.;

(86) 44°17.57′ N. lat., 124°55.04′ W. long.;

* * * * *

■ 9. In subpart C, tables 1a through 1d are revised to read as follows:

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Table 1a. to Part 660, Subpart C- 2015, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest Guidelines (Weights in Metric Tons).

	OFL	ABC	ACL a/	Fishery HG b/
BOCACCIO S. of 40°10' N. lat. c/	1,444	1,380	349	341
CANARY ROCKFISH d/	733	701	122	107
COWCOD S. of 40°10' N. lat. e/	67	60	10	8
DARKBLOTCHED ROCKFISH f/	574	549	338	317
PACIFIC OCEAN PERCH g/	842	805	158	143
PETRALE SOLE h/	2,946	2,816	2,816	2,579
YELLOWEYE ROCKFISH i/	52	43	18	12
Arrowtooth flounder j/	6,599	5,497	5,497	3,410
Black rockfish (OR-CA) k/	1,176	1,124	1,000	999
Black rockfish (WA) l/	421	402	402	388
Cabezon (CA) m/	161	154	154	154
Cabezon (OR) n/	49	47	47	47
California scorpionfish o/	119	114	114	112
Chilipepper S. of 40°10' N. lat. p/	1,703	1,628	1,628	1,604
Dover sole q/	66,871	63,929	50,000	48,406
English sole r/	10,792	9,853	9,853	9,640
Lingcod N. of 40°10' N. lat. s/	3,010	2,830	2,830	2,552
Lingcod S. of 40°10' N. lat. t/	1,205	1,004	1,004	995
Longnose skate u/	2,449	2,341	2,000	1,927
Longspine thornyhead (coastwide) v/	5,007	4,171	NA	NA
Longspine thornyhead N. of 34°27' N. lat.	NA	NA	3,170	3,124
Longspine thornyhead S. of 34°27' N. lat.	NA	NA	1,001	998
Pacific Cod w/	3,200	2,221	1,600	1,091
Pacific whiting x/	x/	x/	x/	x/
Sablefish (coastwide)	7,857	7,173	NA	NA
Sablefish N. of 36° N. lat. y/	NA	NA	4,793	See Table 1c
Sablefish S. of 36° N. lat. z/	NA	NA	1,719	1,714
Shortbelly aa/	6,950	5,789	500	498
Shortspine thornyhead (coastwide) bb/	3,203	2,668	NA	NA
Shortspine thornyhead N. of 34°27' N. lat.	NA	NA	1,745	1,686
Shortspine thornyhead S. of 34°27' N. lat.	NA	NA	923	881
Spiny dogfish cc/	2,523	2,101	2,101	1,763
Splitnose S. of 40°10' N. lat. dd/	1,794	1,715	1,715	1,705
Starry flounder ee/	1,841	1,534	1,534	1,524
Widow rockfish ff/	4,137	3,929	2,000	1,880
Yellowtail N. of 40°10' N. lat. gg/	7,218	6,590	6,590	5,560
Minor Nearshore Rockfish N. of 40°10' N. lat. hh/	88	77	69	69
Minor Shelf Rockfish N. of 40°10' N. lat. ii/	2,209	1,944	1,944	1,872
Minor Slope Rockfish N. of 40°10' N. lat. jj/	1,831	1,693	1,693	1,629
Minor Nearshore Rockfish S. of 40°10' N. lat. kk/	1,313	1,169	1,114	1,110
Minor Shelf Rockfish S. of 40°10' N. lat. ll/	1,918	1,625	1,624	1,575
Minor Slope Rockfish S. of 40°10' N. lat. mm/	813	705	693	673
Other Flatfish nn/	11,453	8,749	8,749	8,545
Other Fish oo/	291	242	242	242

a/ Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

b/ Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-

groundfish fisheries, and deductions for EFPs from the ACL or ACT.

c/ Bocaccio. A bocaccio stock assessment update was conducted in 2013 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10′ N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. A historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10′ N. lat. The bocaccio stock was estimated to be at 31.4 percent of its unfished biomass in 2013. The OFL of 1,444 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,380 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 349 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.3 mt is deducted from the ACL to accommodate the incidental open access fishery (0.7 mt), EFP catch (3.0 mt) and research catch (4.6 mt), resulting in a fishery HG of 340.7 mt. The California recreational fishery has an HG of 178.8 mt.

d/ Canary rockfish. A canary rockfish stock assessment update was conducted in 2011 and the stock was estimated to be at 23.2 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 733 mt is projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 701 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 122 mt is based on the current rebuilding plan with a target year to rebuild of 2030 and an SPR harvest rate of 88.7 percent. 15.2 mt is deducted from the ACL to accommodate the Tribal fishery (7.7 mt), the incidental open access fishery (2 mt), EFP catch (1.0 mt) and research catch (4.5 mt) resulting in a fishery HG of 106.8 mt. Recreational HGs are: 3.4 mt (Washington); 11.7 mt (Oregon); and 24.3 mt (California).

e/ Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be at 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 55.0 mt is projected in the 2013 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The OFL contribution of 11.6 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10′ N. lat. OFL of 66.6 mt. The ABC for the area south of 40°10′ N. lat. is 59.9 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception area contribution to the ABC of 50.2 mt, which is an 8.7 percent reduction from the Conception area OFL (σ=0.72/P*=0.45). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 9.7 mt, which is a 16.6 percent reduction from the Monterey area OFL (σ=1.44/P*=0.45). A single ACL of 10.0 mt is being set for both areas combined. The ACL of 10.0 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11+ biomass) of 0.007. 2.0 mt is deducted from the ACL to accommodate EFP fishing (less than 0.02 mt) and research activity (2.0 mt), resulting in a fishery HG of 8.0 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4.0 mt is being set for both areas combined.

f/ Darkblotched rockfish. A 2013 stock assessment estimated the stock to be at 36 percent of its unfished biomass in 2013. The OFL of 574 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 549 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 338 mt is based on the current rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (18.4 mt), EFP catch (0.1 mt) and research catch (2.1 mt), resulting in a fishery HG of 317.2 mt.

g/ Pacific Ocean Perch. A POP stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 842 mt for the area north of 40°10′ N. lat. is projected in the 2011 rebuilding analysis using an $F_{50\%}$ F_{MSY} proxy. The ABC of 805 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 158 mt is based on the current rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 15 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (0.6 mt), and research catch (5.2 mt), resulting in a fishery HG of 143.0 mt.

h/ Petrale sole. A 2013 stock assessment estimated the stock to be at 22.3 percent of its unfished biomass in 2013. The OFL of 2,946 mt is projected in the 2013 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,816 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is based on the 25–5 harvest control rule specified in the current rebuilding plan; since the stock is projected to be rebuilt at the start of 2014, the ACL is set equal to the ABC. 236.6 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,579.4 mt.

i/ Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 52 mt coastwide OFL was projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.8 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.03 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are: 2.9 mt (Washington); 2.6 mt (Oregon); and 3.4 mt (California).

j/ Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 6,599 mt is derived from the 2007 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 5,497 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 2,087 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.4 mt), resulting in a fishery HG of 3,410 mt.

k/ Black rockfish south (Oregon and California). A stock assessment was conducted for black rockfish south of 45°46′ N. lat. (Cape Falcon, Oregon) to Central California (*i.e.,* the southern-most extent of black rockfish, Love et al. 2002) in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment conducted for black rockfish north of 45°46′ N. lat., to cover the portion of the stock occurring off Oregon north of Cape Falcon (the 3% adjustment is based on historical catch distribution). The resulting OFL for the area south of 46°16′ N. lat. is 1,176 mt. The ABC of 1,124 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2015 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock above its target biomass of $B_{40\%}$. 1 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 999 mt. The black rockfish ACL, in the area south of 46°16′ N. lat. (Columbia River), is subdivided with separate HGs for waters off Oregon (579 mt/58 percent) and for waters off California (420 mt/42 percent).

l/ Black rockfish north (Washington). A stock assessment was conducted for black rockfish north of 45°46′ N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The resulting OFL for the area north of 46°16′ N. lat. is 421 mt and is 97 percent of the OFL from the assessed area based on the area distribution of historical catch. The ABC of 402 mt for the north is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 14 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 388 mt.

m/ Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 161 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 154 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no

deductions from the ACL so the fishery HG is equal to the ACL of 154 mt.

n/ Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

o/ California scorpionfish was assessed in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 119 mt is projected in the 2005 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 114 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 2 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 112 mt.

p/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. Projected OFLs are stratified north and south of 40°10′ N. lat. based on the average 1998–2008 assessed area catch, which is 93 percent for the area south of 40°10′ N. lat. and 7 percent for the area north of 40°10′ N. lat. The OFL of 1,703 mt for the area south of 40°10′ N. lat. is projected in the 2007 assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,628 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 24 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (10 mt), and research catch (9 mt), resulting in a fishery HG of 1,604 mt.

q/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 66,871 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 63,929 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,594 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406 mt.

r/ English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 10,792 mt is projected in the 2013 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 9,853 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 213 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7 mt) and research catch (5.8 mt), resulting in a fishery HG of 9,640 mt.

s/ Lingcod north. A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL for Washington and Oregon of 1,898 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The OFL is re-apportioned by adding 48% of the OFL from California, resulting in an OFL of 3,010 mt for the area north of 40°10′ N. lat. The ABC of 2,830 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) for the area between 42° N. lat. and 40°10′ N. lat. as it's a category 2 stock. The ACL is set equal to the ABC. 278 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 2,552 mt.

t/ Lingcod south. A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL for California of 2,317 mt is projected in the assessment using an F_{MSY} proxy of $F_{45\%}$. The OFL is re-apportioned by subtracting 48% of the OFL, resulting in an OFL of 1,205 mt for the area south of 40°10′ N. lat. The ABC of 1,004 mt is based on a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (7 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 995 mt.

u/ Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,449 mt is derived from the 2007 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,341 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 73 mt is deducted from the ACL to accommodate the Tribal fishery (56 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,927 mt.

v/ Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 5,007 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,171 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 3,170 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 47 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13.5 mt) resulting in a fishery HG of 3,124 mt. For that portion of the stock south of 34°27′ N. lat. the ACL is 1,001 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 998 mt.

w/ Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,091 mt.

x/ Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2015 meeting.

y/ Sablefish north. A coastwide sablefish stock assessment was conducted in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 7,857 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{45\%}$. The ABC of 7,173 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using the 2003–2010 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.6 percent apportioned north of 36° N. lat. and 26.4 percent apportioned south of 36° N. lat. The northern ACL is 4,793 mt and is reduced by 479 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 479 mt Tribal allocation is reduced by 1.6 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

z/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,719 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,714 mt.

aa/ Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 500 mt ACL is set to accommodate incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a

forage species in the California Current ecosystem. 2 mt is deducted from the ACL to accommodate research catch, resulting in a fishery HG of 498 mt.

bb/ Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,203 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,668 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 1,745 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7 mt) resulting in a fishery HG of 1,686 mt for the area north of 34°27′ N. lat. For that portion of the stock south of 34°27′ N. lat. the ACL is 923 mt. The southern ACL is 35.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42 mt is deducted from the ACL to accommodate the incidental open access fishery (41 mt) and research catch (1 mt), resulting in a fishery HG of 881 mt for the area south of 34°27′ N. lat.

cc/ Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,523 mt is derived from the 2011 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide ABC of 2,101 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,763 mt.

dd/ Splitnose rockfish. A splitnose rockfish coastwide assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with species-specific harvest specifications south of 40°10′ N. lat. The coastwide OFL is projected in the 2009 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide OFL is apportioned north and south of 40°10′ N. lat. based on the average 1916–2008 assessed area catch resulting in 64.2 percent of the coastwide OFL apportioned south of 40°10′ N. lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,794 mt results from the apportionment described above. The southern ABC of 1,715 mt is a 4.4 percent reduction from the southern OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{40\%}$. 10.5 mt is deducted from the ACL to accommodate research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,705 mt.

ee/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,841 mt is derived from the 2005 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,534 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{25\%}$. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,524 mt.

ff/ Widow rockfish. The widow rockfish stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,137 mt is projected in the 2011 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 3,929 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. However, the ACL of 2,000 mt is less than the ABC due to high uncertainty in estimated biomass, yet this level of allowable harvest will allow access to healthy co-occurring species, such as yellowtail rockfish. 120.2 mt is deducted from the ACL to accommodate the Tribal fishery (100 mt), the incidental open access fishery (3.3 mt), EFP catch (9 mt), and research catch (7.9 mt), resulting in a fishery HG of 1,880 mt.

gg/ Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40°10′ N. lat. The estimated stock depletion is 69 percent of its unfished biomass in 2013. The OFL of 7,218 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 6,590 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 1,029.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3 mt), EFP catch (10 mt), and research catch (16.6 mt), resulting in a fishery HG of 5,560 mt.

hh/ Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40°10′ N. lat. of 88 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 77 mt is the summed contribution of the ABCs for the component species. The ACL of 69 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks plus the ACL contributions for blue rockfish in California and China rockfish where the 40–10 adjustment was applied to the ABC contributions for these two stocks, because those stocks are in the precautionary zone. No deductions are made to the ACL, thus the fishery HG is equal to the ACL, which is 69 mt. Between 40°10′ N. lat. and 42° N. lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 23.7 mt. Blue rockfish south of 42° N. lat. has a species-specific HG, described in footnote kk/.

ii/ Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40°10′ N. lat. of 2,209 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted rockfish between 40°10′ and 42° N. lat. and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,944 mt is the summed contribution of the ABCs for the component species. The ACL of 1,944 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution because the stock is in the precautionary zone (the ACL is slightly less than the ABC but rounds to the ABC value). 72 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (13.4 mt), resulting in a fishery HG of 1,872 mt.

jj/ Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40°10′ N. lat. of 1,831 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for other category 1 stocks (*i.e.,* splitnose rockfish), a sigma value of 0.72 for category 2 stocks (*i.e.,* rougheye rockfish, blackspotted rockfish and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,693 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks are above the target biomass of $B_{40\%}$. 64 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt), and research catch (8.1 mt), resulting in a fishery HG of 1,629 mt.

kk/ Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40°10′ N. lat. of 1,313 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.36 for category 1 stocks (*i.e.,* gopher rockfish north of 34°27′ N. lat.), a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish north of 34°27′ N. lat., brown rockfish, China rockfish, and copper

rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,169 mt is the summed contribution of the ABCs for the component species. The ACL of 1,114 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for blue rockfish north of 34°27′ N. lat. where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 4 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.6 mt), resulting in a fishery HG of 1,110 mt. Blue rockfish south of 42° N. lat. has a species-specific HG set equal to the 40–10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (133.6 mt) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N lat. (60.8 mt). The California (*i.e.,* south of 42° N. lat.) blue rockfish HG is 194.4 mt.

ll/ Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40°10′ N. lat. of 1,918 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,625 mt is the summed contribution of the ABCs for the component species. The ACL of 1,624 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 49 mt is deducted from the ACL to accommodate the incidental open access fishery (9 mt), EFP catch (30 mt), and research catch (9.6 mt), resulting in a fishery HG of 1,575 mt.

mm/ Minor Slope Rockfish south. The OFL for the Minor Slope Rockfish complex south of 40°10′ N. lat. of 813 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (*i.e.,* blackgill rockfish, rougheye rockfish, blackspotted rockfish, and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 705 mt is the summed contribution of the ABCs for the component species. The ACL of 693 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20 mt is deducted from the ACL to accommodate the incidental open access fishery (17 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 673 mt. Blackgill rockfish has a species-specific HG set equal to the species' contribution to 40–10-adjusted ACL. The blackgill rockfish HG is 114 mt.

nn/ Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with species-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include butter sole, curlfin sole, flathead sole, Pacific sanddab (assessed in 2013 but the assessment results were too uncertain to inform harvest specifications), rock sole, sand sole, and rex sole (assessed in 2013). The Other Flatfish OFL of 11,453 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 8,749 mt is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC since all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of $B_{25\%}$. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (19 mt), resulting in a fishery HG of 8,545 mt.

oo/ Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. These species are unassessed. The OFL of 291 mt is the sum of the OFL contributions for kelp greenling off California (the SSC has not approved methods for calculating the OFL contributions for kelp greenling off Oregon and Washington), cabezon off Washington, and leopard shark coastwide. The ABC of 242 mt is the sum of ABC contributions for kelp greenling off California, cabezon off Washington and leopard shark coastwide calculated by applying a P* of 0.45 and a sigma of 1.44 to the OFL contributions for those stocks. The ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is equal to the ACL of 242 mt.

Table 1b. to Part 660, Subpart C – 2015, Allocations by Species or Species Group. (Weight in Metric Tons)

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	Mt	%	Mt
BOCACCIO a/	S of 40°10' N. lat.	340.7	N/A	81.9	N/A	258.8
CANARY ROCKFISH a/ b/	Coastwide	106.8	N/A	56.9	N/A	49.9
COWCOD a/ c/	S of 40°10' N. lat.	4.0	N/A	1.4	N/A	2.6
DARKBLOTCHED ROCKFISH d/	Coastwide	317.2	95%	301.3	5%	15.9
PACIFIC OCEAN PERCH e/	N of 40°10' N. lat.	143.0	95%	135.9	5%	7.2
PETRALE SOLE a/	Coastwide	2,579.4	N/A	2,544.4	N/A	35.0
YELLOWEYE ROCKFISH a/	Coastwide	12.2	N/A	1.0	N/A	11.2
Arrowtooth flounder	Coastwide	3,410	95%	3,239	5%	170
Chilipepper	S of 40°10' N. lat.	1,604	75%	1,203	25%	401
Dover sole	Coastwide	48,406	95%	45,986	5%	2,420
English sole	Coastwide	9,640	95%	9,158	5%	482
Lingcod	N of 40'10° N. lat.	2,552	45%	1,148	55%	1,404
Lingcod	S of 40'10° N. lat.	995	45%	448	55%	547
Longnose skate a/	Coastwide	1,927	90%	1,734	10%	193
Longspine thornyhead	N of 34°27' N. lat.	3,124	95%	2,967	5%	156
Pacific cod	Coastwide	1,091	95%	1,036	5%	55
Pacific whiting	Coastwide	TBD	100%	TBD	0%	TBD
Sablefish	N of 36° N. lat.	0	See Table 1 c			
Sablefish	S of 36° N. lat.	1,714	42%	720	58%	994
Shortspine thornyhead	N of 34°27' N. lat.	1,686	95%	1,601	5%	84
Shortspine thornyhead	S of 34°27' N. lat.	881	NA	50	NA	831
Splitnose	S of 40°10' N. lat.	1,705	95%	1,619	5%	85
Starry flounder	Coastwide	1,524	50%	762	50%	762
Widow rockfish f/	Coastwide	1,880	91%	1,711	9%	169
Yellowtail rockfish	N of 40°10' N. lat.	5,560	88%	4,893	12%	667
Minor Shelf Rockfish complex a/	N of 40°10' N. lat.	1,872	60.2%	1,127	39.8%	745
Minor Shelf Rockfish complex a/	S of 40°10' N. lat.	1,575	12.2%	192	87.8%	1,383
Minor Slope Rockfish complex	N of 40°10' N. lat.	1,629	81%	1,319	19%	309
Minor Slope Rockfish complex	S of 40°10' N. lat.	673	63%	424	37%	249
Other Flatfish complex	Coastwide	8,545	90%	7,691	10%	855

a/ Allocations decided through the biennial specification process.

b/ 13.7 mt of the total trawl allocation of canary rockfish is allocated to the at-sea whiting fisheries, as follows: 5.7 mt for the mothership fishery, and 8.0 mt for the catcher/processor fishery.

c/ The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

d/ Consistent with regulations at §660.55(c), 9 percent (27.1 mt) of the total trawl allocation for darkblotched rockfish is allocated to the whiting fisheries, as follows: 11.4 mt for the shorebased IFQ fishery, 6.5 mt for the mothership fishery, and 9.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

e/ Consistent with regulations at §660.55(c), 30 mt of the total trawl allocation for POP is allocated to the whiting fisheries, as follows: 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

f/ Consistent with regulations at §660.55(c), 500 mt of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 210 mt for the shorebased IFQ fishery, 120 mt for the mothership fishery, and 170 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

Table 1c. to Part 660, Subpart C – Sablefish North of 36° N. lat. Allocations, 2015

Year	ACL	Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal a/	Research				%	Mt	%	MT b/
2015	4,793	479	26	6.1	1	4,281	90.6%	3,878	9.4%	402

Year	LE All	Limited Entry Trawl c/			Limited Entry Fixed Gear d/		
		ALL Trawl	At-sea Whiting	Shorebased IFQ	ALL FG	Primary	DTL
2015	3,878	2,249	50	2,199	1,629	1,385	244

a/ The tribal allocation is further reduced by 1.6% for discard mortality resulting in 471.6 mt in 2015.

b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.

c/ The trawl allocation is 58% of the limited entry HG.

d/ The limited entry fixed gear allocation is 42% of the limited entry HG.

Table 1d. to Part 660, Subpart C – At-Sea Whiting Fishery Annual Set-Asides, 2015

Species or Species Complex	Area	Set Aside (mt)
BOCACCIO	S. of 40°10 N. lat.	NA
CANARY ROCKFISH a/	Coastwide	Allocation
COWCOD	S. of 40°10 N. lat.	NA
DARKBLOTCHED ROCKFISH a/	Coastwide	Allocation
PACIFIC OCEAN PERCH a/	N. of 40°10 N. lat.	Allocation
PETRALE SOLE	Coastwide	5
YELLOWEYE	Coastwide	0
Arrowtooth Flounder	Coastwide	45
Chilipepper	S. of 40°10 N. lat.	NA
Dover Sole	Coastwide	5
English Sole	Coastwide	5
Lingcod	N. of 40°10 N. lat.	15
Lingcod	S. of 40°10 N. lat.	NA
Longnose Skate	Coastwide	5
Longspine Thornyhead	N. of 34°27 N. lat.	5
Longspine Thornyhead	S. of 34°27 N. lat.	NA
Minor Nearshore Rockfish	N. of 40°10 N. lat.	NA
Minor Nearshore Rockfish	S. of 40°10 N. lat.	NA
Minor Shelf Rockfish	N. of 40°10 N. lat.	35
Minor Shelf Rockfish	S. of 40°10 N. lat.	NA
Minor Slope Rockfish	N. of 40°10 N. lat.	100
Minor Slope Rockfish	S. of 40°10 N. lat.	NA
Other Fish	Coastwide	NA
Other Flatfish	Coastwide	20
Pacific Cod	Coastwide	5
Pacific Halibut b/	Coastwide	10
Pacific Whiting	Coastwide	Allocation
Sablefish	N. of 36° N. lat.	50
Sablefish	S. of 36° N. lat.	NA
Shortspine Thornyhead	N. of 34°27 N. lat.	20
Shortspine Thornyhead	S. of 34°27 N. lat.	NA
Starry Flounder	Coastwide	5
Widow Rockfish a/	Coastwide	Allocation
Yellowtail	N. of 40°10 N. lat.	300

a/ See Table 1.b., to Subpart C, for the at-sea whiting allocations for these species.

b/ As stated in §660.55 (m), the Pacific halibut set-aside is 10 mt, to accommodate bycatch in the at-sea Pacific whiting fisheries and in the shorebased trawl sector south of 40°10 N. lat. (estimated to 5 mt each).

* * * * *

■ 10. In subpart C, tables 2a through 2d are revised to read as follows:

Table 2a. to Part 660, Subpart C- 2016, and Beyond, Specifications of OFL, ABC, ACL, ACT and Fishery harvest guidelines (weights in metric tons).

	OFL	ABC	ACL a/	Fishery HG b/
BOCACCIO S. of 40°10' N. lat. c/	1,351	1,291	362	354
CANARY ROCKFISH d/	729	697	125	110
COWCOD S. of 40°10' N. lat. e/	68	62	10	8
DARKBLOTCHED ROCKFISH f/	580	554	346	325
PACIFIC OCEAN PERCH g/	850	813	164	149
PETRALE SOLE h/	3,044	2,910	2,910	2,673
YELLOWEYE ROCKFISH i/	52	43	19	13
Arrowtooth flounder j/	6,396	5,328	5,328	3,241
Black rockfish (OR-CA) k/	1,183	1,131	1,000	999
Black rockfish (WA) l/	423	404	404	390
Cabezon (CA) m/	158	151	151	151
Cabezon (OR) n/	49	47	47	47
California scorpionfish o/	117	111	111	109
Chilipepper S. of 40°10' N. lat. p/	1,694	1,619	1,619	1,595
Dover sole q/	59,221	56,615	50,000	48,406
English sole r/	7,890	7,204	7,204	6,991
Lingcod N. of 40°10' N. lat. s/	2,891	2,719	2,719	2,441
Lingcod S. of 40°10' N. lat. t/	1,136	946	946	937
Longnose skate u/	2,405	2,299	2,000	1,927
Longspine thornyhead (coastwide) v/	4,763	3,968	NA	NA
Longspine thornyhead N. of 34°27' N. lat.	NA	NA	3,015	2,969
Longspine thornyhead S. of 34°27' N. lat.	NA	NA	952	949
Pacific Cod w/	3,200	2,221	1,600	1,091
Pacific whiting x/	x/	x/	x/	x/
Sablefish (coastwide)	8,526	7,784	NA	NA
Sablefish N. of 36° N. lat. y/	NA	NA	5,241	See Table 2c
Sablefish S. of 36° N. lat. z/	NA	NA	1,880	1,875
Shortbelly aa/	6,950	5,789	500	498
Shortspine thornyhead (coastwide) bb/	3,169	2,640	NA	NA
Shortspine thornyhead N. of 34°27' N. lat.	NA	NA	1,726	1,667
Shortspine thornyhead S. of 34°27' N. lat.	NA	NA	913	871
Spiny dogfish cc/	2,503	2,085	2,085	1,747
Splitnose S. of 40°10' N. lat. dd/	1,826	1,746	1,746	1,736
Starry flounder ee/	1,847	1,539	1,539	1,529
Widow rockfish ff/	3,990	3,790	2,000	1,880
Yellowtail N. of 40°10' N. lat. gg/	6,949	6,344	6,344	5,314
Minor Nearshore Rockfish N. of 40°10' N. lat. hh/	88	77	69	69
Minor Shelf Rockfish N. of 40°10' N. lat. ii/	2,218	1,953	1,952	1,880
Minor Slope Rockfish N. of 40°10' N. lat. jj/	1,844	1,706	1,706	1,642
Minor Nearshore Rockfish S. of 40°10' N. lat. kk/	1,288	1,148	1,006	1,002
Minor Shelf Rockfish S. of 40°10' N. lat. ll/	1,919	1,626	1,625	1,576
Minor Slope Rockfish S. of 40°10' N. lat. mm/	814	705	695	675
Other Flatfish nn/	9,645	7,243	7,243	7,039
Other Fish oo/	291	243	243	243

a/ Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

b/ Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

c/ Bocaccio. A bocaccio stock assessment update was conducted in 2013 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10′ N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. A historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10′ N. lat. The bocaccio stock was estimated to be at 31.4 percent of its unfished biomass in 2013. The OFL of 1,351 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,291 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 362 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.3 mt is deducted from the ACL to accommodate the incidental open access fishery (0.7 mt), EFP catch (3.0 mt) and research catch (4.6 mt), resulting in a fishery HG of 353.7 mt. The California recreational fishery has an HG of 185.6 mt.

d/ Canary rockfish. A canary rockfish stock assessment update was conducted in 2011 and the stock was estimated to be at 23.2 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 729 mt is projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 697 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 125 mt is based on the current rebuilding plan with a target year to rebuild of 2030 and an SPR harvest rate of 88.7 percent. 15.2 mt is deducted from the ACL to accommodate the Tribal fishery (7.7 mt), the incidental open access fishery (2 mt), EFP catch (1.0 mt) and research catch (4.5 mt) resulting in a fishery HG of 109.8 mt. Recreational HGs are: 3.5 mt (Washington); 12.0 mt (Oregon); and 25.0 mt (California).

e/ Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 56.4 mt is projected in the 2013 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The OFL of 12.0 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10′ N. lat. OFL of 68.4 mt. The ABC for the area south of 40°10′ N. lat. is 61.5 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception Area contribution to the ABC of 51.5 mt, which is an 8.7 percent reduction from the Conception area OFL (σ=0.72/P*=0.45). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 10.0 mt, which is a 17 percent reduction from the Monterey area OFL (σ=1.44/P*=0.45). A single ACL of 10.0 mt is being set for both areas combined. The ACL of 10.0 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11+ biomass) of 0.007. 2.0 mt is deducted from the ACL to accommodate EFP fishing (less than 0.02 mt) and research activity (2.0 mt), resulting in a fishery HG of 8.0 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4.0 mt is being set for both areas combined.

f/ Darkblotched rockfish. A 2013 stock assessment estimated the stock to be at 36 percent of its unfished biomass in 2013. The OFL of 580 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$.The ABC of 554 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 346 mt is based on the current rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (18.4 mt), EFP catch (0.1 mt) and research catch (2.1 mt), resulting in a fishery HG of 325.2 mt.

g/ Pacific Ocean Perch. A POP stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 850 mt for the area north of 40°10′ N. lat. is projected in the 2011 rebuilding analysis using an $F_{50\%}$ F_{MSY} proxy. The ABC of 850 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 164 mt is based on the current rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 15 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (0.6 mt), and research catch (5.2 mt), resulting in a fishery HG of 149.0 mt.

h/ Petrale sole. A 2013 stock assessment estimated the stock to be at 22.3 percent of its unfished biomass in 2013. The OFL of 3,044 mt is projected in the 2013 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,910 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is based on the 25–5 harvest control rule specified in the current rebuilding plan; since the stock is projected to be rebuilt at the start of 2014, the ACL is set equal to the ABC. 236.6 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,673.4 mt.

i/ Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 52 mt coastwide OFL was projected in the 2011 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 16.77 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 19 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.8 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.03 mt) and research catch (3.3 mt) resulting in a fishery HG of 13.2 mt. Recreational HGs are being established: 3.1 mt (Washington); 2.8 mt (Oregon); and 3.7 mt (California).

j/ Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 6,396 mt is derived from the 2007 assessment using an $F_{30\%}$ F_{MSY} proxy. The ABC of 5,328 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 2,087 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.4 mt), resulting in a fishery HG of 3,241 mt.

k/ Black rockfish south (Oregon and California). A stock assessment was conducted for black rockfish south of 45°46′ N. lat. (Cape Falcon, Oregon) to Central California (*i.e.,* the southern-most extent of black rockfish, Love et al. 2002) in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment conducted for black rockfish north of 45°46′ N. lat., to cover the portion of the stock occurring off Oregon north of Cape Falcon (the 3% adjustment is based on historical catch distribution). The resulting OFL for the area south of 46°16′ N. lat. is 1,183 mt. The ABC of 1,131 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2016 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock above its target biomass of $B_{40\%}$. 1 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 999 mt. The black rockfish ACL, in the area south of 46°16′ N. lat. (Columbia River), is subdivided with separate HGs for waters off Oregon (579 mt/58 percent) and for waters off California (420 mt/42 percent).

l/ Black rockfish north (Washington). A stock assessment was conducted for black rockfish north of 45°46′ N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is derived from the 2007 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The resulting OFL for the area north of 46°16′ N. lat. is 423 mt and is 97 percent of the OFL from the assessed area based on the area distribution of historical catch. The ABC of 404 mt for the north is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 14 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 390 mt.

m/ Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off

California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 158 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 151 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is equal to the ACL of 151 mt.

n/ Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

o/ California scorpionfish was assessed in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 117 mt is projected in the 2005 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 111 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 2 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 109 mt.

p/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the Minor Shelf Rockfish complex north of 40°10′ N. lat. Projected OFLs are stratified north and south of 40°10′ N. lat. based on the average 1998–2008 assessed area catch, which is 93 percent for the area south of 40°10′ N. lat. and 7 percent for the area north of 40°10′ N. lat. The OFL of 1,694 mt for the area south of 40°10′ N. lat. is projected in the 2007 assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,619 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 24 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (10 mt), and research catch (9 mt), resulting in a fishery HG of 1,595 mt.

q/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 59,221 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 56,615 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,594 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406 mt.

r/ English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 7890 mt is projected in the 2013 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 7,204 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 213 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7 mt) and research catch (5.8 mt), resulting in a fishery HG of 6,991 mt.

s/ Lingcod north. A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL for Washington and Oregon of 1,842 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The OFL is re-apportioned by adding 48% of the OFL from California, resulting in an OFL of 2,891 mt for the area north of 40°10′ N. lat. The ABC of 2,719 mt is based on a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) for the area between 42° N. lat. and 40°10′ N. lat., as it's a category 2 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 278 mt is deducted from the ACL to accommodate the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 2,441 mt.

t/ Lingcod south . A lingcod stock assessment was conducted in 2009. The lingcod spawning biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL for California of 2,185 mt is projected in the assessment using an F_{MSY} proxy of $F_{45\%}$. The OFL is re-apportioned by subtracting 48% of the OFL, resulting in an OFL of 1,136 mt for the area south of 40°10′ N. lat. The ABC of 946 mt is based on a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC since the stock is above its target biomass of $B_{40\%}$. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (7 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 937 mt.

u/ Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,405 mt is derived from the 2007 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,299 mt is a 4.4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 73 mt is deducted from the ACL to accommodate the Tribal fishery (56 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,927 mt.

v/ Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 4,763 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 3,968 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 3,015 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 46 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13.5 mt) resulting in a fishery HG of 2,969 mt. For that portion of the stock south of 34°27′ N. lat. the ACL is 952 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 949 mt.

w/ Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,091 mt.

x/ Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2016 meeting.

y/ Sablefish north. A coastwide sablefish stock assessment was conducted in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 8,526 mt is projected in the 2011 stock assessment using an F_{MSY} proxy of $F_{45\%}$. The ABC of 7,784 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40–10 adjustment was applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N. lat., using the 2003–2010 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.6 percent apportioned north of 36° N. lat. and 26.4 percent apportioned south of 36° N. lat. The northern ACL is 5,241 mt and is reduced by 524 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 524 mt Tribal allocation is reduced by 1.6 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

z/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,880 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,875 mt.

aa/ Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated

to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 500 mt ACL is set to accommodate for incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL to accommodate research catch, resulting in a fishery HG of 498 mt.

bb/ Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,169 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,640 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27′ N. lat., the ACL is 1,726 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7 mt) resulting in a fishery HG of 1,667 mt for the area north of 34°27′ N. lat. For that portion of the stock south of 34°27′ N. lat. the ACL is 913 mt. The southern ACL is 35.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42 mt is deducted from the ACL to accommodate the incidental open access fishery (41 mt) and research catch (1 mt), resulting in a fishery HG of 871 mt for the area south of 34°27′ N. lat.

cc/ Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,503 mt is derived from the 2011 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide ABC of 2,085 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,747 mt.

dd/ Splitnose rockfish. A splitnose rockfish coastwide assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with species-specific harvest specifications south of 40°10′ N. lat. The coastwide OFL is projected in the 2009 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide OFL is apportioned north and south of 40°10′ N. lat. based on the average 1916–2008 assessed area catch resulting in 64.2 percent of the coastwide OFL apportioned south of 40°10′ N. lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,826 mt results from the apportionment described above. The southern ABC of 1,746 mt is a 4.4 percent reduction from the southern OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{40\%}$. 110.5 mt is deducted from the ACL to accommodate research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,736 mt.

ee/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,847 mt is derived from the 2005 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,539 mt is a 16.7 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{25\%}$. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,529 mt.

ff/ Widow rockfish. The widow rockfish stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 3,990 mt is projected in the 2011 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The ABC of 3,790 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. However, the ACL of 2,000 mt is less than the ABC due to high uncertainty in estimated biomass, yet this level of allowable harvest will allow access to healthy co-occurring species, such as yellowtail rockfish. 120.2 mt is deducted from the ACL to accommodate the Tribal fishery (100 mt), the incidental open access fishery (3.3 mt), EFP catch (9 mt), and research catch (7.9 mt), resulting in a fishery HG of 1,880 mt.

gg/ Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40°10′ N. lat. The estimated stock depletion is 69 percent of its unfished biomass in 2013. The OFL of 6,949 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 6,344 mt is an 8.7 percent reduction from the OFL (σ=0.72/P*=0.45) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 1,029.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3 mt), EFP catch (10 mt) and research catch (16.6 mt), resulting in a fishery HG of 5,314 mt.

hh/ Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40°10′ N. lat. of 88 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 77 mt is the summed contribution of the ABCs for the component species. The ACL of 69 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contributions for blue rockfish in California and China rockfish where the 40–10 adjustment was applied to the ABC contributions for these two stocks because they are in the precautionary zone. No deductions are made to the ACL, thus the fishery HG is equal to the ACL, which is 69 mt. Between 40°10′ N. lat. and 42° N. lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 23.7 mt. Blue rockfish south of 42° N. lat. has a species-specific HG, described in footnote kk/.

ii/ Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40°10′ N. lat. of 2,218 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted rockfish between 40°10′ and 42° N. lat. and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,953 mt is the summed contribution of the ABCs for the component species. The ACL of 1,952 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 72 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (13.4 mt), resulting in a fishery HG of 1,880 mt.

jj/ Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40°10′ N. lat. of 1,844 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for other category 1 stocks (*i.e.,* splitnose rockfish), a sigma value of 0.72 for category 2 stocks (*i.e.,* rougheye rockfish, blackspotted rockfish and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,706 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks are above the target biomass of $B_{40\%}$. 64 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt), and research catch (8.1 mt), resulting in a fishery HG of 1,642 mt.

kk/ Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40°10′ N. lat. of 1,288 mt is the sum of the OFL contributions for the component species within the complex. The

ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.36 for category 1 stocks (*i.e.,* gopher rockfish north of 34°27′ N. lat.), a sigma value of 0.72 for category 2 stocks (*i.e.,* blue rockfish north of 34°27′ N. lat., brown rockfish, China rockfish and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,148 mt is the summed contribution of the ABCs for the component species. The ACL of 1,006 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for blue rockfish north of 34°27′ N. lat. where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 4 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.6 mt), resulting in a fishery HG of 1,002 mt. Blue rockfish south of 42° N. lat. has a species-specific HG set equal to the 40–10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (137.5) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N. lat. (60.8 mt). The California (*i.e.* south of 42° N. lat.) blue rockfish HG is 198.3 mt.

ll/ Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40°10′ N. lat. of 1,919 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,626 mt is the summed contribution of the ABCs for the component species. The ACL of 1,625 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 49 mt is deducted from the ACL to accommodate the incidental open access fishery (9 mt), EFP catch (30 mt), and research catch (9.6 mt), resulting in a fishery HG of 1,576 mt.

mm/ Minor Slope Rockfish south. The OFL of 814 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (*i.e.,* blackgill rockfish, rougheye rockfish, blackspotted rockfish, sharpchin rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish since the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 705 mt is the summed contribution of the ABCs for the component species. The ACL of 695 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20 mt is deducted from the ACL to accommodate the incidental open access fishery (17 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 675 mt. Blackgill rockfish has a species-specific HG set equal to the species' contribution to the 40–10-adjusted ACL. The blackgill rockfish HG is 117 mt.

nn/ Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with species-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed, and include: Butter sole, curlfin sole, flathead sole, Pacific sanddab (assessed in 2013, but the assessment results were too uncertain to inform harvest specifications), rock sole, sand sole, and rex sole (assessed in 2013). The Other Flatfish OFL of 9,645 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 7,243 mt is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC. The ACL is set equal to the ABC since all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of $B_{25\%}$. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (19 mt), resulting in a fishery HG of 7,039 mt.

oo/ Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. These species are unassessed. The OFL of 291 mt is the sum of the OFL contributions for kelp greenling off California (the SSC has not approved methods for calculating the OFL contributions for kelp greenling off Oregon and Washington), cabezon off Washington, and leopard shark coastwide. The ABC of 243 mt is the sum of ABC contributions for kelp greenling off California, cabezon off Washington and leopard shark coastwide calculated by applying a P* of 0.45 and a sigma of 1.44 to the OFL contributions for those stocks. The ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is equal to the ACL of 243 mt.

Table 2b. to Part 660, Subpart C – 2016, and Beyond, Allocations by Species or Species Group (Weights in Metric Tons).

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	Mt	%	Mt
BOCACCIO a/	S of 40°10' N. lat.	353.7	N/A	85.0	N/A	268.7
CANARY ROCKFISH a/ b/	Coastwide	109.8	N/A	58.5	N/A	51.3
COWCOD a/ c/	S of 40°10' N. lat.	4.0	N/A	1.4	N/A	2.6
DARKBLOTCHED ROCKFISH d/	Coastwide	325.2	95%	308.9	5%	16.3
PETRALE SOLE a/	Coastwide	2,673.4	N/A	2,638.4	N/A	35.0
PACIFIC OCEAN PERCH e/	N of 40°10' N. lat.	149.0	95%	141.6	5%	7.5
YELLOWEYE ROCKFISH a/	Coastwide	13.2	N/A	1.1	N/A	12.1
Arrowtooth flounder	Coastwide	3,241	95%	3,079	5%	162
Chilipepper	S of 40°10' N. lat.	1,595	75%	1,196	25%	399
Dover sole	Coastwide	48,406	95%	45,986	5%	2,420
English sole	Coastwide	6,991	95%	6,642	5%	350
Lingcod	N of 40'10° N. lat.	2,441	45%	1,098	55%	1,342
Lingcod	S of 40'10° N. lat.	937	45%	422	55%	515
Longnose skate a/	Coastwide	1,927	90%	1,734	10%	193
Longspine thornyhead	N of 34°27' N. lat.	2,969	95%	2,820	5%	148
Pacific cod	Coastwide	1,091	95%	1,036	5%	55
Pacific whiting	Coastwide	TBD	100%	TBD	0%	TBD
Sablefish	N of 36° N. lat.	0	See Table 1 c			
Sablefish	S of 36° N. lat.	1,875	42%	788	58%	1,088
Shortspine thornyhead	N of 34°27' N. lat.	1,667	95%	1,583	5%	83
Shortspine thornyhead	S of 34°27' N. lat.	871	NA	50	NA	821
Splitnose	S of 40°10' N. lat.	1,736	95%	1,649	5%	87
Starry flounder	Coastwide	1,529	50%	764	50%	764
Widow rockfish f/	Coastwide	1,880	91%	1,711	9%	169
Yellowtail rockfish	N of 40°10' N. lat.	5,314	88%	4,677	12%	638
Minor Shelf Rockfish complex a/	N of 40°10' N. lat.	1,880	60.2%	1,132	39.8%	748
Minor Shelf Rockfish complex a/	S of 40°10' N. lat.	1,576	12.2%	192	87.8%	1,384
Minor Slope Rockfish complex	N of 40°10' N. lat.	1,642	81%	1,330	19%	312
Minor Slope Rockfish complex	S of 40°10' N. lat.	675	63%	425	37%	250
Other Flatfish complex	Coastwide	7,039	90%	6,335	10%	704

a/ Allocations decided through the biennial specification process.

b/ 14.0 mt of the total trawl allocation of canary rockfish is allocated to the at-sea whiting fisheries, as follows: 5.8 mt for the mothership fishery, and 8.2 mt for the catcher/processor fishery.

c/ The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

d/ Consistent with regulations at §660.55(c), 9 percent (27.8 mt) of the total trawl allocation for darkblotched rockfish is allocated to the whiting fisheries, as follows: 11.7 mt for the shorebased IFQ fishery, 6.7 mt for the mothership fishery, and 9.4 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

e/ Consistent with regulations at §660.55(c), 30 mt of the total trawl allocation for POP is allocated to the whiting fisheries, as follows: 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

f/ Consistent with regulations at §660.55(c), 500 mt of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 210 mt for the shorebased IFQ fishery, 120 mt for the mothership fishery, and 170 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at 660.140(d)(1)(ii)(D).

Table 2c. to Part 660, Subpart C – Sablefish North of 36° N. lat. Allocations, 2016 and Beyond.

Year	ACL	Set-asides		Recreational Estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal a/	Research				%	Mt	%	MT b/
2016	5,241	524	26	6.1	1	4,684	90.6%	4,244	9.4%	440

Year	LE All	Limited Entry Trawl c/			Limited Entry Fixed Gear d/		
		ALL Trawl	At-sea Whiting	Shorebased IFQ	ALL FG	Primary	DTL
2016	4,244	2,461	50	2,411	1,782	1,515	267

a/ The tribal allocation is further reduced by 1.6% for discard mortality resulting in 515.7 mt in 2016.

b/ The open access HG is taken by the incidental OA fishery and the directed OA fishery.

c/ The trawl allocation is 58% of the limited entry HG

d/ The limited entry fixed gear allocation is 42% of the limited entry HG

Table 2d. to Part 660, Subpart C – At-Sea Whiting Fishery Annual Set-Asides, 2016 and Beyond.

Species or Species Complex	Area	Set Aside (mt)
BOCACCIO	S. of 40°10 N. lat.	NA
CANARY ROCKFISH a/	Coastwide	Allocation
COWCOD	S. of 40°10 N. lat.	NA
DARKBLOTCHED ROCKFISH a/	Coastwide	Allocation
PACIFIC OCEAN PERCH a/	N. of 40°10 N. lat.	Allocation
PETRALE SOLE	Coastwide	5
YELLOWEYE	Coastwide	0
Arrowtooth Flounder	Coastwide	45
Chilipepper	S. of 40°10 N. lat.	NA
Dover Sole	Coastwide	5
English Sole	Coastwide	5
Lingcod	N. of 40°10 N. lat.	15
Lingcod	S. of 40°10 N. lat.	NA
Longnose Skate	Coastwide	5
Longspine Thornyhead	N. of 34°27 N. lat.	5
Longspine Thornyhead	S. of 34°27 N. lat.	NA
Minor Nearshore Rockfish	N. of 40°10 N. lat.	NA
Minor Nearshore Rockfish	S. of 40°10 N. lat.	NA
Minor Shelf Rockfish	N. of 40°10 N. lat.	35
Minor Shelf Rockfish	S. of 40°10 N. lat.	NA
Minor Slope Rockfish	N. of 40°10 N. lat.	100
Minor Slope Rockfish	S. of 40°10 N. lat.	NA
Other Fish	Coastwide	NA
Other Flatfish	Coastwide	20
Pacific Cod	Coastwide	5
Pacific Halibut b/	Coastwide	10
Pacific Whiting	Coastwide	Allocation
Sablefish	N. of 36° N. lat.	50
Sablefish	S. of 36° N. lat.	NA
Shortspine Thornyhead	N. of 34°27 N. lat.	20
Shortspine Thornyhead	S. of 34°27 N. lat.	NA
Starry Flounder	Coastwide	5
Widow Rockfish a/	Coastwide	Allocation
Yellowtail	N. of 40°10 N. lat.	300

a/ See Table 1.b., to Subpart C, for the at-sea whiting allocations for these species.

b/ As stated in §660.55 (m), the Pacific halibut set-aside is 10 mt, to accommodate bycatch in the at-sea Pacific whiting fisheries and in the shorebased trawl sector south of 40°10 N. lat. (estimated to 5 mt each).

* * * * *

■ 11. In § 660.130, revise paragraphs (d)(1)(i) and (e)(4)(iv) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(d) * * *

(1) * * *

(i) *Coastwide.* Widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortraker rockfish, rougheye/blackspotted rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish, longnose skate, and Pacific whiting;

* * * * *

(e) * * *

(4) * * *

(iv) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited within the trawl RCA. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

* * * * *

■ 12. In § 660.140, revise paragraph (d)(1)(ii)(D) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

IFQ Species	Management Area	2015 Shorebased Trawl Allocation (mt)	2016 Shorebased Trawl Allocation (mt)
Arrowtooth flounder		3,193.93	3,033.38
BOCACCIO	South of 40°10' N. lat.	81.89	85.02
CANARY ROCKFISH		43.26	44.48
Chilipepper	South of 40°10' N. lat.	1,203.00	1,196.25
COWCOD	South of 40°10' N. lat.	1.44	1.44
DARKBLOTCHED ROCKFISH		285.61	292.81
Dover sole		45,980.80	45,980.80
English sole		9,153.19	6,636.64
Lingcod	North of 40°10' N. lat.	1,133.32	1,083.37
Lingcod	South of 40°10' N. lat.	447.71	421.61
Longspine thornyhead	North of 34°27' N. lat.	2,962.33	2,815.08
Minor Shelf Rockfish complex	North of 40°10' N. lat.	1,091.70	1,096.52
Minor Shelf Rockfish complex	South of 40°10' N. lat.	192.20	192.32
Minor Slope Rockfish complex	North of 40°10' N. lat.	1,219.41	1,229.94
Minor Slope Rockfish complex	South of 40°10' N. lat.	423.99	425.25
Other Flatfish complex		7,670.50	6,315.10
Pacific cod		1,031.41	1,031.41
PACIFIC OCEAN PERCH	North of 40°10' N. lat.	118.45	124.15
Pacific Whiting		_	_
PETRALE SOLE		2,539.40	2,633.40
Sablefish	North of 36° N. lat.	2,199.37	2,411.24
Sablefish	South of 36° N. lat.	719.88	787.50
Shortspine thornyhead	North of 34°27' N. lat.	1,581.49	1,563.44
Shortspine thornyhead	South of 34°27' N. lat.	50.00	50.00
Splitnose rockfish	South of 40°10' N. lat.	1,619.28	1,648.73
Starry flounder		756.85	759.35
Widow rockfish		1,420.62	1,420.62
YELLOWEYE ROCKFISH		1.00	1.08
Yellowtail rockfish	North of 40°10' N. lat.	4,593.15	4,376.67

* * * * *

■ 13. In subpart D, tables 1 (North) and 1 (South) to 660 are revised to read as follows:

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 3/1/15

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)1/:						
1	North of 48°10' N. lat.	shore - modified2/ 200 fm line1/	shore - 200 fm line 1/	shore - 150 fm line1/		shore - 200 fm line1/	shore - modified2/ 200 fm line1/
2	48°10' N. lat. - 45°46' N. lat.	100 fm line1/ - 150 fm line1/					
3	45°46' N. lat. - 40°10' N. lat.	100 fm line1/ - modified2/ 200 fm line1/					

Selective flatfish trawl gear is required shoreward of the RCA; all bottom trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. **Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.**

See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

4	**Minor Nearshore Rockfish & Black rockfish**	300 lb/month
5	**Whiting**3/	
6	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.
8	**Cabezon**4/	
9	North of 46°16' N. lat.	Unlimited
10	46°16' N. lat. - 40°10' N. lat.	50 lb/ month
11	**Shortbelly**	Unlimited
12	**Spiny dogfish**	60,000 lb/month
13	**Longnose skate**	Unlimited
14	**Other Fish** 4/	Unlimited

TABLE 1 (NORTH)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

3/ As specificed at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

4/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 3/1/15

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)1/:						
1 South of 40°10' N. lat.	100 fm line[1/] - 150 fm line [1/ 2/]					

Small footrope trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA. **Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.**

See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

2	**Longspine thornyhead**	
3	South of 34°27' N. lat.	24,000 lb/ 2 months
4	**Minor Nearshore Rockfish & Black rockfish**	300 lb/ month
5	**Whiting**	
6	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.
8	**Cabezon**	50 lb/ month
9	**Shortbelly**	Unlimited
10	**Spiny dogfish**	60,000 lb/ month
11	**Longnose skate**	Unlimited
12	**California scorpionfish**	Unlimited
13	**Other Fish** [3/]	Unlimited

TABLE 1 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

* * * * *

■ 14. In § 660.230, revise paragraph (c)(2)(i) to read as follows:

§ 660.230 Fixed gear fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(i) *Coastwide*—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish,

black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortraker rockfish, rougheye/blackspotted rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish, longnose skate, and Pacific whiting;

* * * * *

■ 15. In § 660.231, revise paragraph (b)(3)(i) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.,* stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2015, the following annual limits are in effect: Tier 1 at 41,175 (18,677 kg), Tier 2 at 18,716 lb (8,489 kg), and Tier 3 at 10,695 lb (4,851 kg). For 2016 and beyond, the following annual limits are in effect: Tier 1 at 45,053 lb (20,436 kg), Tier 2 at 20,479 lb (9,289 kg), and Tier 3 at 11,702 lb (5,308 kg).

* * * * *

■ 16. In subpart E, tables 2 (North) and 2 (South) to part 660 are revised to read as follows:

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 3/1/15

TABLE 2 (North)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish[7/]**	1,025 lb/ week, not to exceed 3,075 lb/ 2 months					
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
10							
11							
12							
13							
14							
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
17	**Canary rockfish**	CLOSED					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue rockfish[4/]					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb of which may be species other than black rockfish					
22	**Lingcod[5/]**	200 lb/2 months		1,200 lb/ 2 months		600 lb/ month	200 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/]& Cabezon in Oregon and California**	Unlimited					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

7/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. from January through December 1,275 lb/week, not to exceed 3,375 lb/ 2 months

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 3/1/15

TABLE 2 (South)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.	30 fm line[1/] - 150 fm line[1/]					
2	South of 34°27' N. lat.	60 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish					
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish[6/]**						
6	40°10' N. lat. - 36°00' N. lat.	1,025 lb/ week, not to exceed 3,075 lb/ 2 months					
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
13							
14							
15							
16							
17							
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish (including Bocaccio and Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED		4,000 lb/ 2 months		
22	**Chilipepper**						
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly, widow rockfish and bocaccio limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**	CLOSED					
26	**Yelloweye rockfish**	CLOSED					
27	**Cowcod**	CLOSED					
28	**Bronzespotted rockfish**	CLOSED					
29	**Bocaccio**						
30	40°10' N. lat. - 34°27' N. lat.	Bocaccio included under Minor shelf rockfish, shortbelly, widow rockfish & chilipepper limits - - See above					
31	South of 34°27' N. lat.	750 lb/ 2 months	CLOSED		750 lb/ 2 months		

Table 2 (South). Continued

TABLE 2 (South)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC	
32	**Minor Nearshore Rockfish & Black rockfish**							
33	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months	
34	Deeper nearshore							
35	40°10' N. lat. - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months		1,000 lb/ 2 months	
36	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
37	California scorpionfish	1,200 lb/ 2 months[6/]	CLOSED	1,200 lb/ 2 months	1,200 lb/ 2 months			
38	**Lingcod**[4/]	200 lb/ 2 mo	CLOSED	800 lb/ 2 months			400 lb/mo	200 lb/mo
39	**Pacific cod**	1,000 lb/ 2 months						
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
41	**Longnose skate**	Unlimited						
42	**Other Fish**[5/] **& Cabezon**	Unlimited						

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

6/ Beginning on January 1, 2016, the following trip limits are in effect for sablefish north of 36° N. lat. from January through December 1,275 lb/week, not to exceed 3,375 lb/ 2 months

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 17. In § 660.330, revise paragraphs (c)(2)(i) and (d)(13)(iii) to read as follows:

§ 660.330 Open access fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(i) *Coastwide*—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, blue rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortraker rockfish, rougheye/blackspotted rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, longnose skate, other fish, Pacific whiting, and Pacific sanddabs;

* * * * *

(d) * * *

(13) * * *

(iii) The non-groundfish trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, it is unlawful for a vessel to retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-groundfish trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited within the non-groundfish trawl RCA. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

* * * * *

■ 18. In subpart F, tables 3 (North) and 3 (South) to part 660 are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

3/1/15

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish[7/]**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months					
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
9							
10		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11							
12							
13							
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly, Widow & Yellowtail rockfish**	200 lb/ month					
16	**Canary rockfish**	CLOSED					
17	**Yelloweye rockfish**	CLOSED					
18	**Minor Nearshore Rockfish & Black rockfish**						
19	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
20	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb may be species other than black rockfish					
21	**Lingcod[5/]**	100 lb/ month		600 lb/ month			100 lb/month
22	**Pacific cod**	1,000 lb/ 2 months					
23	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
24	**Longnose skate**	Unlimited					
25	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					

TABLE 3 (North)

Table 3 (North). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
26	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
27	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
28	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*						
29	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (North) cont'd

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

7/ Beginning on January 1, 2016, the following trip limts are in effect for sablefish north of 36° N. lat. 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 3/1/15

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.	30 fm line[1/] - 150 fm line[1/]					
2	South of 34°27' N. lat.	60 fm line[1/] - 150 fm line[1/] (also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish					
4	**Splitnose rockfish**	200 lb/ month					
5	**Sablefish[6/]**						
6	40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months					
7	South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**						
9	40°10' N. lat. - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12							
13		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14							
15							
16							
17	**Whiting**	300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**						
19	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
20	South of 34°27' N. lat.	1500 lb/ 2 months		1500 lb/ 2 months			
21	**Canary rockfish**	CLOSED					
22	**Yelloweye rockfish**	CLOSED					
23	**Cowcod**	CLOSED					
24	**Bronzespotted rockfish**	CLOSED					
25	**Bocaccio**						
26	40°10' N. lat. - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
27	South of 34°27' N. lat.	250 lb/ 2 months		250 lb/ 2 months			

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) cont'd

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
28	**Minor Nearshore Rockfish & Black rockfish**							
29	Shallow nearshore		600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months
30	Deeper nearshore							
31	40°10' N. lat. - 34°27' N. lat.		700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months		1,000 lb/ 2 months
32	South of 34°27' N. lat.		500 lb/ 2 months		600 lb/ 2 months			
33	California scorpionfish		1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
34	**Lingcod**[4/]		100 lb/month	CLOSED	400 lb/ month			100 lb/month
35	**Pacific cod**		1,000 lb/ 2 months					
36	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
37	**Longnose skate**		Unlimited					
38	**Other Fish**[5/] **& Cabezon**		Unlimited					
39	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
40	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
41	*40° 10' N. lat. - 38° 00' N. lat.*		*100 fm line*[1/] *- 200 fm line*[1/]	*100 fm line*[1/] *- 150 fm line*[1/]				*100 fm line*[1/] *- 200 fm line*[1/]
42	*38° 00' N. lat. - 34° 27' N. lat.*		*100 fm line*[1/] *- 150 fm line*[1/]					
43	*South of 34° 27' N. lat.*		*100 fm line*[1/] *- 150 fm line*[1/] *along the mainland coast; shoreline - 150 fm line*[1/] *around islands*					
44			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
45	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
46		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

6/ Beginning on January 1, 2016, the following trip limts are in effect for sablefish north of 36° N. lat. 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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■ 19. In § 660.360, revise paragraphs (c)(1)(i)(D)(*1*) through (*3*), (c)(1)(iii)(B), (c)(1)(iv)(A) and (B), (c)(2)(iii)(A), (D), and (E), (c)(3)(i)(A)(*2*) through (*5*), (c)(3)(ii)(A)(*2*) through (*4*), (c)(3)(ii)(B), (c)(3)(iii)(A)(*2*) through (*4*), (c)(3)(iii)(B), and (c)(3)(v)(A)(*1*) through (*4*) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(D) * * *

(*1*) West of the Bonilla-Tatoosh line between the U.S. border with Canada and the Queets River (Washington state Marine Area 3 and 4), recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 20 fm (37 m) depth contour from May 9 through Labor Day, except on days when the Pacific halibut fishery is open in this area it is lawful to retain, lingcod, Pacific cod and sablefish seaward of the 20 fm (37 m) boundary. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. Coordinates for the boundary line approximating the 20 fm (37 m) depth contour are listed in § 660.71, subpart C.

(*2*) Between the Queets River (47°31.70′ N. lat.) and Leadbetter Point (46°38.17′ N. lat.) (Washington state Marine Area 2), recreational fishing for groundfish, is prohibited seaward of a boundary line approximating the 30 fm (55 m) depth contour from March 15 through June 15 with the following exceptions: Recreational fishing for lingcod is permitted within the RCA on days that the primary halibut fishery is open; recreational fishing for rockfish is permitted within the RCA from March 15 through June 15; recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. In addition to the RCA described above, between the Queets River (47°31.70′ N. lat.) and Leadbetter Point (46°38.17′ N. lat.) (Washington state Marine Area 2), recreational fishing for lingcod is

prohibited year round seaward of a straight line connecting all of the following points in the order stated: 47°31.70′ N. lat., 124°45.00′ W. long.; 46°38.17′ N. lat., 124°30.00′ W. long. with the following exceptions: On days that the primary halibut fishery is open lingcod may be taken, retained and possessed within the lingcod area closure. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. For additional regulations regarding the Washington recreational lingcod fishery, see paragraph (c)(1)(iv) of this section. Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are listed in § 660.71.

(*3*) Between Leadbetter Point (46°38.17′ N. lat.) and the Columbia River (Marine Area 1), when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod from May 1 through September 30. Except that taking, retaining, possessing or landing incidental halibut with groundfish on board is allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries in the area shoreward of the boundary line approximating the 30 fathom (55 m) depth contour extending from Leadbetter Point, WA (46°38.17′ N. lat., 124°15.88′ W. long.) to the Columbia River (46°16.00′ N. lat., 124°15.88′ W. long.) and from there, connecting to the boundary line approximating the 40 fathom (73 m) depth contour in Oregon. Nearshore season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS halibut hotline, 1–800–662–9825. Between Leadbetter Point (46°38.17′ N. lat.) and 46°28.00′ N. lat., recreational fishing for lingcod is prohibited year round seaward of a straight line connecting all of the following points in the order stated: 46°38.17′ N. lat., 124°21.00′ W. long.; and 46°28.00′ N. lat., 124°21.00′ W. long.

* * * * *

(iii) * * *

(B) Between 48°10′ N. lat. (Cape Alava) and 46°16′ N. lat. (Columbia River) (Washington Marine Areas 1–3), there is a 2 cabezon per day bag limit.

(iv) * * *

(A) Between the U.S./Canada border and 48°10′ N. lat. (Cape Alava) (Washington Marine Area 4), recreational fishing for lingcod is open, for 2015, from April 16 through October 15, and for 2016, from April 16 through October 15. Lingcod may be no smaller than 22 inches (61 cm) total length.

(B) Between 48°10′ N. lat. (Cape Alava) and 46°16′ N. lat. (Columbia River) (Washington Marine Areas 1–3), recreational fishing for lingcod is open for 2015, from March 14 through October 17, and for 2016, from March 12 through October 15. Lingcod may be no smaller than 22 inches (56 cm) total length.

* * * * *

(2) * * *

(iii) * * *

(A) *Marine fish.* The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon and other groundfish species. There is a 1 fish sub-bag limit per day for canary rockfish (of the total marine bag limit, no more than 1 fish may be canary) from January 1 through December 31. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length. The minimum size for kelp greenling retained in the Oregon recreational fishery is 10 in (25 cm).

* * * * *

(D) *In the Pacific halibut fisheries.* Retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. Between the Columbia River and Humbug Mountain, during days open to the ''all-depth'' sport halibut fisheries, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod. ''All-depth'' season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS Pacific halibut hotline, 1–800–662–9825.

(E) Taking and retaining yelloweye rockfish is prohibited at all times and in all areas.

* * * * *

(3) * * *

(i) * * *

(A) * * *

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from May 15 through October 31 (shoreward of 20 fm is open), and is closed entirely from January 1 through May 14 and from November 1 through December 31.

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the boundary line approximating the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from April 15 through December 31; and is closed entirely from January 1 through April 14. Closures around Cordell Banks (see paragraph (c)(3)(i)(C) of this section) also apply in this area. Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are listed in § 660.71.

(*4*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from April 1 through December 31; and is closed entirely from January 1 through March 31 (*i.e.* prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified in § 660.71.

(*5*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (c)(3)(v) of this section and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 28 (*i.e.,* prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour from January 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20

fm (37 m) depth contour when the fishing season is open.

* * * * *

(ii) * * *

(A) * * *

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for the RCG Complex is open from May 15 through October 31 (*i.e.,* it's closed from January 1 through May 14 and November 1 through December 31).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for the RCG complex is open from April 15 through December 31 (*i.e.* it's closed from January 1 through April 14).

(*4*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for the RCG complex is open from April 1 through December 31 (*i.e.* it's closed from January 1 through March 31).

* * * * *

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for the RCG complex and lingcod. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish, bronzespotted rockfish and cowcod is prohibited. Within the 10 RCG Complex fish per day limit, no more than 5 may be black rockfish, no more than 3 may be bocaccio, and no more than 3 may be cabezon. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

(iii) * * *

(A) * * *

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for lingcod is open from May 15 through October 31 (*i.e.,* it's closed from January 1 through May 14 and November 1 through December 31).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for lingcod is open from April 15 through December 31 (*i.e.* it's closed from January 1 through April 14).

(*4*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.* it's closed from January 1 through March 31).

* * * * *

(B) *Bag limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. The bag limit is 3 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

(v) * * *

(A) * * *

(*1*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for California scorpionfish is open from May 15 through August 31 (*i.e.,* it's closed from January 1 through May 14 and from September 1 through December 31).

(*2*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for California scorpionfish is open from April 15 through August 31 (*i.e.,* it's closed from January 1 through April 14 and September 1 through December 31).

(*3*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for California scorpionfish is open from April 1 through August 31 (*i.e.,* it's closed from January 1 through March 31 and September 1 through December 31).

(*4*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for California scorpionfish is open from January 1 through December 31.

* * * * *

[FR Doc. 2015–05395 Filed 3–9–15; 08:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 46
Tuesday, March 10, 2015

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0652; FRL 9924–19–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets and General Conformity Budgets for the Scranton/Wilkes-Barre 1997 8-Hour Ozone National Ambient Air Quality Standard Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions consist of an update to the motor vehicle emissions budgets (MVEBs) for nitrogen oxides (NO_X) for the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) maintenance SIP for the Scranton/Wilkes-Barre 1997 8-Hour Ozone NAAQS Maintenance Area (Scranton/Wilkes-Barre Maintenance Area or Area). These SIP revisions also include general conformity budgets for the construction of the Bell Bend Nuclear Power Plant. In addition, these SIP revisions include updated point and area source inventories for NO_X. This rulemaking action proposes to approve the general conformity budgets, the updated MVEBs, and updates to the point and area source inventories, and thereby make them available for transportation conformity purposes, in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 9, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0652 by one of the following methods:

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

B. *Email: powers.marilyn@epa.gov*.

C. *Mail:* EPA–R03–OAR–2014–0652, Marilyn Powers, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0652. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 28, 2014, Pennsylvania submitted formal revisions to its SIP. The SIP revisions consist of updated MVEBs for NO_X for the 1997 8-Hour Ozone NAAQS, general conformity budgets for the construction of the Bell Bend Nuclear Power Plant, and updated point and area source inventories for NO_X.

On July 18, 1997 (62 FR 38856), EPA established the 1997 8-Hour Ozone NAAQS. On April 30, 2004 (69 FR 23858), Lackawanna, Luzerne, Wyoming, and Monroe Counties were designated as nonattainment for the 1997 8-Hour Ozone NAAQS as a part of the Scranton/Wilkes-Barre Nonattainment Area. On June 12, 2007, the Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision which consisted of a maintenance plan, a 2002 base year inventory, and MVEBs for transportation conformity purposes. On November 19, 2007 (72 FR 64948), EPA approved the SIP revision as well as the redesignation request made by PADEP; therefore, the Scranton/Wilkes-Barre Nonattainment Area was redesignated to a maintenance area.

The current SIP-approved MVEBs for the Scranton/Wilkes-Barre Maintenance Area were developed using the Highway Mobile Source Emission Factor Model (MOBILE6.2). On March 2, 2010 (75 FR 9411), EPA published a notice of availability for the Motor Vehicle

Emissions Simulator (MOVES2010) model for use in developing MVEBs for SIPs and for conducting transportation conformity analyses. EPA commenced a two year grace period after which time the MOVES2010 model would have to be used for transportation conformity purposes. The two year grace period was scheduled to end on March 2, 2012. On February 27, 2012 (77 FR 11394), EPA published a final rule extending the grace period for one more year to March 2, 2013 to ensure adequate time for affected parties to have the capacity to use the MOVES model to develop or update the applicable MVEBs in SIPs and to conduct conformity analyses. On September 8, 2010, EPA released MOVES2010a, which is a minor update to MOVES2010 and which is used by Pennsylvania in this SIP revision.

II. Summary of SIP Revision and EPA Analysis

These SIP revisions include an update to the MVEBs for NO_X for the years 2009 (interim year) and 2018 (maintenance year) that were produced using the MOVES2010a model. These SIP revisions also include an update to the point and area source inventories for NO_X. The MVEBs, as well as the point and area source inventories, were not updated for volatile organic compounds (VOCs); therefore certain VOC data in the tables below is listed as not applicable (N/A). A comparison between the previous point source inventory and the updated point source inventory is provided in tons per summer day (tpsd) in Table 1. A comparison between the previous area source inventory and the updated area source inventory is provided for year 2018 because only that year was updated and is provided in Table 2. The previously approved MVEBs from the approved maintenance plan for the Area were produced using the Mobile Source Emission Factor Model (MOBILE6.2). A summary of the updated MOVES-based emissions and previously approved MOBILE6.2-based emissions for the years 2004, 2009, and 2018 is provided in Table 3. Even though there is an emissions increase in the MOVES-based MVEBs, the increase is not due to an increase in emissions from mobile sources. The increase is due to the fact that the MOVES model provides more accurate emissions estimates than MOBILE6.2 and not due to any growth that had not been anticipated in the approved maintenance plan. Also, part of the update of the MVEBs is the addition of a 2 tpsd safety margin for NO_X. The MVEBs that will be utilized for transportation conformity purposes and that include the safety margins are presented in Table 4. These safety margins were added because emissions in the interim (2009) and maintenance (2018) years are significantly less than the attainment (2004) year emissions, which is the year that the Scranton/Wilkes-Barre Maintenance Area attained the standard. Additionally, Table 5 presents the portion of the MVEBs allotted to each metropolitan planning organization (MPO) and regional planning organization (RPO). In the case of the Scranton/Wilkes-Barre Maintenance Area, there are three MPOs/RPOs involved in transportation planning for the counties that are a part of the maintenance area. The Scranton/Wilkes-Barre MPO serves Lackawanna and Luzerne Counties; the Northeastern Pennsylvania Alliance (NEPA) MPO serves Monroe County; and the Northern Tier RPO serves Wyoming County.

In addition to the updated inventories and MVEBs, the SIP revisions also provide general conformity budgets for NO_X. These budgets are established for the construction of the Bell Bend Nuclear Power Plant. Under the general conformity rule, found at 40 CFR 93.153(b)(2), an ozone maintenance area must provide a conformity determination for NO_X or VOCs when a de minimus threshold of 100 tons per year (tpy) of NO_X or 50 tpy of VOCs is projected to be exceeded. The projections provided in this SIP revision do not exceed the de minimus VOC threshold but do exceed the de minimus NO_X threshold. The estimated NO_X emissions projected from the construction of the facility are 167.7 tpy. To accommodate this, the SIP revision adds a 1.0 tpsd NO_X emissions budget to the 2009 and 2018 emissions inventories in the maintenance plan for the Scranton/Wilkes-Barre Maintenance Area, which will more than cover the expected annual emissions of 167.7 tpy. With the addition of the general conformity budgets, the Area's 2009 and 2018 emissions are still less than the attainment year emissions; therefore Pennsylvania asserts and EPA finds that the construction of the Bell Bend Nuclear Power Plant conforms to the Scranton/Wilkes-Barre Maintenance Area's approved maintenance plan. Table 6 provides the general conformity budgets that EPA is proposing for approval. Table 7 presents the emission inventory totals which include the general conformity budgets and the safety margins. The calculations presented in Table 7 show that with the addition of safety margins and general conformity budgets the 2009 and 2018 emissions are still well below the attainment year (2004) emissions. A detailed summary of EPA's review and rationale for proposing to approve these SIP revisions as in accordance with CAA requirements may be found in the Technical Support Documents (TSDs) prepared in support of this proposed rulemaking action and are available on line at *http://www.regulations.gov,* Docket number EPA–R03–OAR–2014–0652.

TABLE 1—SUMMARY OF POINT SOURCE INVENTORY IN TPSD FOR THE SCRANTON/WILKES-BARRE MAINTENANCE AREA

Year	Current		Updated	
	2009	2018	2009	2018
NO_X	9.4	10.5	7.7	5.8

TABLE 2—SUMMARY OF AREA SOURCE INVENTORY IN TPSD FOR THE SCRANTON/WILKES-BARRE MAINTENANCE AREA

Year	Current	Updated
	2018	2018
NO_X	4.4	7.5

TABLE 3—SUMMARY OF MOTOR VEHICLE EMISSIONS IN TPSD FOR THE SCRANTON/WILKES-BARRE MAINTENANCE AREA

Model	MOBILE6.2			MOVES2010a		
Year	2004	2009	2018	2004	2009	2018
VOCs	31.6	23.3	14.3	N/A	N/A	N/A
NO_X	66.1	46.9	21.6	77.0	57.3	28.5

TABLE 4—REVISED MVEBS IN TPSD FOR THE SCRANTON/WILKES-BARRE MAINTENANCE AREA

Year	2009	2018
VOCs	N/A	N/A
NO_X	59.3	30.5

TABLE 5—MVEBS FOR EACH MPO IN TPSD FOR THE SCRANTON/WILKES-BARRE MAINTENANCE AREA

MPO	Scranton/Wilkes-Barre MPO		NEPA MPO		Northern Tier RPO	
Year	2009	2018	2009	2018	2009	2018
VOCs	17.99	11.80	6.19	4.64	0.99	0.54
NO_X	42.67	21.90	14.10	7.10	2.50	1.60

TABLE 6—GENERAL CONFORMITY BUDGETS FOR THE CONSTRUCTION OF THE BELL BEND NUCLEAR POWER PLANT IN TPSD

Year	Emissions	
	2009	2018
NO_X	1.0	1.0

TABLE 7—COMPARISON OF 2004, 2009, AND 2018 EMISSIONS AFTER RESERVING THE SAFETY MARGINS AND GENERAL CONFORMITY BUDGETS

Year	2004	2009	2004–2009	2018	2004–2018
Total Emissions	98.9	80.1	18.8	49.5	49.4
Emissions with addition of Safety Margins and General Conformity Budgets	98.9	83.1	15.8	52.5	46.4

III. Proposed Action

EPA is proposing to approve Pennsylvania's SIP revision submittal from May 28, 2014 to update the MVEBs for the Scranton/Wilkes-Barre Maintenance Area to reflect the use of the MOVES model. EPA is also proposing to approve the updates to the point and area source inventories. Additionally, EPA is proposing approval of the general conformity budgets for the construction of the Bell Bend Nuclear Power Plant. EPA is approving these SIP revisions because it will allow the Scranton/Wilkes-Barre Maintenance Area to continue to maintain the 1997 8-Hour Ozone NAAQS. Our in depth review of the SIP revisions leads EPA to conclude that the updated MVEBs meet the adequacy requirements set forth in 40 CFR 93.118(e)(4)(i)–(vi), and that the updated MVEBs have been correctly calculated to reflect the use of the MOVES model as explained in our TSDs. EPA also concludes that the general conformity budgets meet all requirements of the general conformity rule found at 40 CFR part 93, subpart B as explained in our TSDs. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to the update of the MVEBs, point and area source inventories, as well as the general conformity budgets for the Scranton/Wilkes-Barre Maintenance Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: February 20, 2015.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2015–05434 Filed 3–9–15; 08:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0275; A–1–FRL–9924–18–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Transportation Conformity

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island on February 21, 2014. This revision includes a regulation adopted by Rhode Island that establishes procedures to follow for transportation conformity determinations. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The intended effect of this action is to propose to approve Rhode Island's transportation conformity regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before April 9, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2014–0275 by one of the following methods:

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

2. *Email: arnold.anne@epa.gov.* Fax: (617) 918–0047.

3. *Mail:* EPA–R01–OAR–2014–0275, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anne Arnold, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1047, fax number (617) 918–1047, email *arnold.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 4, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2015–05259 Filed 3–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0423; FRL 9924–23–Region 3]

Approval and Promulgation of Implementation Plans; West Virginia; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; supplemental.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a supplement to its proposed approval of a State Implementation Plan (SIP) revision submitted by the State of West Virginia (West Virginia) through the West Virginia Department of Environmental Protection (WVDEP). West Virginia's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals established for regional haze and a determination of the adequacy of the state's existing implementation plan addressing regional haze (regional haze SIP). EPA's proposed approval of West Virginia's periodic report on progress towards reasonable progress goals and determination of adequacy of the state's regional haze SIP was published in the

Federal Register on March 14, 2014. This supplemental proposal addresses the potential effects on our proposed approval from the April 29, 2014 decision of the United States Supreme Court (Supreme Court) remanding to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) EPA's Cross-State Air Pollution Rule (CSAPR) for further proceedings and the D.C. Circuit's decision to lift the stay of CSAPR.

DATES: Comments must be received on or before April 9, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0423, by one of the following methods:

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

B. *Email: powers.marilyn@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0652, Marilyn Powers, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0423. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulation.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of West Virginia's submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA previously proposed to approve a SIP revision by West Virginia reporting on progress made in the first implementation period towards meeting the reasonable progress goals for Class I areas in and outside West Virginia that are affected by emissions from West Virginia's sources.[1] 79 FR 14460 (March 14, 2014). This progress report SIP and accompanying cover letter also included a determination that West Virginia's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018.

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the reasonable progress goals for each mandatory Class I area within the state and in each mandatory Class I area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP revision is due five years after submittal of the initial regional haze SIP. WVDEP submitted its regional haze SIP on June 18, 2008 and submitted its progress report SIP revision on April 30, 2013. EPA proposed to find that the progress report SIP revision satisfied the requirements of 40 CFR 51.308(g) and (h) in a notice of proposed rulemaking (NPR) published in 2014. 79 FR 14460. This notice supplements EPA's prior NPR by more fully explaining and soliciting comment on the basis for our proposed approval.

II. Summary of West Virginia's Progress Report SIP Revision and the NPR

On April 30, 2013, West Virginia submitted a SIP revision describing the progress made towards the reasonable progress goals of Class I areas in and outside West Virginia that are affected by emissions from West Virginia's sources, in accordance with requirements in the Regional Haze Rule.[2] This progress report SIP also included an assessment of whether West Virginia's existing regional haze SIP is sufficient to allow it and other nearby states with Class I areas to achieve the reasonable progress goals by the end of the first planning period.

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. In the NPR, EPA proposed to approve the SIP as adequately addressing each element under 40 CFR 51.308(g). The seven elements and EPA's proposed conclusions in the NPR are briefly summarized below.

The provisions in 40 CFR 51.308(g) require progress report SIPs to include a description of the status of measures in the regional haze implementation plan; a summary of the emissions reductions achieved; an assessment of the visibility conditions for each Class

[1] West Virginia has two Class I areas within its borders: Dolly Sods Wilderness Area (Dolly Sods) and Otter Creek Wilderness Area (Otter Creek). West Virginia states in the progress report SIP that West Virginia sources were also identified, through an area of influence modeling analysis based on back trajectories, as potentially impacting six Class I areas in five neighboring states: Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face in Virginia; Linville Gorge in North Carolina; Mammath Cave National Park in Kentucky; and Shenandoah National Park in Virginia.

[2] EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713) known as the Regional Haze Rule. The Regional Haze Rule revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. *See* 40 CFR 51.308 and 51.309.

I area in the state; an analysis of the changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded visibility improvement progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the regional haze implementation plan to enable States to meet reasonable progress goals; and a review of the state's visibility monitoring strategy. As explained in detail in the NPR, EPA proposed that West Virginia's progress report SIP addressed each element and therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP revision, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. In its progress report SIP, West Virginia determined that its regional haze SIP is sufficient to enable it and nearby states to achieve the reasonable progress goals for Class I areas affected by West Virginia's sources. The State accordingly provided EPA with a negative declaration that further revision of the existing regional haze implementation plan was not needed at this time. *See* 40 CFR 51.308(h)(1). As explained in detail in the NPR, EPA proposed to determine that West Virginia had adequately addressed 40 CFR 51.308(h) because the visibility data trends at the Class I areas impacted by West Virginia's sources and the emissions trends of the largest emitters of visibility-impairing pollutants both indicate that the reasonable progress goals for 2018 for these areas will be met or exceeded. Therefore, in our NPR, EPA proposed to approve West Virginia's progress report SIP as meeting the requirements of 40 CFR 51.308(g) and (h).

III. Impact of CAIR and CSAPR on West Virginia's Progress Report

Decisions by the Courts regarding EPA rules addressing the interstate transport of pollutants have had a substantial impact on EPA's review of the regional haze SIPs of many states. In 2005, EPA issued regulations allowing states to rely on the Clean Air Interstate Rule (CAIR) to meet certain requirements of the Regional Haze Rule. *See* 70 FR 39104 (July 6, 2005).[3] A number of states, including West Virginia, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded to EPA in 2008, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR.[4] 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of Dec. 30, 2011, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302.

EPA finalized a limited approval and limited disapproval of West Virginia's regional haze SIP on March 23, 2012, 77 FR 16937, and issued a Federal Implementation Plan (FIP) shortly thereafter to address the deficiencies identified in our limited disapproval of West Virginia and other states' regional haze plans. 77 FR 33642 (June 7, 2012). In our FIP, we relied on CSAPR to meet certain regional haze requirements notwithstanding that it was stayed at the time. As we explained, the determination that CSAPR will provide for greater reasonable progress than BART is based on a forward looking projection of emissions and any year up until 2018 would have been an acceptable point of comparison. *Id.* at 33647. When we issued this FIP, we anticipated that the requirements of CSAPR would be implemented prior to 2018. *Id.* Following these EPA actions, however, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR and ordering EPA to continue administering CAIR pending the promulgation of a valid replacement. On April 29, 2014, the Supreme Court reversed the D.C. Circuit's decision on CSAPR and remanded the case to the D.C. Circuit for further proceedings. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). After the Supreme Court decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion. Order of October 23, 2014, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. 79 FR 71663 (December 3, 2014) (interim final rulemaking).[5]

Throughout the litigation described above, EPA has continued to implement CAIR. Thus, at the time that West Virginia submitted its progress report SIP revision, CAIR was in effect, and the State included an assessment of the emission reductions from the implementation of CAIR in its report. The progress report discussed the status of the litigation concerning CAIR and CSAPR, but because CSAPR was not at that time in effect, West Virginia did not take emissions reductions from CSAPR into account in assessing its regional haze implementation plan. For the same reason, in our NPR, EPA did not assess at that time the impact of CSAPR or our FIP on the ability of West Virginia and its neighbors to meet their reasonable progress goals.

The purpose of this supplemental proposal is to seek comment on the effect of the D.C. Circuit's October 23, 2014 order and the effect of the status of CAIR and CSAPR on our assessment of West Virginia's progress report SIP and its determination that its existing implementation plan need not be revised at this time.

Given the complex background summarized above, EPA is proposing to determine that West Virginia appropriately took CAIR into account in its progress report SIP in describing the status of the implementation of measures included in its regional haze SIP and in summarizing the emissions reductions achieved. CAIR was in effect during the 2008–2013 period addressed by West Virginia's progress report. EPA approved West Virginia's regulations implementing CAIR as part of the West Virginia SIP in 2009, 74 FR 38536 (August 4, 2009), and neither West Virginia nor EPA has taken any action to remove CAIR from the West Virginia

[3] CAIR required certain states like West Virginia to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter ($PM_{2.5}$) and ozone. *See* 70 FR 25162 (May 12, 2005).

[4] CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. *See* 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 $PM_{2.5}$ and ozone NAAQS and 2006 $PM_{2.5}$ NAAQS.

[5] Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

SIP. *See* 40 CFR 52.2520(c). Therefore, West Virginia appropriately evaluated and relied on CAIR reductions to demonstrate the State's progress towards meeting its reasonable progress goals.[6]

The State's progress report also demonstrated Class I areas in other states impacted by West Virginia sources were on track to meet their reasonable progress goals as discussed in the NPR. EPA's intention in requiring the progress reports pursuant to 40 CFR 51.308(g) was to ensure that emission management measures in the regional haze SIPs are being implemented on schedule and that visibility improvement appears to be consistent with the reasonable progress goals. 64 FR 35713, 35747 (July 1, 1999). As the D.C. Circuit only recently lifted the stay on CSAPR, CAIR was in effect in West Virginia through 2014, providing the emission reductions relied upon in West Virginia's regional haze SIP. Thus, West Virginia appropriately took into account CAIR reductions in assessing the implementation of measures in the regional haze SIP for the 2008–2013 timeframe, and EPA believes that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of West Virginia's progress report demonstrating progress up to the end of 2014 as CAIR remained effective until that date, pursuant to 40 CFR 51.308(g) and (h).

In addition, EPA also believes reliance upon CAIR reductions to show West Virginia's progress towards meeting its RPGs from 2008–2013 is consistent with our prior actions. During the continued implementation of CAIR per the direction of the D.C. Circuit through October 2014, EPA has approved redesignations of areas to attainment of the 1997 $PM_{2.5}$ NAAQS in which states relied on CAIR as an ''enforceable measure.'' *See* 77 FR 76415 (December 28, 2012) (redesignation of Huntingdon-Ashland, West Virginia); 78 FR 59841 (September 30, 2013) (redesignation of Wheeling, West Virginia); and 78 FR 56168 (September 12, 2013) (redesignation of Parkersburg, West Virginia). While EPA did previously state in a rulemaking action on the Florida regional haze SIP that a five year progress report may be the appropriate time to address changes, if necessary, for reasonable progress goal demonstrations and long term strategies, EPA does not believe the remanded status of CAIR or the imminent implementation of its replacement CSAPR at this time impacts the adequacy of the West Virginia regional haze SIP to address reasonable progress from 2008 through 2013 or even through 2014 or to meet requirements in 40 CFR 51.308(g) and (h) because CAIR was implemented during the time period evaluated by West Virginia for its progress report. *See generally* 77 FR 73369, 73371 (December 10, 2012) (proposed action on Florida haze SIP).

EPA's December 3, 2014 interim final rule sunsets CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements. 79 FR at 71665. As noted above, EPA's June 7, 2012 FIP replaced West Virginia's reliance upon CAIR for regional haze requirements with reliance on CSAPR to meet those requirements for the long-term. Because CSAPR should result in greater emissions reductions of SO_2 and NO_X than CAIR throughout the affected region including in West Virginia and neighboring states, EPA expects West Virginia to maintain and continue its progress towards its reasonable progress goals for 2018 through continued, and additional, SO_2 and NO_X reductions. *See generally* 76 FR 48208 (promulgating CSAPR). Although the implementation of CSAPR was tolled for three years, the Rule is now being implemented, and by 2018, the end of the first regional haze implementation period, CSAPR will reduce emissions of SO_2 and NO_X from EGUS in West Virginia by the same amount assumed by EPA when it issued the CSAPR FIP for West Virginia in June 2012. *See* 76 FR 48208 (CSAPR promulgation) and 77 FR 33642 (limited disapproval of West Virginia regional haze SIP and FIP for West Virginia for certain regional haze requirements). *See* February 11, 2015 Memorandum to File in Support of the Proposed Approval of West Virginia's Regional Haze Progress Report, which is available in the docket for this rulemaking action and available online at *www.regulations.gov*.

At the present time, the requirements of CSAPR apply to sources in West Virginia under the terms of a FIP, because West Virginia to date has not incorporated the CSAPR requirements into its SIP. The Regional Haze Rule requires an assessment of whether the current ''implementation plan'' is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR 51.308(g)(6). The term ''implementation plan'' is defined for purposes of the Regional Haze Rule to mean ''any [SIP], [FIP], or Tribal Implementation Plan.'' 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP as well as those in a state's regional haze SIP in assessing the adequacy of the ''existing implementation plan'' under 40 CFR 51.308(g)(6) and (h). Because CSAPR will ensure the control of SO_2 and NO_X emissions reductions relied upon by West Virginia and other states in setting their reasonable progress goals beginning in January 2015 at least through the remainder of the first implementation period in 2018, EPA is proposing to approve West Virginia's finding that there is no need for revision of the existing implementation plan for West Virginia to achieve the reasonable progress goals for the Class I areas in West Virginia and in nearby states impacted by West Virginia sources.

We note that the Regional Haze Rule provides for periodic evaluation and assessment of a state's reasonable progress towards achieving the national goal of natural visibility conditions by 2064 for CAA section 169A(b). The regional haze regulations at 40 CFR 51.308 required states to submit initial SIPs in 2007 providing for reasonable progress towards the national goal for the first implementation period from 2008 through 2018. 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(f), SIP revisions reassessing each state's reasonable progress towards the national goal are due every ten years after that time. For such subsequent regional haze SIPs, 40 CFR 51.308(f) requires each state to reassess its reasonable progress and all the elements of its regional haze SIP required by 40 CFR 51.308(d), taking into account improvements in monitors and control technology, assessing the state's actual progress and effectiveness of its long term strategy, and revising reasonable progress goals as necessary. 40 CFR 51.308(f)(1)–(3). Therefore, West Virginia has the opportunity to reassess its reasonable progress goals and the adequacy of its regional haze SIP, including its reliance upon CAIR and CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze SIP to cover the implementation period from 2018 through 2028. As discussed in the NPR and in West Virginia's progress report, emissions of SO_2 from EGUs are far below original projections for 2018. In addition, the visibility data provided by West Virginia show the Class I areas impacted by West Virginia sources are all currently on track to achieve their

[6] EPA discussed in the NPR the significance of reductions in SO_2 as West Virginia and the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) identified SO_2 as the largest contributor pollutant to visibility impairment in West Virginia specifically and in the VISTAS region generally.

reasonable progress goals.[7] EPA is seeking comment only on the issues raised in this supplemental proposal and is not reopening for comment other issues addressed in its prior proposal.

IV. Summary of Reproposal

In summary, EPA proposes to approve West Virginia's progress report SIP revision submitted on April 30, 2013. EPA solicits comments on this supplemental proposal, but only with respect to the specific issues raised in this notice concerning our interpretation of the term ''implementation plan'' in the Regional Haze Rule, and our agreement with West Virginia's assessment that the current regional haze SIP for West Virginia in combination with our CSAPR FIP need not be revised at this time to achieve the established reasonable progress goals for West Virginia and other nearby states in light of the status of CAIR through 2014 and CSAPR starting in 2015. EPA is not reopening the comment period on any other aspect of the March 14, 2014 NPR as an adequate opportunity to comment on those issues has already been provided. The purpose of this supplemental proposal is limited to review of the West Virginia progress report in light of the Supreme Court's decision in *EME Homer City* and the D.C. Circuit's recent Order lifting the stay on CSAPR. This supplemental proposal reflects EPA's desire for public input into how it should proceed in light of those decisions when acting on the pending progress report, in particular the requirements that the State assess whether the current implementation plan is sufficient to ensure that reasonable progress goals are met. 40 CFR 51.308(g)(6) and (h).[8]

[7] Many coal-fired EGUs have announced plans to deactivate by April 2015 including several plants in West Virginia, including Albright, Kammer, Kanawha River, Phillip Sporn and Rivesville, as well as plants or individual units at plants in states neighboring West Virginia including Glen Lynn, Walter C. Beckjord, Muskingum River, Elrama, Clinch River, Eastlake, Ashtabula, and Big Sandy. Additional SO_2 reductions will likely result from the deactivations of these coal-fired EGUs. For a listing of EGUs planning to deactivate in the states which are part of PJM Interconnection, L.L.C., a regional transmission organization which coordinates the movement of wholesale electricity within states including West Virginia, see *http://www.pjm.com/planning/generation-deactivation/gd-summaries.aspx.*

[8] EPA previously determined that CSAPR (like CAIR before it) was ''better than BART'' because it would achieve greater reasonable progress toward the national goal than would source-specific BART. 77 FR 33642 (June 7, 2012). EPA is not taking comment in this supplemental proposal on whether the West Virginia implementation plan meets the BART requirements or whether CSAPR is an alternative measure to source-specific BART in accordance with 40 CFR 52.301(e)(2).

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR part 52

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

Dated: March 2, 2015.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2015–05468 Filed 3–9–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 141219999–5174–01]

RIN 0648–BE74

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; 2015 Tribal Fishery for Pacific Whiting

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule for the 2015 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This proposed rule would allocate 17.5% of the U.S. Total Allowable Catch of Pacific whiting for 2015 to Pacific Coast Indian tribes that have a Treaty right to harvest groundfish, and would revise the regulation authorizing NMFS to reapportion unused allocation from the tribal allocation to the non-tribal sectors earlier in the fishing season.

DATES: Comments on this proposed rule must be received no later than April 9, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0017, 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-2015-0017, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, Attn: Miako Ushio.

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 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Miako Ushio (West Coast Region, NMFS), phone: 206–526–4644, and email: *miako.ushio@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov*. Background information and documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/*.

Background

The regulations at 50 CFR 660.50(d) establish the process by which the tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish Fishery Management Plan (FMP) request new allocations or regulations specific to the tribes, in writing, during the biennial harvest specifications and management measures process. The regulations state that ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The procedures NOAA employs in implementing tribal treaty rights under the FMP, were designed to provide a framework process by which NOAA Fisheries can accommodate tribal treaty rights by setting aside appropriate amounts of fish in conjunction with the Pacific Fishery Management Council (Council) process for determining harvest specifications and management measures.

Since the FMP has been in place, NMFS has been allocating a portion of the U.S. total allowable catch (TAC) (called Optimum Yield (OY) or Annual Catch Limit (ACL) prior to 2012) of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

There are four tribes that can participate in the tribal whiting fishery: The Hoh, Makah, Quileute, and Quinault. The Hoh tribe has not expressed an interest in participating to date. The Quileute Tribe and Quinault Indian Nation have expressed interest in commencing participation in the whiting fishery. However, to date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting. They have harvested whiting every year since 1996 using midwater trawl gear. Tribal allocations have been based on discussions with the tribes regarding their intent for those fishing years. Table 1 below provides a history of U.S. OYs and annual tribal allocation in metric tons (mt).

TABLE 1—U.S. OPTIMUM YIELDS (OYS) AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS (MT)

Year	U.S. OY	Tribal allocation
2005	269,069 mt	35,000 mt.
2006	269,069 mt	32,500 mt.
2007	242,591 mt	35,000 mt.
2008	269,545 mt	35,000 mt.
2009	135,939 mt	50,000 mt.
2010	193,935 mt	49,939 mt.
2011	290,903 mt	66,908 mt.
2012	186,037 mt TAC [1]	48,556 mt.
2013	269,745 mt TAC	63,205 mt.
2014	316,206 mt TAC	55,336 mt.

[1] Beginning in 2012, the United States started using the term Total Allowable Catch, based on the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting.

In 2009, NMFS, the states of Washington and Oregon, and the Treaty tribes started a process to determine the long-term tribal allocation for Pacific whiting; however, no long-term allocation has been determined. In order to ensure Treaty tribes continue to receive allocations, this rulemaking proposes the 2015 tribal allocation of Pacific whiting. This is an interim allocation not intended to set precedent for future allocations.

Tribal Allocation for 2015

In exchanges between NMFS and the tribes during December of 2014, the Makah tribe indicated their intent to participate in the tribal whiting fishery in 2015. The Makah tribe has requested 17.5% of the U.S. TAC. The Quileute tribe and the Quinault Indian Nation indicated that they are not planning to participate in 2015. NMFS proposes a tribal allocation that accommodates the Makah request, specifically 17.5% of the U.S. TAC. NMFS believes that the current scientific information regarding the distribution and abundance of the coastal Pacific whiting stock suggests that the 17.5% is within the range of the tribal treaty right to Pacific whiting.

The Joint Management Committee (JMC), which was established pursuant to the Agreement between the United States and Canada on Pacific Hake/Whiting (the Agreement), is anticipated to recommend the coastwide and corresponding U.S./Canada TACs no later than March 25, 2015. The U.S. TAC is 73.88% of the coastwide TAC. Until this TAC is set, NMFS cannot propose a specific amount for the tribal allocation. The whiting fishery typically begins in May, and the final rule establishing the whiting specifications for 2015 is anticipated to be published by early May. Therefore, in order to provide for public input on the tribal allocation, NMFS is issuing this proposed rule without the final 2015 TAC. However, to provide a basis for public input, NMFS is describing a range of potential tribal allocations in this proposed rule, applying the proposed approach to determining the tribal allocation to a range of potential TACs derived from historical experience.

In order to project a range of potential tribal allocations for 2015, NMFS is applying its proposed approach to determining the tribal allocation to the range of U.S. TACs over the last 10 years, 2005 through 2014 (plus or minus 25% to capture variability in stock abundance). The range of TACs in that time period was 135,939 mt (2009) to 316,206 mt (2014). Applying the 25% variability results in a range of potential TACs of 101,954 mt to 395,258 mt for 2015. Therefore, using the proposed allocation rate of 17.5%, the potential range of the tribal allocation for 2015 would be between 17,842 and 69,170 mt.

This proposed rule would also modify the regulatory mechanism whereby NMFS may, upon determining based on

discussion with the participating tribes and consideration of available catch information that some portion of the tribal allocation will not be used during the fishing year, reapportion that part to the non-tribal sectors of the whiting fishery. Currently, regulations at 50 CFR 660.131(h) call for reapportionment to occur on September 15 or as soon as practicable thereafter. NMFS has reapportioned Pacific whiting from the tribal sector to the non-tribal sectors in four of the past five years, after consultation with the participating (Makah) tribe to ensure such reapportionments will not limit tribal harvest opportunities. The timing of reapportionment in the regulation was intended to allow for the tribal fishery to proceed to the point where it could determine whether the full allocation was likely to be used, while providing time for the non-treaty sectors to catch the reallocated fish prior to the onset of winter weather conditions. In some years, the participating tribes may determine prior to September 15 that they will not use a portion of the tribal allocation. In late 2014, representatives of the Makah expressed an interest in possibly supporting earlier reapportionments to be used in situations such as this, and NMFS proposes amending regulations via this rulemaking to allow for that possibility.

This proposed rule would be implemented under authority of Section 305(d) of the Magnuson-Stevens Act, which gives the Secretary responsibility to ''carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act.'' With this proposed rule, NMFS, acting on behalf of the Secretary, would ensure that the FMP is implemented in a manner consistent with treaty rights of four Northwest tribes to fish in their ''usual and accustomed grounds and stations'' in common with non-tribal citizens. *United States* v. *Washington,* 384 F. Supp. 313 (W.D. 1974).

Classification

NMFS has preliminarily determined that the management measures for the 2015 Pacific whiting tribal fishery are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making the final determination, NMFS will take into account the data, views, and comments received during the comment period.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

As required by section 603 of the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was prepared. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from NMFS.

Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. This rulemaking affects vessels engaged in small businesses. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide (79 FR 33647). For marinas and charter/party boats, a small business is defined as one with annual receipts, not in excess of $7.5 million. For purposes of rulemaking, NMFS is also applying the $20.5 million standard to catcher processors (C/Ps) because whiting C/Ps are involved in the commercial harvest of finfish. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Small organizations. The RFA defines small organizations as any nonprofit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

This proposed rule would allocate 17.5% of the U.S. Total Allowable Catch of Pacific whiting for 2015 to Pacific Coast Indian tribes that have a Treaty right to harvest groundfish. This allocation rule was used for the 2014 fishery. The entities that this rulemaking directly impacts are the Makah Tribe, and the following in the non-tribal fisheries: Quota share (QS) holders in the Shorebased IFQ Program—Trawl Fishery; vessels in the Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery; and the Catcher/Processor (C/P) Coop Whiting At-sea Trawl Fishery. These entities determine how much of their allocations are to be actually fished and what vessels are allowed to fish their allocations. This rulemaking proposes to allocate fish to the Makah Tribe. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size of each tribe), the Makah Tribe is considered a small entity.

Currently, the Shorebased IFQ Program is composed of 149 Quota Share permits/accounts, 152 vessel accounts, and 43 first receivers. The MS fishery is currently composed of a single coop, with six mothership processor permits, and 34 Mothership/Catcher-Vessel (MS/CV) endorsed permits, with three permits each having two catch history assignments. The C/P Program is composed of 10 C/P permits owned by three companies that have formed a single coop.

Many companies participate in two sectors and some participate in all three sectors. All of the 34 mothership catch history assignments are associated with a single mothership coop and all ten of the catcher-processor permits are associated with a coop. These coops are considered large entities from several perspectives; they have participants that are large entities, whiting coop revenues exceed or have exceeded the $20.5 million, or coop members are connected to American Fishing Act permits or coops where the NMFS Alaska Region has determined they are all large entities (79 FR 54597; September 12, 2014). After accounting for cross participation, multiple QS account holders, and affiliation through ownership, NMFS estimates that there are 103 non-tribal entities directly affected by these proposed regulations, 89 of which are considered ''small'' businesses.

For the years 2010 to 2014, the total whiting fishery (tribal and non-tribal) averaged harvests of approximately 183,000 mt annually, worth over $43 million in ex-vessel revenues. As the U.S. whiting TAC has been highly variable during this time, so have harvests. In the past five years, harvests have ranged from 160,000 mt (2012) to 264,000 mt (2014). Ex-vessel revenues have also varied. Annual ex-vessel revenues have ranged from $30 million (2010) to $65 million (2013). Total whiting harvest in 2013 was approximately 233,000 mt worth $65 million, at an ex-vessel price of $280 per mt. Ex-vessel revenues in 2014 were over $64 million with a harvest of 264,000 tons and ex-vessel price of $240 per mt. The prices for whiting are largely determined by the world market

for groundfish, because most of the whiting harvested is exported. Note that the use of ex-vessel values does not take into account the wholesale or export value of the fishery or the costs of harvesting and processing whiting into a finished product. NMFS does not have sufficient information to make a complete assessment of these values.

The Pacific whiting fishery harvests almost exclusively Pacific whiting. While bycatch of other species occurs, the fishery is constrained by bycatch limits on key overfished species. This is a high-volume fishery with low ex-vessel prices per pound. This fishery also has seasonal aspects based on the distribution of whiting off the west coast.

Since 1996, there has been a tribal allocation of the U.S. whiting TAC. Tribal fisheries undertake a mixture of fishing activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests have been delivered to both shoreside plants and at-sea processors. These processing facilities also process fish harvested by non-tribal fisheries.

This proposed rule would allocate 17.5% of Pacific whiting to the tribal fishery, and would ultimately determine how much is left for allocation to the non-tribal sectors, which are the Shorebased IFQ Program—Trawl Fishery; Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery; and C/P Coop Program—Whiting At-sea Trawl Fishery. The amount of whiting allocated to both the tribal and non-tribal sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC. After accounting for these deductions, the remainder is the commercial harvest guideline. This guideline is then allocated among the three non-tribal sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

The effect of the tribal allocation on non-tribal fisheries will depend on the level of tribal harvests relative to their allocation and the reapportioning process. Total whiting harvest in 2014 was approximately 264,000 mt worth $64 million, at an ex-vessel price of $240 per mt. Assuming a similar harvest level and ex-vessel price in 2015, if the tribe were to harvest 17.5%, the approximate value of that harvest would be $11 million. If the tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested tribal amounts to the non-tribal fleets. For example, last year, NMFS executed two such reapportionments. In the first reapportionment, the best available information through September 12, 2014 indicated that at least 25,000 mt of the tribal allocation would not be harvested by December 31, 2014. To allow for full utilization the resource, NMFS reapportioned 25,000 mt to the shorebased IFQ Program, C/P Coop and MS Coop in proportion to each sector's original allocation on September 12, 2014. Reapportioning this amount was expected to allow for greater attainment of the OY while not limiting tribal harvest opportunities for the remainder of the year. Subsequently, the C/P Coop, MS Coop, and Shorebased IFQ sectors expressed an interest in additional harvest of Pacific whiting via written notice to NMFS.

In the second reapportionment, the best available information on October 22, 2014, indicated that an additional 20,000 mt of the tribal allocation would not be harvested by December 31, 2014. To allow for full utilization the resource, NMFS reapportioned an additional 20,000 mt of the non-tribal sector and distributed to the C/P Coop and MS Coop in proportion to each sector's original allocation on October 23, 2014. The Shorebased IFQ Program's share of the second reapportionment was not distributed due to concerns regarding Chinook salmon catch.

Reapportioning a combined total of 45,000 mt was expected to allow for greater attainment of the OY while not limiting tribal harvest opportunities for the remainder of the year. The revised Pacific whiting allocations for 2014 were: Tribal 10,336 mt, C/P Coop 103,486 mt; MS Coop 73,049 mt; and Shorebased IFQ Program 127,835 mt.

NMFS considered two alternatives for this action: The ''No-Action'' and the ''Proposed Action.'' NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Under the Proposed Action alternative, NMFS proposes to set the tribal allocation percentage at 17.5%, as requested by the tribes. This would yield a tribal allocation of between 17,842 and 69,170 mt for 2015. Consideration of a percentage lower than the tribal request of 17.5% is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights. A higher percentage would arguably also be within the scope of the treaty right. However, a higher percentage would unnecessarily limit the non-tribal fishery.

Under the no-action alternative, NMFS would not make an allocation to the tribal sector. This alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2015, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for allocation in 2015, this alternative received no further consideration.

NMFS believes this proposed rule would not adversely affect small entities. This reapportioning process allows unharvested tribal allocations of whiting, fished by small entities, to be fished by the non-tribal fleets, benefitting both large and small entities. Nonetheless, NMFS has prepared this IRFA and is requesting comments on this conclusion. See **ADDRESSES**.

There are no reporting, recordkeeping or other compliance requirements in the proposed rule.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the

destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006, concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ''no jeopardy'' conclusion. NMFS also reaffirmed its prior determination that implementation of the Groundfish PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. The effect of the Pacific whiting fishery on protected Chinook salmon is currently under ESA Section 7 consultation to reconsider this ''no jeopardy'' conclusion. The trigger for this reinitiation of consultation was the 2014 Pacific whiting fishery exceeding the Chinook salmon incidental take statement from the 1999 Biological Opinion by a level similar to 2005. NMFS has considered the effects of this proposed rule on listed salmonids, consistent with ESA Section 7(a)(2) and 7(d). The proposed action is not likely to adversely affect, or would not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat.

Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

Steller sea lions and humpback whales are protected under the Marine Mammal Protection Act (MMPA). Impacts resulting from fishing activities proposed in this rulemaking are discussed in the FEIS for the 2015–2016 groundfish fishery specifications and management measures. West coast pot fisheries for sablefish are considered Category II fisheries under the MMPA's List of Fisheries, indicating occasional interactions. All other west coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. MMPA section 101(a)(5)(E) requires that NMFS authorize the taking of ESA-listed marine mammals incidental to U.S. commercial fisheries if it makes the requisite findings, including a finding that the incidental mortality and serious injury from commercial fisheries will have negligible impact on the affected species or stock. As noted above, NMFS concluded in its biological opinion for the groundfish fisheries that these fisheries were not likely to jeopardize Steller sea lions or humpback whales. The eastern distinct population segment of Steller sea lions was delisted under the ESA on November 4, 2013 (78 FR 66140). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for three years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553).

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this rulemaking.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: March 3, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2015 will be 17.5% of the U.S. TAC.

* * * * *

■ 3. In § 660.131, revise paragraph (h) to read as follows:

§ 660.131 Pacific whiting fishery management measures.

* * * * *

(h) *Reapportionment of pacific whiting.* (1) Upon receipt of written notice to the Regional Administrator from the tribe(s) participating in the fishery that they do not intend to use a portion of the tribal allocation, the Regional Administrator may, no earlier than 7 days following notice to other treaty tribes with rights to whiting, reapportion any remainder to the other sectors of the trawl fishery as soon as practicable after receiving such notice. If no such reapportionment has occurred prior to September 15 of the fishing year, the Regional Administrator will, based on discussions with representatives of the tribes participating in the Pacific whiting fishery for that fishing year, consider the tribal harvests to date and catch projections for the remainder of the year relative to the tribal allocation of Pacific whiting, as specified at § 660.50. That portion of the tribal allocation that the Regional Administrator determines will not be used by the end of the fishing year may be reapportioned to the other sectors of the trawl fishery on September 15 or as soon as practicable thereafter. Subsequent reapportionments may be made based on subsequent determinations by the Regional Administrator based on the factors described above in order to ensure full utilization of the resource. However, no reapportionments will

occur after December 1 of the fishing year.

(2) NMFS will reapportion unused tribal allocation to the other sectors of the trawl fishery in proportion to their initial allocations.

(3) The reapportionment of surplus whiting will be made effective immediately by actual notice under the automatic action authority provided at § 660.60(d)(1).

(4) Estimates of the portion of the tribal allocation that will not be used by the end of the fishing year will be based on the best information available to the Regional Administrator.

[FR Doc. 2015–05384 Filed 3–9–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 46
Tuesday, March 10, 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–2015–0004]

Notice of Request for Reinstatement of a Previously Approved Information Collection: Animal Disposition Reporting

AGENCY: Food Safety and Inspection Service, 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, the Food Safety and Inspection Service (FSIS) is announcing its intention to reinstate a previously approved information collection for Animal Disposition Reporting.

DATES: Submit comments on or before May 11, 2015.

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, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, 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–2015–0004. 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 Patriots 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: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: *Title:* Animal Disposition Reporting.

Type of Request: Reinstatement of a previously approved information collection.

OMB Control Number: 0583–0139.

Expiration Date: 6/30/2013.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture (7 CFR 2.18, 2.55) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). FSIS protects the public by verifying that meat and poultry products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS also inspects exotic animals and rabbits under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, *et seq.*).

FSIS is requesting reinstatement of a previously approved information collection that addresses paperwork requirements for the Animal Disposition Reporting entered into the Public Health Information System. The previous OMB approval for this collection, formerly known as the electronic Animal Disease Reporting System, expired on June 30, 2013.

In accordance with 9 CFR 320.6, 381.180, 352.15, and 354.91, establishments that slaughter meat, poultry, exotic animals, and rabbits are required to maintain certain records regarding their business operations and to report this information to the Agency as required. Poultry slaughter establishments complete FSIS Form 6510–7 after each shift and submit it to the Agency. Other slaughter establishments provide their business records to FSIS to report the necessary information.

FSIS uses this information to plan inspection activities, to develop sampling plans, to target establishments for testing, to develop the Agency budget, and to develop reports to Congress. FSIS also provides this data to other USDA agencies, including the National Agricultural Statistics Service (NASS), the Animal and Plant Health Inspection Service (APHIS), the Agricultural Marketing Service (AMS), and the Grain Inspection, Packers and Stockyards Administration (GIPSA), for their publications and for other functions.

FSIS has made the following estimates on the basis of an information collection assessment:

Estimate of Burden: FSIS estimates that it will take poultry slaughter establishments an average of two minutes per response to collect and submit this information to FSIS.

Respondents: Slaughter establishments.

Estimated Number of Respondents: 1,159.

Estimated Number of Annual Responses per Respondent: 600.

Estimated Total Annual Burden on Respondents: 23,180 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence SW., Room 6077, South Building, Washington, DC 20250, (202) 690–6510.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS'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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for

Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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.

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).

Done at Washington, DC on: March 4, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–05502 Filed 3–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0023]

Changes to the Salmonella and Campylobacter Verification Testing Program: Proposed Performance Standards for Salmonella and Campylobacter in Not-Ready-to-Eat Comminuted Chicken and Turkey Products and Raw Chicken Parts and Related Agency Verification Procedures and Other Changes to Agency Sampling

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the comment period for the **Federal Register** notice ''Changes to the *Salmonella* and *Campylobacter* Verification Testing Program: Proposed Performance Standards for *Salmonella* and *Campylobacter* in Not-Ready-to-Eat Comminuted Chicken and Turkey Products and Raw Chicken Parts and Related Agency Verification Procedures and Other Changes to Agency Sampling'' until May 26, 2015. The Agency is taking this action in response to a request made by a coalition of trade associations.

DATES: Comments are due by May 26, 2015.

ADDRESSES: FSIS invites interested persons to submit comments. 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, CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 355 E Street, SW., Mailstop 3782, Room 8–163B, 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–2014–0023. 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 to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 164–A, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495, or by Fax: (202) 720–2025.

SUPPLEMENTARY INFORMATION: On January 26, 2015, FSIS published a notice in the **Federal Register** to announce and request comment on new pathogen reduction performance standards for *Salmonella* and *Campylobacter* in raw chicken parts and not-ready-to-eat (NRTE) comminuted chicken and turkey products (80 FR 3940). The Agency also announced its plans to begin sampling raw chicken parts in March 2015 to gain additional information on the prevalence and the microbiological characteristics of *Salmonella* and *Campylobacter* in those products (80 FR at 3945). In addition, FSIS announced that it will begin exploratory sampling of raw pork products in March 2015 for pathogens of public health concern, as well as for indicator organisms (80 FR at 3942). FSIS also announced that it will begin sampling imported poultry carcasses, imported raw chicken parts, and imported NRTE comminuted chicken and turkey for *Salmonella* and *Campylobacter* in March 2015 (80 FR at 3944).

In addition, starting in March 2015, for products that are currently subject to *Salmonella* or *Campylobacter* performance standards, FSIS announced that it plans to use routine sampling throughout the year rather than the current set-based approach, whereby

FSIS collects a given number of samples consecutive days to assess whether establishments' processes are effectively addressing these pathogens. FSIS stated that it would perform this assessment using a moving window of sampling results (80 FR at 3946).

FSIS also announced that, after reviewing the comments received on the notice, beginning July 1, 2015, the Agency plans to begin web-posting individual establishment category information for chicken and turkey carcasses. FSIS stated that it would assess what category establishments are in as of July 1, using combined historical set data and sample results beginning March 2015. Meanwhile, FSIS stated it will continue web-posting existing Category 3 poultry carcass establishments. Finally, starting in March 2015, the Agency announced that it would begin web-posting aggregate reports for chicken parts as data become available, and comminuted chicken and turkey using historical data and new results beginning in March (80 FR at 3948).

In a letter addressed to FSIS Deputy Under Secretary Alfred V. Almanza, dated January 30, 2015, a coalition of trade associations requested that FSIS extend the comment period by 90 days to provide additional time to formulate meaningful comments. In addition, the trade associations requested that FSIS extend all implementation dates discussed above by 90 days to ensure the Agency has an opportunity to consider the comments and to ensure that the affected industry has enough time to prepare for changes in Agency actions.

FSIS will extend the comment period by an additional 60 days; the comment period will now end on May 26, 2015. FSIS has determined that 60 days should be sufficient because FSIS has made available much of the information in the January 2015 **Federal Register** notice in other **Federal Register** notices [1] and in the *Salmonella* Action Plan.[2] FSIS will fully consider all comments received in response to the notice. FSIS will not, however, delay implementation of actions announced in the notice.

Therefore, in March 2015, FSIS intends to proceed with implementing sampling of raw chicken parts to gain additional information on the prevalence and the microbiological characteristics of *Salmonella* and *Campylobacter* in those products. FSIS will analyze this data and will discuss it in the **Federal Register** announcing final standards. In March 2015, FSIS also intends to begin exploratory sampling of raw pork products for pathogens of public health concern, as well as for indicator organisms. Finally, FSIS intends to begin sampling imported poultry carcasses, imported raw chicken parts, and imported not-ready-to-eat comminuted chicken and turkey for *Salmonella* and *Campylobacter* in March 2015.

Similarly, in March 2015, for all products that are currently under *Salmonella* or *Campylobacter* performance standards, FSIS intends to proceed with using the moving window approach to assess whether establishment meet those standards. FSIS does not see a reason to delay analyzing standards according to the moving window approach because the Agency previously announced that it intended to do so and requested comments on this approach.[3] FSIS responded to those comments [4] and provided additional information on this approach in the January 2015 **Federal Register** notice (80 FR at 3946). Furthermore, FSIS does not expect establishment categories to change greatly when the Agency discontinues the set approach and starts using the moving window approach. Therefore, this change should not have a significant effect on establishments.

FSIS also intends to proceed with posting aggregate reports for chicken parts and comminuted chicken and turkey in March 2015 as announced in the January **Federal Register** notice. Until FSIS establishes final standards for these products, establishments may use these reports to increase their awareness of the pathogen incidence in these products and compare the on-going incidence in their establishments against the results made public by FSIS. Establishments may also choose to make changes in their procedures as necessary to control *Salmonella* and *Campylobacter,* particularly if the levels of these pathogens in their products are higher than the proposed standard.

Finally, beginning July 1, 2015, the Agency plans to begin web-posting individual establishment category information for chicken and turkey carcasses as announced in the January **Federal Register** notice. However, as stated in the notice, we will assess the comments on that issue prior to posting.

[1] 78 FR 53017; Aug. 28, 2013, 79 FR 32436; Jun. 5, 2014

[2] *http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/foodborne-illness-and-disease/salmonella/sap*

[3] 78 FR at 53019

[4] 79 FR at 32439

USDA Nondiscrimination 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.

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.

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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 at Washington, DC on: March 4, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–05494 Filed 3–9–15; 08:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 24, 2015, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Opening remarks by Bureau of Industry and Security.
3. Presentation of papers or comments by the Public.
4. Export Enforcement update.
5. Regulations update.
6. Working group reports.
7. Automated Export System update.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than March 12, 2015.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 24, 2015, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: March 2, 2015.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2015–05498 Filed 3–9–15; 08:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Western Pacific Community Development Program Process

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 11, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jarad Makaiau, (808) 944–2108 or *Jarad.Makaiau@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Federal regulations at 50 CFR part 665 authorize the Regional Administrator of the National Marine Fisheries Service (NMFS), Pacific Island Region to provide eligible western Pacific communities with access to fisheries that they have traditionally depended upon, but may not have the capabilities to support continued and substantial participation, possibly due to economic, regulatory, or other barriers. To be eligible to participate in the western Pacific community development program, a community must meet the criteria set forth in 50 CFR part 665.20, and submit a community development plan that describes the purposes and goals of the plan, the justification for proposed fishing activities, and the degree of involvement by the indigenous community members, including contact information.

This collection of information provides NMFS and the Western Pacific Fishery Management Council (Council) with data to determine whether a community that submits a community development plan meets the regulatory requirements for participation in the program, and whether the activities proposed under the plan are consistent with the intent of the program, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The information is also important for evaluating potential impacts of the proposed community development plan activities on fish stocks, endangered species, marine mammals, and other components of the affected environment for the purposes of compliance with the National Environmental Policy Act, the Endangered Species Act and other applicable laws.

II. Method of Collection

The collection of information of a community development plan involves no forms, and respondents have a choice of submitting information by electronic transmission or by mail. Instructions on how to submit a community development plan can be found on the Council's Web site at *http://www.wpcouncil.org/community-development/western-pacific-community-development-program/.*

III. Data

OMB Control Number: 0648–0612.
Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for profit organizations; individuals or households.

Estimated Number of Respondents: 5.

Estimated Time per Response: 6 hours.

Estimated Total Annual Burden Hours: 30.

Estimated Total Annual Cost to Public: $50 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 4, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–05491 Filed 3–9–15; 08:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD592

Determination of Overfishing or an Overfished Condition

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

ACTION: Notice.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has found that the following stocks are subject to overfishing or are in an overfished condition: Gulf of Mexico Greater Amberjack is subject to overfishing and continues to be in an overfished condition; Gulf of Mexico Gray Triggerfish is subject to overfishing but is not in an overfished condition; Puerto Rico Scups and Porgies is subject to overfishing; Puerto Rico Wrasses is subject to overfishing; and Gulf of Maine cod continues to be subject to overfishing and in an overfished condition. In addition, Pacific Bluefin Tuna, which is jointly managed by the Western Pacific Fisheries Management Council and the Pacific Fisheries Management Council, continues to be subject to overfishing and continues to be in an overfished condition.

NMFS, on behalf of the Secretary, notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, a stock is approaching an overfished condition, or when a rebuilding plan has not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, (301) 427–8568.

SUPPLEMENTARY INFORMATION: Pursuant to sections 304(e)(2) and (e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2) and (e)(7), and implementing regulations at 50 CFR 600.310(e)(2), NMFS, on behalf of the Secretary, must notify Councils whenever it determines that a stock or stock complex is overfished or approaching an overfished condition; or if an existing rebuilding plan has not ended overfishing or resulted in adequate rebuilding progress. NMFS also notifies Councils when it determines a stock or stock complex is subject to overfishing. Section 304(e)(2) further requires NMFS to publish these notices in the **Federal Register**.

NMFS has determined that the Gulf of Mexico stocks of Greater Amberjack and Grey Triggerfish are subject to overfishing and that Greater Amberjack continues to be in an overfished condition. The Gulf of Mexico Fishery Management Council (GMFMC) has been informed that they must end overfishing on these two stocks and that they must continue to rebuild the stock of Greater Amberjack.

NMFS has also determined that Puerto Rico Scups and Porgies, as well as Puerto Rico Wrasses, are subject to overfishing. The Caribbean Fishery Management Council (CFMC) has been informed that they must end overfishing on these two stock complexes.

NMFS has also determined that Gulf of Maine Cod continues to be subject to overfishing and is in an overfished condition. The New England Fishery Management Council (NEFMC) has been informed that they must end overfishing and rebuild this stock.

In addition, NMFS has determined that the Pacific stock of Bluefin Tuna continues to be subject to overfishing and is in an overfished condition. This determination was based on an assessment conducted by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC), in conjunction with NOAA scientists. NMFS has confirmed that section 304(i) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) applies because (1) the overfishing and overfished condition of Bluefin Tuna is due largely to excessive international fishing pressure, and (2) there are no management measures (or efficiency measures) to end overfishing under an international agreement to which the U.S. is a party. NMFS has informed the Western Pacific Fishery Management Council and the Pacific Fishery Management Council of their obligations for international and domestic management under Magnuson-Stevens Act sections 304(i) and 304(i)(2) to address international and domestic impacts, respectively. The Councils must develop domestic regulations to address the relative impact of the domestic fishing fleet on the stock, and develop recommendations to the Secretary of State and Congress for international actions to end overfishing and rebuild Pacific Bluefin Tuna.

Dated: March 4, 2015.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–05445 Filed 3–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the National Security Education Board (''the Board'').

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 pursuant to 50 U.S.C. 1903, and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a), established the Board.The Board is a statutory Federal advisory committee that provides independent advice and recommendations to the Secretary of Defense on developing the national capacity to educate United States citizens to understand foreign cultures, strengthen United States economic competitiveness, and enhance international cooperation and security. The Board, pursuant to 50 U.S.C. 1930(d) and consistent with chapter 37 of 50 U.S.C., shall perform the following:

(a.) Develop criteria for awarding scholarships, fellowships, and grants, including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in a national security position.

(b.) Provide for wide dissemination of information regarding the activities under the statute.

(c.) Establish qualifications for students desiring scholarships or fellowships, and institutions of higher education desiring grants. In case of students desiring a scholarship or fellowship, a requirement that the student have a demonstrated commitment to the study of the discipline for which the scholarship or fellowship is to be awarded.

(d.) After taking into account the annual analyses of trends in language, international, area, and counter-proliferations studies under 50 U.S.C. 1906(b)(1), make recommendations to the Secretary of Defense regarding:

(i.) Which countries are not emphasized in other U.S. study abroad programs, such as countries in which few U.S. students are studying and countries which are of importance to the national security interests of the United States and are, therefore, critical countries for the purpose of 50 U.S.C. 1902(a)(1)(A);

(ii.) Which areas within the disciplines described in 50 U.S.C. 1902(1)(B) relating to the national security interests of the United States are areas of study in which United States students are deficient in learning and are, therefore, critical areas within those disciplines for the purposes of that section;

(iii.) Which areas within the disciplines described in 50 U.S.C. 1902(a)(1)(C) are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within those disciplines for the purposes of that section;

(iv.) How students desiring scholarships or fellowships can be encouraged to work for an agency or office of the Federal Government involved in national security affairs or national security policy upon completion of their education; and

(v.) Which foreign languages are critical to the national security interests of the United States for purposes of 50 U.S.C. 1902(a)(1)(D) (relating to grants for the National Flagship Language Initiative) and 50 U.S.C. 1902(a)(1)(E) (relating to the scholarship program for advanced English language studies by heritage community citizens).

(e.) Encourage application for fellowships from graduate students having an educational background in any academic discipline, particularly in the areas of science or technology.

(f.) Provide the Secretary of Defense with a list of scholarship recipients and fellowship recipients biennially, including an assessment of their foreign area and language skills, who are available to work in a national security position.

(g.) Provide the Secretary of Defense a report fully describing the foreign area and language skills obtained by the recipient as a result of the assistance, not later than 30 days after a scholarship or fellowship recipient completes the study or education for which assistance was provided under the Program.

(h.) Review the administration of the National Security Scholarships, Fellowships, and Grants Program.

(i.) To the extent provided by the Secretary of Defense, oversee and coordinate the activities of the National Language Service Corps (NLSC) under 50 U.S.C. 1913, including:

(i.) Assessing on a periodic basis whether the NLSC is addressing the needs identified by the heads of departments and agencies of the Federal Government for personnel with skills in various foreign languages;

(ii.) Recommending plans for the NLSC to address foreign language shortfalls and requirements of the departments and agencies of the Federal Government;

(iii.) Recommending effective ways to increase public awareness of the need for foreign languages skills and career paths in the Federal Government that use those skills; and

(iv.) Overseeing the NLSC efforts to work with Executive agencies and State and Local governments to respond to interagency plans and agreements to address overall foreign language shortfalls and to utilize personnel to address the various types of crises that warrant foreign language skills.

The Board reports to the Secretary of Defense. The Secretary of Defense, pursuant to 50 U.S.C. 1906, shall submit to the President and to the Congressional intelligence committees an annual report of the conduct of the National Security Scholarships, Fellowships and Grants Program, which contains, at a minimum, the content outlined in 50 U.S.C. 1906(b). In preparation of this annual report, the Secretary of Defense shall consult with the members of the Board, who shall each submit to the Secretary, as a minimum, an assessment of hiring needs in the areas of language and area studies, and projection of the deficiencies in such areas. The Secretary shall include all assessments in the annual report.

The Department of Defense (DoD), through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), provides support, as deemed necessary, for the Board's performance and functions and ensures compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (''the Sunshine Act''), governing Federal statutes and regulations, and established DoD policies and procedures. Under the provisions of 50 U.S.C. 1903(b), the Board is composed of 14 members:

(a.) The following individuals or the representatives of such individuals:

(i.) The Secretary of Defense, who shall serve as the Chairman of the Board.

(ii.) The Secretary of Education.

(iii.) The Secretary of State.

(iv.) The Secretary of Commerce.

(v.) The Secretary of Homeland Security.

(vi.) The Secretary of Energy.

(vii.) The Director of the National Intelligence.

(viii.) The Chairperson of the National Endowment for the Humanities.

(b.) Six individuals appointed by the President, who shall be experts in the fields of international, language, area, and counter-proliferation studies education and who may not be officers or employees of the Federal Government.

Members of the Board appointed by the President shall be appointed for a period specified by the President at the time of their appointment, but not to exceed four years. Consistent with 50

U.S.C. 1903, the Secretary of Defense designates the USD(P&R) as the Chairperson of the Board. If the USD(P&R) is unavailable to chair a specific session of the Board, then the Assistant Secretary of Defense for Personnel and Force Management shall perform the functions of the Chairperson of the Board while the USD(P&R) is unavailable. The authority to chair the Board may not be further delegated.

Board members, 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. Board members who are full-time or permanent part-time Federal officers or employees shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members. Each member of the Board 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. Pursuant to 50 U.S.C. 1903(c), individuals appointed by the President shall receive no compensation for service on the Board. With the exception of reimbursement of official Board-related travel and per diem, Board members shall serve without compensation.

The Department, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. 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 USD(P&R), as the Board's sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open 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 Board, directly to the DoD or any Federal officers or employees.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Board.

Subcommittee members, if not full-time or permanent part-time Federal employees, will be appointed as experts or consultants pursuant to 5 U.S.C. 3109, to serve as SGE members. Those individuals who are full-time or permanent part-time Federal officers or employees shall be appointed, pursuant to 41 CFR 102–3.130(a), to serve as RGE members. With the exception of reimbursement of official Board-related travel and per diem, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies and procedures. The Board's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD employee appointed in accordance with governing DoD policies and procedures. The Board's DFO is required to be in attendance at all meetings of the Board and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of all meetings of the Board and its subcommittees.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and 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.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to National Security Education Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the National Security Education Board.

All written statements shall be submitted to the DFO for the National Security Education Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the National Security Education Board 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 National Security Education Board. 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: March 4, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–05499 Filed 3–9–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP15–100–000.

Applicants: National Fuel Gas Supply Corporation.

Description: Joint Application of National Fuel Gas Supply Corporation and National Fuel Gas Supply, LLC to Restructure Ownership as a Limited Liability Company.

Filed Date: 2/26/15.

Accession Number: 20150226–5342.

Comments Due: 5 p.m. ET 3/19/15.

Docket Numbers: RP15–513–000.

Applicants: Equitrans, L.P.

Description: Section 4(d) rate filing per 154.204: AVC Storage Loss Retainage Factor Update to be effective 4/1/2015.

Filed Date: 2/25/15.

Accession Number: 20150225–5152.

Comments Due: 5 p.m. ET 3/9/15.

Docket Numbers: RP15–514–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Section 4(d) rate filing per 154.204: 02/25/15 Negotiated Rates—Mercuria Energy Trading Gas LLC (HUB) 7540–89 to be effective 2/24/2015.

Filed Date: 2/25/15.

Accession Number: 20150225–5153.

Comments Due: 5 p.m. ET 3/9/15.

Docket Numbers: RP15–515–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Section 4(d) rate filing per 154.204: 02/25/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/24/2015.

Filed Date: 2/25/15.

Accession Number: 20150225–5155.

Comments Due: 5 p.m. ET 3/9/15.

Docket Numbers: RP15–516–000.

Applicants: Northern Natural Gas Company.

Description: Section 4(d) rate filing per 154.204: 20150225 Negotiated Rate to be effective 2/26/2015.

Filed Date: 2/25/15.
Accession Number: 20150225–5288.
Comments Due: 5 p.m. ET 3/9/15.
Docket Numbers: RP15–517–000.
Applicants: Vector Pipeline L.P.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate Filing—Rover Pipeline LLC to be effective 3/30/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5035.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–518–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Section 4(d) rate filing per 154.403: Annual Electric Power Tracker Filing effective April 1, 2015 to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5067.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–519–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Section 4(d) rate filing per 154.204: Fuel Filing—Eff. April 1, 2015 to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5068.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–520–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: BBPC 2015–03–01 Releases to EDF Trading to be effective 3/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5069.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–521–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 02/26/15 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB)—7540–89 to be effective 2/25/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5106.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–522–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 02/26/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/25/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5111.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–523–000.
Applicants: Sabine Pipe Line LLC.
Description: Section 4(d) rate filing per 154.204: Sabine Annual LUAF and Fuel Filing to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5192.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–524–000.
Applicants: Northwest Pipeline LLC.
Description: Section 4(d) rate filing per 154.204: 2015 Summer Fuel Filing to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5222.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–525–000.
Applicants: Golden Pass Pipeline LLC.
Description: Compliance filing per 154.203: Golden Pass Pipeline 2015 Annual Operational Purchase and Sales Report.
Filed Date: 2/26/15.
Accession Number: 20150226–5224.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–526–000.
Applicants: Viking Gas Transmission Company.
Description: Compliance filing per 154.203: Semi-Annual FLRP—Spring 2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5233.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–527–000.
Applicants: Viking Gas Transmission Company.
Description: Section 4(d) rate filing per 154.204: Annual LMCRA—Spring 2015 to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5246.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–528–000.
Applicants: Guardian Pipeline, L.L.C..
Description: Section 4(d) rate filing per 154.204: EPCR Semi-Annual Adjustment—Spring 2015 to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5258.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–529–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) rate filing per 154.204: 20150226 Negotiated Rate to be effective 2/27/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5284.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–530–000.
Applicants: Northwest Pipeline LLC.
Description: Section 4(d) rate filing per 154.204: 2015 South Seattle Lateral Annual Rate True Up to be effective 4/1/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5302.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–531–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Section 4(d) rate filing per 154.204: Neg Rate 2015–02–26 Green Plains to be effective 2/26/2015.
Filed Date: 2/26/15.
Accession Number: 20150226–5323.
Comments Due: 5 p.m. ET 3/10/15.
Docket Numbers: RP15–532–000.
Applicants: Tuscarora Gas Transmission Company.
Description: Section 4(d) rate filing per 154.204: Installation of Facilities Revisions to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5064.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–533–000.
Applicants: ANR Pipeline Company.
Description: Section 4(d) rate filing per 154.403(d)(2): Fuel Filing 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5080.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–534–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) rate filing per 154.204: 3–1–2015 Formula-Based Negotiated Rates to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5093.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–535–000.
Applicants: Texas Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Neg Rate Agmts Filing (Jay-Bee 34446, 34447) to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5095.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–536–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Encana 37663 to BP 44039) to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5096.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–537–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Remove Expired Agmts from Tariff eff Mar 1, 2015 to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5097.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–538–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): MarkWest Pioneer

Quarterly FRP Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5111.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–539–000.
Applicants: Texas Eastern Transmission, LP.
Description: Section 4(d) rate filing per 154.204: Non-conforming and NegRate Agreement—BP Energy 911236 to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5124.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–540–000.
Applicants: WBI Energy Transmission, Inc.
Description: Section 4(d) rate filing per 154.204: 2015 Annual Fuel & Electric Power Reimbursement to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5126.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–541–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Compliance filing per 154.203: AGT RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5132.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–542–000.
Applicants: Bobcat Gas Storage.
Description: Compliance filing per 154.203: BGS RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5133.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–543–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Compliance filing per 154.203: BSP RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5135.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–544–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Compliance filing per 154.203: ETNG RM14–21 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5136.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–545–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: Compliance filing per 154.203: GNGS RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5138.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–546–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Compliance filing per 154.203: MNUS RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5140.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–547–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Compliance filing per 154.203: OGT RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5141.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–548–000.
Applicants: Southeast Supply Header, LLC.
Description: Compliance filing per 154.203: SESH RM14–21–000 Map Compliance Filing to be effective 2/27/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5145.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–549–000.
Applicants: Saltville Gas Storage Company L.L.C.
Description: Compliance filing per 154.203: SGSC RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5146.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–550–000.
Applicants: Steckman Ridge, LP.
Description: Compliance filing per 154.203: SR RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5148.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–551–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing per 154.203: TETLP RM14–21–000 Maps Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5151.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–552–000.
Applicants: Egan Hub Storage, LLC.
Description: Compliance filing per 154.203: Egan RM14–21–000 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5152.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–553–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.403: EPCA 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5153.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–554–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.403(d)(2): TCRA 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5155.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–555–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: RAM 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5162.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–557–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: TRA 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5187.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–558–000.
Applicants: Central Kentucky Transmission Company.
Description: Section 4(d) rate filing per 154.204: RAM 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5197.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–559–000.
Applicants: Iroquois Gas Transmission System, L.P..
Description: Section 4(d) rate filing per 154.204: 02/27/15 Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 2/26/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5200.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–560–000.
Applicants: East Cheyenne Gas Storage, LLC.
Description: Section 4(d) rate filing per 154.204: ECGS Ratchet Modification Filing 2–27–15 to be effective 4/1/2015.
Filed Date: 2/27/15.

Accession Number: 20150227–5206.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–561–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) rate filing per 154.204: DTI—February 27, 2015 Negotiated Rate Agreement to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5208.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–562–000.
Applicants: KO Transmission Company.
Description: Section 4(d) rate filing per 154.403: Transporation Retainage Adjustment Filing 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5211.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–563–000.
Applicants: Southwest Gas Storage Company.
Description: Section 4(d) rate filing per 154.204: Fuel Filing on 2–27–15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5245.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–564–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 02/27/15 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB)—7540–89 to be effective 2/26/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5247.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–565–000.
Applicants: Trunkline Gas Company, LLC.
Description: Section 4(d) rate filing per 154.204: Fuel Filing on 2–27–15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5258.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–566–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 02/27/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/26/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5270.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–567–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: Section 4(d) rate filing per 154.204: Neg Rate 2015–02–27 Macquarie to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5280.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–568–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Section 4(d) rate filing per 154.204: Fuel Filing on 2–27–15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5292.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–569–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: Section 4(d) rate filing per 154.402: CCTPL Transportation Retainage Adjustment to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5307.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–570–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): FL&U Effective 4/1/15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5308.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–571–000.
Applicants: Columbia Gas Transmission, LLC.
Description: 2014 Operational Transactions Report of Columbia Gas Transmission, LLC.
Filed Date: 2/27/15.
Accession Number: 20150227–5236.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–572–000.
Applicants: Ruby Pipeline, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): FL&U effective 4/1/15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5327.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–573–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Section 4(d) rate filing per 154.204: Fuel Filing on 2–27–15 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5333.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–574–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Section 4(d) rate filing per 154.204: Fuel Tracker 2015 to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5339.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–575–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Section 4(d) rate filing per 154.204: Reservation Charge Crediting to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5397.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–576–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.204: Non-Conforming, Negotiated Rate Agreement (DCP) to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5417.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–577–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate PAL Agreement—Koch Energy Services LLC to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5437.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–578–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Section 4(d) rate filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—Mar 2015 to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5438.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–579–000.
Applicants: Dominion Cove Point LNG, LP.
Description: Section 4(d) rate filing per 154.403: DCP—2015 Annual EPCA to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5441.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–580–000.
Applicants: Midwestern Gas Transmission Company.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate PAL Agreements—Duke Energy Indiana, Inc. to be effective 2/27/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5442.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–581–000.
Applicants: Empire Pipeline, Inc.
Description: Compliance filing per 154.203: Annual Report Pursuant to GT&C 23.5 (02–27–15).
Filed Date: 2/27/15.
Accession Number: 20150227–5453.
Comments Due: 5 p.m. ET 3/11/15.

Docket Numbers: RP15–582–000.
Applicants: Dominion Cove Point LNG, LP.

Description: Section 4(d) rate filing per 154.403(d)(2): DCP—2015 Annual Fuel Retainage to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5456.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–583–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.204: Non-Conforming Agreements Filing (ConocoPhillips) to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5465.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–584–000.
Applicants: Rockies Express Pipeline LLC.
Description: Section 4(d) rate filing per 154.204: FL&U and Electric Power Periodic Rate Adjustment to be effective 4/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5491.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–585–000.
Applicants: Rockies Express Pipeline LLC.
Description: Section 4(d) rate filing per 154.204: Neg Rate 2015–02–27 ConocoPhillips, Encana to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5517.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–586–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) rate filing per 154.204: 20150227 Negotiated Rate to be effective 3/1/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5551.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–587–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (QEP 37657 to Trans LA 44113) to be effective 3/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5142.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–588–000.
Applicants: Energy West Development, Inc.
Description: Section 4(d) rate filing per 154.204: 2015 LAUF Filing to be effective 4/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5217.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–589–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 03/02/15. Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 2/27/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5218.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–590–000.
Applicants: Energy West Development, Inc.
Description: Compliance filing per 154.203: Map filing to be effective 4/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5245.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–591–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 03/02/15. Negotiated Rates—Mercuria Energy Gas Trading (HUB)—7540–89 to be effective 2/27/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5256.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–592–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate Amendment—SWN to be effective 2/25/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5258.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–593–000.
Applicants: National Fuel Gas Supply Corporation.
Description: Section 4(d) rate filing per 154.204: Non-Conforming (Empire + Supply TLP) to be effective 4/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5277.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–594–000.
Applicants: KPC Pipeline, LLC.
Description: Section 4(d) rate filing per 154.403(d)(2): KPC Fuel Reimbursement Adjustment to be effective 4/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5328.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–595–000.
Applicants: Golden Pass Pipeline LLC.
Description: Compliance filing per 154.203: Golden Pass Pipeline LLC Revised Annual Retainage Report for 2015 to be effective 4/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5332.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–596–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Section 4(d) rate filing per 154.204: 03/02/15. Negotiated Rates—Exelon Generation Company, LLC. (HUB) 1985–89 to be effective 3/1/2015.
Filed Date: 3/2/15.
Accession Number: 20150302–5342.
Comments Due: 5 p.m. ET 3/16/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–504–000.
Applicants: Golden Pass Pipeline LLC.
Description: Tariff Withdrawal per 154.205(a): Golden Pass Pipeline Annual Retainage Report for 2015 Withdrawal.
Filed Date: 3/2/15.
Accession Number: 20150302–5216.
Comments Due: 5 p.m. ET 3/16/15.
Docket Numbers: RP15–302–001.
Applicants: Guardian Pipeline, L.L.C.
Description: Compliance filing per 154.203: Compliance Filing pursuant to RP15–302–000 to be effective 2/27/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5471.
Comments Due: 5 p.m. ET 3/11/15.
Docket Numbers: RP15–303–001.
Applicants: Guardian Pipeline, L.L.C.
Description: Compliance filing per 154.203: Compliance Filing pursuant to RP15–303–000 to be effective 2/27/2015.
Filed Date: 2/27/15.
Accession Number: 20150227–5479.
Comments Due: 5 p.m. ET 3/11/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 3, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05466 Filed 3–9–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–27–Region–6]

Clean Water Act Section 303(d): Availability of List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Environmental Protection Agency (EPA's) decision to partially approve and proposal to partially disapprove Louisiana's 2014 Clean Water Act Section 303(d) submission of water quality limited segments and associated pollutants. EPA requests public comment on waters associated with the proposed disapproval and may, based on comment, amend its proposal prior to final action.

On February 26, 2015, EPA partially approved and proposed to partially disapprove Louisiana's 2014 Section 303(d) submission, or list. Specifically, EPA approved Louisiana's listing of 279 waterbody-pollutant combinations, and associated priority rankings. EPA proposed to disapprove Louisiana's decision not to list 43 water quality limited segments and associated pollutants constituting 93 waterbody-pollutant combinations. EPA also proposed to add these waterbody-pollutant combinations to the 2014 Section 303(d) list because applicable numeric water quality standards were not attained in these segments for one of the following parameters: Dissolved oxygen (marine criterion); turbidity; and minerals (individually or a combination of sulfates, chlorides, and/or total dissolved solids).

EPA is providing the public the opportunity to review its proposed additions to Louisiana's 2014 Section 303(d) list. EPA will consider and respond to public comments specific to the proposed addition of 43 segments and associated pollutants and may, based on comment, amend its proposed additions before finalizing Louisiana's 2014 Section 303(d) list. Comments not associated with the segments proposed for addition to the 2014 Section 303(d) list or associated with the 279 waterbody pollutant combinations previously approved by EPA are not solicited.

DATES: Comments must be submitted in writing to EPA on or before March 30, 2015.

ADDRESSES: Comments on the decisions should be sent to Evelyn Rosborough, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, telephone (214) 665–7515, facsimile (214) 665–6490, or email: *rosborough.evelyn@epa.gov.* Oral comments will not be considered. Copies of the documents which explain the rationale for EPA's decisions and a list of the 43 water quality-limited segments and associated pollutant combinations EPA proposes for inclusion on Louisiana's Final 2014 Section 303(d) list can be obtained at EPA Region 6's Web site at: *http://www.epa.gov/region6/water/npdes/tmdl/index.htm,* or by writing or calling Ms. Rosborough at the above address. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Ms. Rosborough to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Evelyn Rosborough at (214) 665–7515.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each State identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards. For those waters, States are required to establish Total Maximum Daily Loads (TMDLs) according to a priority ranking. EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations require States to identify water quality-limited waters still requiring TMDLs every two years. The list of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7).

Consistent with EPA's regulations, Louisiana submitted to EPA its listing decisions under Section 303(d) on August 19, 2014. On February 26, 2015, EPA approved Louisiana's listing of 279 waterbody-pollutant combinations and associated priority rankings. EPA proposed to disapprove Louisiana's decisions not to list 43 waterbodies. These waterbodies were proposed for addition by EPA because the applicable numeric water quality standards for dissolved oxygen; or turbidity; or mineral(s) were not attained in these segments. EPA solicits public comment on its identification of 43 additional waters and associated pollutants constituting 93 waterbody pollutant combinations for inclusion on Louisiana's Final 2014 Section 303(d) list.

Dated: February 26, 2015.

William K. Honker,

Director, Water Quality Protection Division.

[FR Doc. 2015–05444 Filed 3–9–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the report on competitiveness of the Export-Import Bank of the United States to Congress.

Time and Place: Wednesday, March 18, 2015 from 11:00 a.m.–3:00 p.m. A break for lunch will be at the expense of the attendee. Security processing will be necessary for reentry into the building. The meeting will be held at Ex-Im Bank in the Main Conference Room—11th floor, 811 Vermont Avenue NW., Washington, DC 20571.

Agenda: Agenda items include updates for the Advisory Committee members regarding: Ex-Im Bank goals for 2015; Ex-Im Bank's upcoming annual conference; and the report on competitiveness to Congress.

Public Participation: The meeting will be open to public participation, and 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building, you may contact Niki Shepperd at *niki.shepperd@exim.gov* to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please email Niki Shepperd at *niki.shepperd@exim.gov* prior to March 16, 2015.

Members of the Press: For members of the Press planning to attend the meeting, a photo ID must be presented at the guard's desk as part of the clearance process into the building;

please email Niki Shepperd at *niki.shepperd@exim.gov* to be placed on an attendee list.

FOR FURTHER INFORMATION CONTACT: For further information, contact Niki Shepperd, 811 Vermont Ave. NW., Washington, DC 20571, at *niki.shepperd@exim.gov.*

Lloyd Ellis,

Program Specialist, Office of the General Counsel.

[FR Doc. 2015–05495 Filed 3–9–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation has been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: March 2, 2015.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10513	Doral Bank	San Juan	PR	2/27/2015

[FR Doc. 2015–05426 Filed 3–9–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 1, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Ameris Bancorp, Moultrie, Georgia;* to merge with Merchants & Southern Banks of Florida, Inc., and thereby acquire its subsidiary, Merchants & Southern Bank, both of Gainesville, Florida.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Cathay General Bancorp, Los Angeles, California;* to merge with Asia Bancshares, Inc., and thereby indirectly acquire Asia Bank, National Association, both of Flushing, New York, with Cathay General Bancorp as the surviving entity.

Board of Governors of the Federal Reserve System, March 4, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05427 Filed 3–9–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Renewal of Charter for the Advisory Committee on Organ Transplantation

AGENCY: Healthcare Systems Bureau, Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services is hereby giving notice that the Advisory Committee on Organ Transplantation (ACOT) has been rechartered. The effective date of the revised charter was September 1, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia Stroup, MBA, MPA, Executive Secretary, Advisory Committee on Organ Transplantation, Health Resources and Services Administration, Department of Health and Human Services, Room 17W65 Fishers Lane, Rockville, Maryland 20857. Phone: (301) 443–1127; fax: (301) 594–6095; email: *PStroup@hrsa.gov.*

SUPPLEMENTARY INFORMATON: 42 U.S.C. 217a; Section 222 of the Public Health Service Act, as amended; 42 CFR 121.12. The Committee is governed by the provisions of Public Law 92–463, as amended (5 U.S.C. appendix 2), which sets forth standards for the formation and use of advisory committees.

ACOT advises and makes recommendations to the Secretary on all

aspects of organ donation, procurement, allocation, and transplantation and on such other matters as the Secretary determines.

One of its principal functions shall be to advise the Secretary on federal efforts to maximize the number of deceased donor organs made available for transplantation and to support the safety of living organ donation.

On August 26, 2014, the Acting Director, Office of Management, HRSA, approved the ACOT charter to be renewed. The filing date of the renewed charter was September 1, 2014. There were no amendments to the previous charter. Renewal of the ACOT charter gives authorization for the Committee to continue to operate until September 1, 2016.

A copy of the ACOT charter is available on the Web site for the organ transplantation program, at *http://www.organdonor.gov/.* A copy of the charter also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The Web site address for the FACA database is *http://www.facadatabase.gov/.*

Dated: March 3, 2015.

Mary K. Wakefield,

Administrator.

[FR Doc. 2015–05428 Filed 3–9–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine: 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 meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Library and Informatics Review Committee.

Date: June 4–5, 2015.

Time: June 4, 2015, 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Time: June 5, 2015, 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Arthur A. Petrosian, Ph.D., Chief Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05449 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine

Notice of Meeting of the PubMed Central National Advisory Committee

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the PubMed Central National Advisory Committee.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: PubMed Central National Advisory Committee.

Date: June 9, 2015.

Time: 9:30 a.m. to 3:00 p.m.

Agenda: Review and Analysis of Systems.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: David J. Lipman, MD, Director, National Center for Biotechnology Information, National Library of Medicine, Building 38, Room 8N805, Bethesda, MD 20894, 301–435–5985, *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page:*http://www.pubmed.central.nih.gov/about/nac/html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05448 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications Genetics and Neurosciences.

Date: March 27, 2015.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: IAAA, NIH, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 443–2067, *srinivar@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Neuroscience Member Conflict Applications.

Date: March 31, 2015.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIAAA, NIH, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 443–2067, *srinivar@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications.
Date: April 2, 2015.
Time: 2 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIAAA, NIH, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 443–2067, *srinivar@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: March 4, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05453 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NCCIH Career, Fellowship, and Research Grant Review.
Date: April 15, 2015.
Time: 12 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Martina Schmidt, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Complementary & Integrative of Health, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05458 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine; Extramural Programs Subcommittee.
Date: May 12, 2015.
Closed: 7:45 a.m. to 8:45 a.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.
Date: May 12–13, 2015.
Open: May 12, 2015, 9:00 a.m. to 4:40 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Closed: May 12, 2015, 4:40 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Open: May 13, 2015, 9:00 a.m. to 12:00 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html,* where an agenda and any additional information for the meeting will be posted when available. This meeting will be broadcast to the public, and available for at viewing at *http://videocast.nih.gov* on May 12–13, 2015.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05450 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Mentoring Programs for HIV/AIDS Researchers.

Date: March 24, 2015.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Consortium on Biomarkers and Outcome Measures in Autism Spectrum Disorder.

Date: March 26, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: March 4, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05508 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.

Date: March 24, 2015.

Time: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207 MSC 7812, Bethesda, MD 20892, (301)435–1238, *hodged@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.

Date: April 2–3, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Washington, DC City Center, 1400 M Street NW., Washington, DC 20005.

Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–203: Environmental Contributors to Autism Spectrum Disorders (R01s).

Date: April 7, 2015.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Comparative Medicine.

Date: April 7, 2015.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Vonda K Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–024: Molecular Profiles and Biomarkers of Food and Nutrient Intake.

Date: April 7, 2015.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gregory S Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, RKL2 BG RM 6156, 6701 Rockledge DR, Bethesda, MD 20892–7892, (301)435–0492, *shelnessgs@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: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05460 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution Field Initiated Projects Program

AGENCY: Administration for Community Living, Department of Health and Human Services.

SUMMARY: Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution Field Initiated Projects Program.

ACTION: Notice.

Overview Information:

National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution (MSI) Field Initiated Projects Program

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133G–4 (Research) and 84.133G–5 (Development).

Dates: Applications Available: March 10, 2015.

Note: On July 22, 2014, President Obama signed the Workforce Innovation Opportunity Act (WIOA). WIOA was effective immediately. One provision of WIOA transferred the National Institute on Disability and Rehabilitation Research (NIDRR) from the Department of Education to the Administration for Community Living (ACL) in the Department of Health and Human Services. In addition, NIDRR's name was changed to the Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). For FY 2015, all NIDILRR priority notices will be published as ACL notices, and ACL will make all NIDILRR awards. During this transition period, however, NIDILRR will continue to review grant applications using Department of Education tools. NIDILRR will post previously-approved application kits to grants.gov, and NIDILRR applications submitted to grants.gov will be forwarded to the Department of Education's G–5 system for peer review. We are using Department of Education application kits and peer review systems during this transition year in order to provide for a smooth and orderly process for our applicants.

Date of Pre-Application Meeting March 31, 2015.

Deadline for Notice of Intent to Apply: April 14, 2015.

Deadline for Transmittal of Applications: May 11, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Field Initiated (FI) Projects program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. Another purpose of the FI Projects program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

The purpose of this competition is to improve the capacity of minority entities to conduct high-quality disability and rehabilitation research. NIDILRR will accomplish this by limiting eligibility for this competition to minority entities and Indian tribes in a manner consistent with section 21(b)(2)(A) of the Act, which authorizes NIDILRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act.

NIDILRR makes two types of awards under the FI Projects program: Research grants and development grants. The MSI FI Projects research grants will be awarded under CFDA 84.133G–4, and the development grants will be awarded under CFDA 84.133G G–5.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria relevant for its grant type. Without exception, NIDILRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

In carrying out a research activity under an FI Projects research grant, a grantee must identify one or more hypotheses or research questions and, based on the hypotheses or research questions identified, perform an intensive, systematic study directed toward producing (1) new or full scientific knowledge, or (2) better understanding of the subject, problem studied, or body of knowledge.

In carrying out a development activity under an FI Projects development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods, including designing and developing prototypes and processes, that are beneficial to the target population. ''Target population'' means the group of individuals, organizations, or other entities expected to be affected by the project. There may be more than one target population because a project may affect those who receive services, provide services, or administer services.

Program Authority: 29 U.S.C. 764 and 29 U.S.C. 718.

Applicable Regulations: (a) The Department of Health and Human Services General Administrative Regulations in 45 CFR part 75 (b) Audit Requirements for Federal Awards in 45 CFR part 75 Subpart F; (c) 45 CFR part 75 Non-procurement Debarment and Suspension; (d) 45 CFR part 75 Requirement for Drug-Free Workplace (Financial Assistance); and (e) The regulations for this program in 34 CFR part 350.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $200,000 for the MSI FI Projects.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 and any subsequent year from the list of unfunded applicants from these competitions.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Administrator of the Administration for Community Living may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. We will reject any application that proposes a project period exceeding 36 months. The Administrator of the Administration for Community Living may change the project period through a notice published in the **Federal Register**.

III. Eligibility Information

1. *Eligible Applicants:* Parties eligible to apply for MSI FI Projects grants are limited to minority entities and Indian tribes as authorized by section 21(b)(2)(A) of the Act. A minority entity is defined as a historically black college or university (a part B institution, as defined in section 322(2) of the Higher Education Act of 1965, as amended), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another IHE whose minority student enrollment is at least 50 percent.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62. NIDILRR requires that grantees provide cost sharing in the amount of at least 1% of Federal funds.

IV. Application and Submission Information

1. Address to Request Application Package: You can obtain an application package via grants.gov, or by contacting Patricia Barrett: U.S. Department of Health and Human Services, 400 Maryland Avenue SW., room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you request an application from Patricia Barrett, be sure to identify this competition as follows: CFDA number 84.133G–4 or 84.133G–5.

2. Content and Form of Application Submission: Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Notice of Intent to Apply: Due to the open nature of the priorities in these competitions, and to assist with the selection of reviewers for these competitions, NIDILRR is requesting all potential applicants submit a letter of intent (LOI). The submission is not mandatory and the content of the LOI will not be peer reviewed or otherwise used to rate an applicant's application.

Each LOI should be limited to a maximum of four pages and include the following information: (1) The priority to which the potential applicant is responding; (2) the title of the proposed project, the name of the applicant, the name of the Project Director or Principal Investigator (PI), and the names of partner institutions and entities; (3) a brief statement of the vision, goals, and objectives of the proposed project and a description of its proposed activities at a sufficient level of detail to allow NIDILRR to select potential peer reviewers; (4) a list of proposed project staff including the Project Director or PI and key personnel; (5) a list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and (6) contact information for the Project Director or PI. Submission of a LOI is not a prerequisite for eligibility to submit an application.

NIDILRR will accept the optional LOI via mail (through the U.S. Postal Service or commercial carrier) or email, by April 14, 2015. The LOI must be sent to: Carolyn Baron, U.S. Department of Health and Human Services, 550 12th Street SW., Room 5134, PCP, Washington, DC 20202; or by email to: *Carolyn.Baron@ed.gov*.

For further information regarding the LOI submission process, contact Carolyn Baron at (202) 245–6211.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, and captions or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative section (Part III).

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

Note: Please submit an appendix that lists every collaborating organization and individual named in the application, including staff, consultants, contractors, and advisory board members. We will use this information to help us screen for conflicts of interest with our reviewers.

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (the Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: March 10, 2015.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDILRR staff. The pre-application meeting will be held on March 31, 2015. Interested parties may participate in this meeting by conference call with NIDILRR staff between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDILRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference contact Carolyn Baron at *Carolyn.Baron@ed.gov*, or by telephone at 202–245–7244.

Deadline for Notice of Intent to Apply: April 14, 2015.

Deadline for Transmittal of Applications: May 11, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7.*Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Health and Human Services, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number

can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development) at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.133, not 84.133G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.* Answers to frequently asked questions are available in Section E of the Application Package for New Grants under the MSI Field Initiated Research Program. Additional support documents, telephone support, and online support are available at the Grants.gov Web site at *www.grants.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-

specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the Administration for Community Living of the U.S. Department of Health and Human Services.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

Note for Mail of Paper Applications: If you mail your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and 350.55 and are listed in the application package.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria applicable to its grant type.

2. *Review and Selection Process:* Final award decisions will be made by the Administrator, ACL. In making these decisions, the Administrator will take into consideration: Ranking of the review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected. Under Section 75.205, item (3) history of performance is an item that is reviewed.

In addition, in making a competitive grant award, the Administrator of the Administration for Community Living also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Health and Human Services 45 CFR part 75.

3. *Special Conditions:* Under 45 CFR part 75 the Administrator of the Administration for Community Living may impose special conditions on a

grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 45 CFR part 75, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we send you a Notice of Award (NOA); or we may send you an email containing a link to access an electronic version of your NOA. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the NOA. The NOA also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 45 CFR part 75 should you receive funding under the competition. This does not apply if you have an exception under 45 CFR part 75.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Administrator of the Administration for Community Living. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Administrator of the Administration for Community Living under 45 CFR part 75. All NIDILRR grantees will submit their annual and final reports through NIDILRR's online reporting system and as designated in the terms and conditions of your NOA. The Administrator of the Administration for Community Living may also require more frequent performance reports under 45 CFR part 75. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) FFATA and FSRS Reporting

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System (*http://www.FSRS.gov*) for all sub-awards and sub-contracts issued for $25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

For further guidance please see the following link: *http://www.acl.gov/Funding_Opportunities/Grantee_Info/FFATA.aspx.*

If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information. Annual and Final Performance reports will be submitted through NIDILRR's online Performance System and as designated in the terms and conditions of your NOA. At the end of your project period, you must submit a final performance report, including financial information.

Note: NIDILRR will provide information by letter to successful grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDILRR assesses the quality of its funded projects through a review of grantee performance and accomplishments. Each year, NIDILRR examines a portion of its grantees to determine:

- The number of products (*e.g.,* new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDILRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDILRR-funded research and development activities in refereed journals.
- The percentage of new NIDILRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods. NIDILRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

5. *Continuation Awards:* In making a continuation award, the Administrator of the Administration for Community Living may consider, under 45 CFR part 75, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Administrator also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department. Continuation funding is also subject to availability of funds.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 3, 2015.

John Tschida,

Director, National Institute on Disability, Independent Living, and Rehabilitation Research.

[FR Doc. 2015–05325 Filed 3–9–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine: Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Literature Selection Technical Review Committee.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: June 18–19, 2015.

Open: June 18, 2015, 8:30 a.m. to 10:45 a.m.

Agenda: Administrative.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 18, 2015, 10:45 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 19, 2015, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Joyce Backus, M.S.L.S., Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2W04, Bethesda, MD 20892, 301–496–6921, *backusj@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05447 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus R03 & R21 SEP–11.

Date: April 3, 2015.

Time: 7:30 a.m. to 5:00 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., Chief, Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W104, Bethesda, MD 20892–9750, 240–276–6342, *choe@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Project Program Meeting I.

Date: May 26–27, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Wlodek Lopaczynski, MD, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W608, Rockville, MD 20892, 240–276–6458, *lopacw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project Meeting II.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Shakeel Ahmad, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Bethesda, MD 20892–8328, 240–276–6349, *ahmads@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: March 4, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05457 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15GD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Emergency Self Escape for Coal Miners—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention's (CDC) mission is to promote health and quality of life by preventing and controlling disease, injury, and disability. The National Institute for Occupational Safety and Health (NIOSH) provides national and world leadership to prevent work-related illness, injury, disability, and death by gathering information, conducting scientific research, and translating knowledge gained into products and services. NIOSH's mission is critical to the health and safety of every American worker. The Office of Mine Safety and Health Research (OMSHR), one of the preeminent mining research laboratories in the world, is focused on occupational health and safety research for mine workers.

Recent research by the National Academy of Sciences (NAS) has called for a detailed, formal task analysis of mine self-escape (National Research Council, 2013). Such an analysis should identify the knowledge, skills, abilities, and other attributes (KSAOs) needed by mine personnel in the event of a mine disaster to successfully complete an emergency self-escape. This analysis will identify gaps between worker demands and capabilities, and propose recommendations to either minimize those gaps or enhance existing systems (*e.g.,* communications, training, technology).

The purpose of the project is to enhance the ability of miners to escape from underground coal mines in the event of a fire, explosion, collapse of the mine structure, or flooding of the area by toxic gas or water. To escape, miners need to perform a set of tasks that apply specific knowledge and skills in moving through the mine, avoiding dangers, and using protective equipment. The project will identify the tasks, knowledge and skills, procedures, equipment, communications, and physical requirements of self-escape. The results are expected to lead to recommendations for improvements to task requirements and procedures, equipment, training and communication processes.

NIOSH proposes this 2 year study to better understand the requirements of emergency self-escape and to answer the following questions:

- What tasks (and critical tasks) do miners perform during self-escape?
- What knowledge beyond that needed to perform normal, routine mining tasks do miners require to facilitate successful self-escape?
- What are the cognitive requirements (such as reasoning, or weighing and deciding among alternatives, recognizing when a course of action is not producing the intended results) beyond that needed to perform normal, routine mining tasks?
- What other cognitive abilities or other cognitive competencies are needed?
- What gaps exist between what miners are required to do for self-escape and their capabilities?
- How can self-escape be improved by redesigning, eliminating, or modifying tasks or training, or by altering or introducing specific technologies/tools?

To answer these questions, we will use a task analysis study design that utilizes a multiple-method approach, to include (a) review of available research, (b) interviews and focus group meetings with participants, and (c) unobtrusive observation (*e.g.,* of drills). During interviews and focus groups, targeted questions are asked to elicit the level and type of desired information. This system of collecting information is ''active'' in that participants are presented stimuli (*e.g.,* disaster scenarios, worker roles) and asked directly to provide their perceptions (*e.g.,* of tasks or cognitive requirements needed to accomplish self-escape in that disaster). Observation checklists have been developed to capture relevant information during the unobtrusive naturalistic observations of self-escape drills. These data are then organized, collated, and re-presented to participants for confirmation of accuracy. Recommendations are generated based on study findings, related research and practices, and logical inference.

Participants will be mining personnel drawn from two operating coal mines, one large and one smaller mine, to represent the variety within the industry. The data collection schedule (*e.g.,* timing and duration of interviews and focus groups) will be modified as needed to minimize disruption to mine operations. Up to 30 miner volunteers will participate in the study. Minimal time (< 5 minutes each) will be spent in recruitment and obtaining informed consent.

Semi-structured interviews with mine personnel will require 1.5–2 hours of their time depending on the interview. Each of the two focus groups (the Initial Focus Group and the HTA) will require approximately 12 hours of a participant's time total. However, a given focus group will be executed in smaller blocks of time to reduce the burden on participants. Participants in the Initial Focus Group are not required to participate in the HTA Focus Group.

Observation of drills will occur as part of normal mine operations and will not result in any additional burden on the respondents.

The total estimated burden hours are 351.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Underground coal miners	Recruitment Script	30	1	5/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Underground coal miners	Informed Consent	30	1	5/60
Underground coal miners	Initial Interviews	6	1	1.5
Underground coal miners	CTA Interviews	12	2	2
Underground coal miners	Initial focus group sessions	12	6	1
Underground coal miners	HTA focus group sessions	12	6	1

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–05512 Filed 3–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 8, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bldg 6100, 5B01, 6100 Executive Boulevard, Rockville, MD 20852.

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., RM. 5B01, Bethesda, MD 20892, (301) 435–6884, *duperes@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS imposed by the review and funding cycle.)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05451 Filed 3–9–15; 08:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Diabetes and Obesity.

Date: April 2, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration, Neuropathy and Neuroinfections.

Date: April 2, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.

Date: April 6, 2015.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y, Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@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: March 4, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05459 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0781]

Agency Information Collection Activities; Proposed Collection; Comment Request; Record Retention Requirements for the Soy Protein and Risk of Coronary Heart Disease Health Claim

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) 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 invites comments on the record retention requirements for the soy protein and coronary heart disease health claim.

DATES: Submit either electronic or written comments on the collection of information by May 11, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

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, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our 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.

Record Retention Requirements for the Soy Protein and Risk of Coronary Heart Disease Health Claim—21 CFR 101.82(c)(2)(ii)(B) (OMB Control Number 0910–0428)—Extension

Section 403(r)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(3)(A)) provides for the use of food label statements characterizing a relationship of any nutrient of the type required to be in the label or labeling of the food to a disease or a health related condition only where that statement meets the requirements of the regulations promulgated by the Secretary of Health and Human Services to authorize the use of such a health claim. Section 101.82 (21 CFR 101.82) of our regulations authorizes a health claim for food labels about soy protein and the risk of coronary heart disease (CHD). To bear the soy protein and CHD health claim, foods must contain at least 6.25 grams of soy protein per reference amount customarily consumed. Analytical methods for measuring total protein can be used to quantify the amount of soy protein in foods that contain soy as the sole source of protein. However, at the present time there is no validated analytical methodology available to quantify the amount of soy protein in foods that contain other sources of protein. For these latter foods, we must rely on information known only to the manufacturer to assess compliance with the requirement that the food contain the qualifying amount of soy protein. Thus, we require manufacturers to have and keep records to substantiate the amount of soy protein in a food that bears the health claim and contains sources of protein other than soy, and to make such records available to appropriate regulatory officials upon written request. The information collected includes nutrient databases or analyses, recipes or formulations, purchase orders for ingredients, or any other information that reasonably substantiates the ratio of soy protein to total protein.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of record-keepers	Number of records per record-keeper	Total annual records	Average burden per record-keeping	Total hours
101.82(c)(2)(ii)(B)	25	1	25	1	25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based upon our experience with the use of health claims, we estimate that only about 25 firms would be likely to market products bearing a soy protein/coronary heart disease health claim and that only, perhaps, one of each firm's products might contain non-soy sources of protein along with soy protein. The records required to be retained by § 101.82(c)(2)(ii)(B) are the records, *e.g.,* the formulation or recipe, that a manufacturer has and maintains as a normal course of its doing business. Thus, the burden to the food manufacturer is limited to assembling and retaining the records, which we estimate will take 1 hour annually.

Dated: March 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05504 Filed 3–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 24, 2015 01:00 p.m. to March 24, 2015, 05:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on February 03, 2015, 80FR5767.

The meeting notice is amended to change the title from NCI/R01/U54 Review to NCI P01/R01/U54 Review. The meeting is closed to the public.

Dated: March 4, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05456 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: April 3, 2015.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS imposed by the review and funding cycle.)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Program Advisory Committee Policy.

[FR Doc. 2015–05452 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute: 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 section 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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI CLTR SEP Review.

Date: March 30, 2015.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 4, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05455 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0776]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reclassification Petitions for Medical Devices

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 requirements for reclassification petitions for medical devices.

DATES: Submit either electronic or written comments on the collection of information by May 11, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

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.

Reclassification Petitions for Medical Devices—21 CFR 860.123 (OMB Control Number 0910–0138)—Extension

Under sections 513(e) and (f), 514(b), 515(b), and 520(*l*) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c(e) and (f), 360d(b), 360e(b), and 360j(*l*)) and part 860 (21 CFR part 860), subpart C, FDA has responsibility to collect data and information contained in reclassification petitions. The reclassification provisions of the FD&C Act allow any person to petition for reclassification of a device from any of the three classes, *i.e.,* I, II, and III, to another class. The reclassification content regulation (§ 860.123) requires the submission of valid scientific evidence demonstrating that the proposed reclassification will provide a reasonable assurance of safety and effectiveness of the device type for its indications for use.

The reclassification procedure regulation requires the submission of specific data when a manufacturer is petitioning for reclassification. This includes a ''Supplemental Data Sheet,'' Form FDA 3427, and a ''General Device Classification Questionnaire,'' Form FDA 3429. Both forms contain a series of questions concerning the safety and effectiveness of the device type.

In the **Federal Register** of March 25, 2014 (79 FR 16252), FDA issued a proposed rule that would eliminate the need for Forms FDA 3427 and FDA 3429. However, because the proposed rule has not been finalized, we continue to include the forms in the burden estimate for this information collection.

The reclassification provisions of the FD&C Act serve primarily as a vehicle for manufacturers to seek reclassification from a higher to a lower class, thereby reducing the regulatory requirements applicable to a particular device type, or to seek reclassification from a lower to a higher class, thereby increasing the regulatory requirements applicable to that device type. If approved, petitions requesting classification from class III to class II or class I provide an alternative route to market in lieu of premarket approval for class III devices. If approved, petitions requesting reclassification from class I or II, to a different class, may increase requirements.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	FDA Form Nos.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Supporting data for reclassification petition	.....	6	1	6	497	2,982
Supplemental Data Sheet	3427	6	1	6	1.5	9
General Device Classification Questionnaire	3429	6	1	6	1.5	9
Total	.....	.....	.....	.....	.....	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on reclassification petitions received in the last 3 years, FDA anticipates that six petitions will be submitted each year. The time required to prepare and submit a reclassification petition, including the time needed to assemble supporting data, averages 500 hours per petition. This average is based upon estimates by FDA administrative and technical staff who: (1) Are familiar with the requirements for submission of a reclassification petition, (2) have consulted and advised manufacturers on these requirements, and (3) have reviewed the documentation submitted.

This document refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120 and the collections of information in 21 CFR part 814, subparts A through E have been approved under OMB control number 0910–0231.

Dated: March 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05506 Filed 3–9–15; 8:45 am]

BILLING CODE 4164–01–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; Member Conflict SEP.

Date: March 26, 2015.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, National Institute On Aging, National Institutes Of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 4, 2015.

Melanie J. Gray,

Program Analyst Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05454 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary R01 Telephone Review SEP.

Date: April 3, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, Md, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 4, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05509 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: April 16, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The next meeting of the Office of AIDS Research Advisory Council (OARAC) will be devoted to presentations and discussions on ''Maximizing U.S. Agency Partnerships for International HIV/AIDS Research.'' An update will be provided on the latest changes made to the federal treatment and prevention guidelines by the OARAC Working Groups responsible for the guidelines.

Place: National Institutes of Health, 5635 Fishers Lane Conference Center, Terrace Level, Suite T–500, Rockville, MD 20852.

Contact Person: Amelia Hall, M.A., Program Analyst, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E63, Rockville, MD 20852, (240) 669–5462, *hallam@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation. Information is also available on the OAR's home page: *http://www.oar.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 4, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05446 Filed 3–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–15–14BAA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy

of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

A Comprehensive Assessment of the National Program to Eliminate Diabetes Related Health Disparities in Vulnerable Populations—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In an effort to reduce diabetes-related disparities, CDC's Division of Diabetes Translation's (DDT) aims to concentrate efforts where the greatest impact can be achieved for populations with the greatest burden or risk of diabetes. DDT established the National Program to Eliminate Diabetes Related Health Disparities in Vulnerable Populations (the ''VP Program'') to coordinate and integrate efforts in high risk communities involving CDC, national organizations, and community partners.

Through the VP Program, six national organizations received cooperative agreements to assist a total of 18 communities with planning, implementing, and evaluating community-based diabetes control programs. Each VP awardee is required to use the community change framework to guide their work with three communities. CDC proposes to collect information to learn more about how the community change approach is working in communities that are significantly impacted by factors that influence the disproportionate burden of diabetes in vulnerable populations, such as low income, limited education, limited access to health care, and a physical environment that does not promote health. Semi-structured telephone interviews will be conducted with key personnel associated with each national organization (VP awardee) and each community site. One project coordinator and one consultant at each of the six VP grantee organizations (n=12) will be asked to participate in an interview of 1.5 hours in length. In addition, an interview of approximately 1.5 hours will be conducted with one community partner or one coalition member at each community site (n=18) and one site coordinator at each community site (n=18) over a two-month period. Data collection, management, and analysis will be conducted by a contractor working on behalf of CDC.

The interviews will allow CDC to explore capacity building and support strategies used by the awardees to facilitate community change, and provide insight into the facilitators and barriers experienced by the program stakeholders in addressing diabetes in their communities.

OMB approval is requested for one year. Participation in the interviews is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden hours are 72.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Grantee (staff designee and consultant)	Grantee Interview Guide	12	1	1.5
Community Partner/Coalition Member	Community Partner/Coalition Member Interview Guide.	18	1	1.5
Site Coordinator	Site Coordinator/Interview Guide	18	1	1.5

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

BILLING CODE 4163–18–P

[FR Doc. 2015–05511 Filed 3–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–1053]

Towing Safety Advisory Committee; March 2015 Meeting

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Towing Safety Advisory Committee will meet in Louisville, Kentucky March 25 and 26, 2015 to review and discuss recommendations from its Subcommittees and to receive briefs listed in the agenda under **SUPPLEMENTARY INFORMATION**. All meetings will be open to the public. The Subcommittees will meet on Wednesday, March 25, 2015 and work on five assigned tasks listed in the referenced agenda. The full Towing Safety Advisory Committee will meet on Thursday, March 26, 2015.

DATES: The Towing Safety Advisory Committee Subcommittees will meet on Wednesday, March 25, 2015 from 8 a.m. to 5 p.m. The full Towing Safety Advisory Committee will meet on Thursday, March 26, 2015, from 8 a.m. to 5:30 p.m. These meetings may close early if the Committee has completed its business. All submitted written materials, comments, and requests to make an oral presentation at the meetings should reach Mr. William J. Abernathy, Alternate Designated Federal Officer for the Towing Safety Advisory Committee, no later than March 16, 2015. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public will be distributed to the Towing Safety Advisory Committee and become part of the public record.

ADDRESSES: All meetings will be held at the Auditorium, Muhammad Ali Center, One Muhammad Ali Plaza, 144 North Sixth Street, Louisville, KY 40202. The Telephone Number for the Muhammad Ali Center is (502)992–5326 and the Fax is (502)589–4905.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the ''Agenda'' section below. Written comments must

be submitted no later than March 16, 2015 if committee review is desired prior to the meeting. Comments must be identified by Docket No. USCG–2014–1053 and submitted by one of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. (Preferred method to avoid delays in processing.)
- Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. We encourage use of electronic submissions to minimize mail security screening delays.
- Fax: 202–493–2251.
- Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- To avoid duplication, please use only one of these methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number of this action. All comments will be posted as submitted at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov* insert USCG–2014–1053 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Abernathy, Alternate Designated Federal Officer for the Towing Safety Advisory Committee; Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509; telephone 202–372–1363, fax 202–372–8382; or email *William.J.Abernathy@uscg.mil;* or Lieutenant Commander William A. Nabach, Designated Federal Officer; telephone 202–372–1386, fax 202–372–8382; or email *william.a.nabach@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. This Committee is established in accordance with, and operates under the provisions of, the *Federal Advisory Committee Act.* As stated in 33 U.S.C. 1231a, the Towing Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

Agenda of Meetings

The Subcommittees will meet on March 25, 2015, from 8 a.m. to 5 p.m., to work on their specific task assignments:

(1) Recommendations Regarding Automation Equipment, Testing, Assessment, and Trial Periods on Towing Vessels.

(2) Recommendations for the Maintenance, Repair, and Utilization of Towing Equipment, Lines, and Couplings.

(3) Recommendations concerning procedures for conducting drug tests on board towing vessels.

(4) Recommendations for Improvement of Coast Guard Marine Casualty Reporting.

(5) Recommendations to Establish Criteria for Identification of Air Draft for Towing Vessels and Tows.

(6) Recommendations concerning the MODU KULLUK Report of Investigation.

On March 26, 2015, from 8 a.m. to 5:30 p.m., the Towing Safety Advisory Committee will meet to hear remarks by:

(1) Captain Richard Timme, USCG, Commander, Sector Ohio River Valley.

(2) Ms. Helen Brohl, Director, U.S. Committee on the Maritime Transportation System, U.S. Department of Transportation.

The Committee will also receive reports concerning the following:

(1) Recommendations Regarding Automation Equipment, Testing, Assessment, and Trial Periods on Towing Vessels, Initial Report.

(2) Recommendations for the Maintenance, Repair and Utilization of Towing Equipment, Lines and Couplings, Interim Report.

(3) Recommendations for Drug Testing Procedures on board Towing Vessels, Initial Report.

(4) Recommendations for Improvement of Coast Guard Marine Casualty Reporting, Final Report.

(5) Recommendation to Establish Criteria for Identification of Air Draft for Towing Vessels and Tows, Interim Report.

(6) Recommendations concerning the MODU KULLUK Report of Investigation, Interim Report.

There will be a comment period for Towing Safety Advisory Committee members and a comment period for the public after each report presentation, but before each is voted on by the Committee. The Committee will review the information presented on each issue, deliberate on any recommendations presented in the Subcommittees' reports, and formulate recommendations for the Department's consideration.

A copy of each draft report and presentations, and the meeting agenda will be available at: *https://homeport.uscg.mil/tsac.*

An opportunity for oral comments by the public will be provided during the meeting on March 26, 2015. Speakers are requested to limit their comments to 3 minutes. Please note the public oral comment period may end before 5:30 p.m., if the Committee has finished its business earlier than scheduled. Please contact Mr. William J. Abernathy, listed above in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Minutes

Minutes from the meeting will be available for public review and copying within 90 days following the close of the meeting and can be accessed from the Coast Guard Homeport Web site *http://homeport.uscg.mil/tsac.*

Notice of Future 2015 Towing Safety Advisory Committee Meetings

To receive automatic email notices of any future Towing Safety Advisory Committee meetings in 2015, go to the online docket, USCG–2014–1053 (*http://www.regulations.gov/#!docketDetail;D=USCG-2014-1053*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all Towing Safety Advisory Committee meeting notices in 2015, so if another 2015 meeting notice is published you will receive an email alert from *www.regulations.gov* when the notice appears in this docket.

Dated: March 4, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. 2015–05490 Filed 3–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

[OMB Control Number 1615–0023]

Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I–485 Supplement A, and Instruction Booklet for Filing Form I–485 and Supplement A, Form I–485; Revision of a Currently Approved Collection.

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 11, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0023 in the subject box, the agency name and Docket ID USCIS–2009–0020. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2009–0020;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Register Permanent Residence or Adjust Status, Form I–485 Supplement A, and Instruction Booklet for Filing Form I–485 and Supplement A.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–485 and Form I–485 Supplement A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected is used to determine eligibility to adjust status under section 245 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–485 is 672,271 and the estimated hour burden per response is 6 hours. The estimated total number of respondents for the information collection Form I–485 Supplement A is 25,540 and the estimated hour burden per response is .50 hours (30 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 697,811 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. The costs to the respondents are captured in the individual information collections.

Dated: March 4, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–05503 Filed 3–9–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2004–19147]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0021, abstracted below, that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves gaining information to conduct security threat assessments for all aliens and other designated individuals seeking flight instruction (''candidates'') from Federal Aviation Administration (FAA)-certified flight training providers. Pursuant to statute, TSA will use the information collected to determine whether a candidate poses a threat to aviation or national security, and thus prohibited from receiving flight training. Additionally, flight training providers are required to conduct a security awareness training program for their employees and to maintain records associated with this training.

DATES: Send your comments by May 11, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0021, Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees, 49 CFR part 1552. Pursuant to section 612 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44939), TSA is required to conduct security threat assessments for all aliens and other designated individuals seeking flight instruction with Federal Aviation Administration (FAA)-certified flight training providers. On September 20, 2004, TSA promulgated regulations (49 CFR part 1552) to transfer the program from the Department of Justice to TSA and to make appropriate amendments to determine that candidates do not pose a threat to aviation or national security and thus permitted to receive flight training. The collection of information required under 49 CFR part 1552 includes candidates' biographic information and fingerprints, which TSA uses to perform the security threat assessment. Additionally, flight training providers are required to maintain records of having conducted security awareness training for their employees to increase awareness of suspicious circumstances and activities of individuals enrolling in, or attending, flight training. Each flight training provider employee must receive security awareness training within 60 days of being hired and on an annual recurring basis. The flight training providers must maintain records of the training completed throughout the course of the individual's employment, and for one year after the individual is no longer a flight training provider employee.

Based on the numbers of respondents to date, TSA estimates a total of 39,900 respondents annually: 35,000 candidates and 4,900 flight training providers. Respondents are required to provide the subject information every time an alien or other designated individual applies for pilot training as described in the regulation and subsequent interpretations, which is estimated to be 50,000 responses per year. TSA estimates an average of 45 minutes to complete each application, for a total approximate application burden of 37,500 hours per year. Flight training providers must keep records for each flight training candidate for five years from the time they are created. It is estimated each of the 4,900 flight training providers will carry an annual record keeping burden of 104 hours, for a total of 509,600 hours. Thus, TSA estimates the combined hour burden associated with this collection to be 547,100 hours annually.

Dated: March 4, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–05465 Filed 3–9–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Abeldgaard, et al.,* Civil Action No. A–01–378 (RRB), was lodged with the United States District Court for the District of Alaska on March 4, 2015.

This proposed Consent Decree concerns a complaint filed by the United States on behalf of the United States Environmental Protection Agency against, *inter alia,* Clarence Abeldgaard, Oceanview Enterprises, Inc. and Geraldine Barling, pursuant to Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from, and impose civil penalties on, the Defendants for violating the Clean Water Act by discharging dredged or fill material into the waters of the United States near Anchor Point, Alaska, without authorization by the United States Army Corps of Engineers. The proposed Consent Decree resolves the allegations against Ms. Barling.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Mark A. Nitczynski, Senior Trial Counsel, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, 999 18th Street, South Terrace, Suite 370, Denver, CO 80202 and refer to *United States* v. *Abeldgaard, et al.,* USAO File No. 2001V0026, EPA Region X, DJ # 90–5–1–1–16195.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Alaska, United States Courthouse, 222 West Seventh Avenue, Room 229, Anchorage, AK 99513. In addition, the proposed Consent Decree may be examined electronically at *http://*

www.justice.gov/enrd/Consent_Decrees.html.

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2015–05493 Filed 3–9–15; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0048]

Compliance With Phase 2 of Order EA–13–109

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment its Japan Lessons-Learned Division (JLD) draft interim staff guidance (ISG), ''Compliance with Phase 2 of Order EA–13–109, Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation under Severe Accident Conditions,'' (JLD–ISG–2015–01). This draft JLD–ISG would provide guidance and clarification to assist nuclear power reactor licensees identify measures needed to comply with Phase 2 requirements of the ''Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation Under Severe Accident Conditions,'' (Order EA–13–109) to have either a vent path from the containment drywell or a strategy that makes it unlikely that venting would be needed from the drywell before alternate reliable containment heat removal and pressure control is reestablished.

DATES: Submit comments by April 9, 2015. 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 comment 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–2015–0048. 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: Rajender Auluck, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1025; email: *Rajender.Auluck@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0048 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0048.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library 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 in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The draft JLD–ISG–2015–01 is available in ADAMS under Accession No. ML15051A143. The ISG for complying with Phase 1 requirements of the order (JLD–ISG–2013–02) was issued on November 14, 2013 (ADAMS Accession No. ML13304B836).
- *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.
- *NRC's Interim Staff Guidance Web site:* JLD–ISG documents are also available online under the ''Japan Lessons Learned'' heading at *http://www.nrc.gov/reading-rm/doc-collections/isg/japan-lessons-learned.html.*

B. Submitting Comments

Please include Docket ID NRC–2015–0048 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The NRC developed draft JLD–ISG–2015–01 to provide guidance and clarification to assist nuclear power reactor licensees with the identification of methods needed to comply with Phase 2 requirements in Order EA–13–109, ''Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation under Severe Accident Conditions'' (ADAMS Accession No. ML13130A067). The draft ISG would not be a substitute for the requirements in Order EA–13–109, and compliance with the ISG would not be a requirement. This ISG is being issued in draft form for public comment to involve the public in development of the implementing guidance.

The accident at the Fukushima Dai-ichi nuclear power station reinforced the importance of reliable operation of containment vents for boiling-water reactor (BWR) plants with Mark I and Mark II containments. As part of its response to the lessons learned from the accident, on March 12, 2012, the NRC issued Order EA–12–050 (ADAMS Accession No. ML12056A043) requiring licensees to upgrade or install a reliable hardened containment venting system (HCVS) for Mark I and Mark II containments. The requirements in Order EA–12–050 for licensees with

BWR plants with Mark I and Mark II containments were intended to increase the reliability of containment venting to support decay heat removal from the reactor core and provide protection against over-pressurization of the primary containments. While developing the requirements for Order EA–12–050, the NRC acknowledged that questions remained about maintaining containment integrity and limiting the release of radioactive materials if licensees used the venting systems during severe accident conditions.

The NRC staff presented the Commission with options to address these issues in SECY–12–0157, ''Consideration of Additional Requirements for Containment Venting Systems for Boiling Water Reactors with Mark I and Mark II Containments'' (issued November 26, 2012, ADAMS Accession No. ML12325A704). The options presented in SECY–12–0157 included continuing with the implementation of Order EA–12–050 for reliable hardened vents (Option 1); requiring licensees to upgrade or replace the reliable hardened vents required by EA–12–050 with a containment venting system designed and installed to remain functional during severe accident conditions (Option 2); requiring licensees with BWR Mark I and Mark II containments to install an engineered filtered containment venting system intended to prevent the release of significant amounts of radioactive material following the dominant severe accident sequences (Option 3); and pursuing development of requirements and technical acceptance criteria for performance-based confinement strategies (Option 4). The NRC staff provided an evaluation considering various quantitative analyses and qualitative factors related to the options and recommended the Commission approve Option 3 to require the installation of an engineered filtering system. One issue not specifically addressed within SECY–12–0157 was the importance of water addition to cool core debris as part of severe accident management for BWR's with Mark I and II containments. The NRC staff acknowledged in SECY–12–0157 that in the longer-term rulemaking associated with any of the options presented, the NRC could consider adding requirements for the capability of core debris cooling during severe accident scenarios.

In the staff requirements memorandum (SRM) for SECY–12–0157, dated March 19, 2013 (ADAMS Accession No. ML13078A017), the Commission directed the staff to: (1) Issue a modification to Order EA–12–050 requiring BWR licensees with Mark I and Mark II containments to upgrade or replace the reliable hardened vents required by Order EA–12–050 with a containment venting system designed and installed to remain functional during severe accident conditions, and (2) develop a technical basis and rulemaking for filtering strategies with drywell filtration and severe accident management of BWR Mark I and II containments. The NRC subsequently issued Order EA–13–109 to define requirements and schedules for licensees for BWRs with Mark I and Mark II containments to install severe accident capable containment venting systems. The NRC staff also initiated development and evaluation of other possible regulatory actions identified in the Commission's SRM for SECY–12–0157, including the development of a technical basis in support of a Containment Protection and Release Reduction (CPRR) rulemaking.

Order EA–13–109, in addition to requiring a reliable HCVS to assist in preventing core damage when heat removal capability is lost (the purpose of EA–12–050), will ensure that venting functions are also available during severe accident conditions. Severe accident conditions include the elevated temperatures, pressures, radiation levels, and combustible gas concentrations, such as hydrogen and carbon monoxide, associated with accidents involving extensive core damage, including accidents involving a breach of the reactor vessel by molten core debris. The safety improvements to Mark I and Mark II containment venting systems required by Order EA–13–109 increase confidence in licensees' ability to maintain the containment function following core damage events. Although venting the containment during severe accident conditions could result in the release of radioactive materials, venting could also prevent containment structural failures and gross penetration leakage due to overpressurization that would hamper accident management (*e.g.,* continuing efforts to cool core debris) and ultimately result in larger, uncontrolled releases of radioactive material.

In recognition of the relative importance of venting capabilities from the wetwell and drywell, a phased approach to implementation is being used to minimize delays in implementing the requirements originally imposed by Order EA–12–050. Phase 1 involves upgrading the venting capabilities from the containment wetwell to provide reliable, severe accident capable hardened vents to assist in preventing core damage and, if necessary, to provide venting capability during severe accident conditions. Phase 2 involves providing additional protection during severe accident conditions through installation of a reliable, severe accident capable drywell vent system or the development of a reliable containment venting strategy that makes it unlikely that a licensee would need to vent from the containment drywell during severe accident conditions. For implementation of Phase 1 order requirements, the NRC issued JLD–ISG–2013–02 on November 14, 2013 (78 FR 70356), which endorsed, with clarifications, the methodologies described in the industry guidance document Nuclear Energy Institute (NEI) 13–02, Rev. 0 (ADAMS Accession No. ML13316A853). As required by the order, licensees submitted their site-specific overall integrated plans by June 30, 2014. The NRC is currently reviewing these plans and expects to complete those reviews by June 2015.

The focus of this ISG is to provide guidance for Phase 2 requirements of the order. Some proposed approaches to implement Phase 2 requirements of the order include the addition of water to the drywell during severe accident conditions. Evaluations performed by the NRC and industry in conjunction with the CPRR rulemaking show that water addition during severe accident conditions provides benefits that include reducing temperatures and cooling molten core debris. In SECY–12–0157, the NRC discussed various risk assessments by the NRC and industry that have concluded that adding water to the drywell reduces the likelihood of release of radioactive materials for those severe accident scenarios that involve fuel melting through the reactor vessel. The water added to the drywell cools the molten fuel and can arrest the melting fuel's progression and reduce the likelihood of a loss of the containment function through liner melt-through, containment over-pressurization failure, and containment over-temperature failure. In addition to the benefits associated with containment protection, recent technical evaluations performed by both the industry and the NRC indicate that including the capability of timely severe accident water addition (SAWA) results in a substantially lower drywell temperature for consideration in designing the drywell vent. Therefore, SAWA will facilitate implementation of Phase 2 of Order EA–13–109 by establishing the design conditions for a drywell vent and supporting severe accident water management (SAWM) for

licensees choosing to pursue that option as a strategy that makes it unlikely that a licensee would need to vent from the drywell.

On December 10, 2014, NEI submitted NEI 13–02, ''Industry Guidance for Compliance with Order EA–13–109,'' Rev. 0E2 (ADAMS Accession No. ML1434A374) to assist nuclear power licensees with the identification of measures needed to comply with the requirements of Order EA–13–109 regarding reliable hardened containment vents capable of operation under severe accident conditions. The NEI document includes guidance for implementing order requirements for both Phase 1 and Phase 2, including the industry's proposed approach to use the SAWA and SAWM strategies to control the water levels in the suppression pool and maintain capabilities to address over-pressure conditions without a severe accident drywell vent. As described in the draft ISG, some issues remain the subject of ongoing discussions as part of finalizing the guidance. These include: (1) Availability of power and functional requirements for the SAWA-related installed and portable equipment, (2) duration of time for preservation of the wetwell vent for the SAWM strategy, and (3) alternate control of containment conditions during recovery from the severe accident. The NRC intends to continue discussions with stakeholders prior to finalizing the ISG for Phase 2 of the order and endorsing, with clarifications and exceptions if necessary, the methodologies described in the industry guidance document NEI 13–02, Rev. 0E2.

Dated at Rockville, Maryland, this 2nd day of March 2015.

For the Nuclear Regulatory Commission.

Jack R. Davis,

Director, Japan Lessons-Learned Division, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–05436 Filed 3–9–15; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74436; File No. SR–NYSEARCA–2015–09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Relating to Strategy Executions

March 4, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 24, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') relating to Strategy Executions. The Exchange proposes to implement the change on March 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Exchange's Limit on Fees on Options Strategy Executions (''Strategy Cap''). Currently, the Exchange imposes a Strategy Cap of $750 on transaction fees for certain Strategy Executions executed in standard option contracts on the same trading day in the same option class. The Exchange is proposing to lower the $750 Strategy Cap to $700.[4] The Exchange proposes to implement the $700 Strategy Cap on March 1, 2015.

Strategy Executions that are eligible for the Strategy Cap would continue to be (a) reversals and conversions, (b) box spreads, (c) short stock interest spreads, (d) merger spreads, and (e) jelly rolls. As is the case today, Royalty fees associated with Strategy Executions on Index and Exchange Traded Funds would not be included in the calculation of the Strategy Cap, but would be passed through to trading participants on the Strategy Executions on a pro-rata basis. Similarly, manual Broker Dealer and Firm Proprietary Strategy trades that do not reach the $700 Strategy Cap would continue to be billed at $0.25 per contract.

The use of these Strategy Executions benefits all market participants by increasing liquidity in general and allowing significant and complex trading interest to be brought together to enhance liquidity. By encouraging this type of business on the Exchange, the increased liquidity benefits all market participants. The Exchange believes the proposed change would continue to incentivize market participants to trade on the Exchange by capping option transaction charges related to various Strategy Executions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] in particular, because it would provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons

[4] Transaction fees on Strategy Executions are further capped at $25,000 per month per initiating firm. The Exchange is not proposing to modify this $25,000 monthly cap. Mini options are excluded from the Strategy Cap. *See* Fee Schedule, *available at, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because the reduced fee cap is designed to attract more volume and liquidity to the Exchange, which would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

Further, because the proposed change applies equally to all non-Customers who may participate in Strategy Executions, the Exchange believes the reduced Strategy Cap is reasonable, equitable and not unfairly discriminatory. The Exchange notes that Customers are not charged transaction fees when participating in Strategy Executions and therefore are not subject to the Strategy Cap.

Finally, the Exchange notes that the proposed $700 Strategy Cap is equivalent to the cap placed on various executions strategies by other exchanges.[7]

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply uniformly to all Exchange members that incur transaction charges. To the contrary, the proposed change would continue to encourage members to transact strategies on the Exchange because the proposed fee caps are competitive with fee caps at other options exchanges.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2015–09 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–NYSEARCA–2015–09. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2015–09, and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05483 Filed 3–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74432; File No. SR–OCC–2015–03]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Execution of an Agreement for Clearing and Settlement Services Between OCC and NASDAQ Futures, Inc.

March 4, 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 February 20, 2015, The Options Clearing Corporation (''OCC'') filed with the

[7] *See, e.g.,* NASDAQ OMX PHLX LLC fee schedule, *available at, http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing* (capping at $700 transaction fees for all reversals, conversions, box spreads, and jelly roll strategies executed on the same trading day in the same option class); Chicago Board Options Exchange, Inc. fee schedule, *available at, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (capping at $700 transaction fees for all reversals, conversions, and jelly roll strategies executed on the same trading day in the same option class).

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

OCC is proposing to execute an Agreement for Clearing and Settlement Services (''Clearing Agreement'') between OCC and NASDAQ Futures, Inc. (''NFX'') in connection with NFX's intention to resume operating as a designated contract market (''DCM'') regulated by the Commodity Futures Trading Commission (''CFTC'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC is proposing to provide clearance and settlement services to NFX pursuant to the terms set forth in the Clearing Agreement. NFX has been re-designated by the CFTC as a DCM.[3] The purpose of this proposed rule change is to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

Background

By way of background, NFX previously operated as a DCM and cleared its futures contracts through OCC. As such, OCC and NFX had previously entered into a Second Amended and Restated Agreement for Clearing and Settlement Services (''Previous Agreement'') dated January 13, 2012.[4] Subsequently, as of January 31, 2014, NFX ceased operations as a contract market and became a dormant contract market under CFTC Regulations.[5] As a result, the Previous Agreement was terminated pursuant to its terms[6] and the clearing relationship between OCC and NFX terminated.

Clearing Agreement Proposal

On November 21, 2014, NFX was approved by the CFTC as a DCM.[7] In connection with that approval, OCC is now proposing to provide the clearance and settlement services as described in the Clearing Agreement. The Clearing Agreement is substantially similar to the Previous Agreement with several differences discussed in more detail below.

The Clearing Agreement has been amended to allow OCC more flexibility in determining which products it will clear based upon OCC's conclusion that it is able to appropriately risk manage such products using commercially reasonable standards.[8] More specifically, the following changes have been made:

- Section 3(a) of the Clearing Agreement, ''General Criteria for Underlying Interests,'' has been amended to permit NFX to select the underlying interests that are the subject of currency futures, commodity futures, and/or futures options to be traded on NFX only if OCC is satisfied that it is able to appropriately risk manage the contract with the proposed underlying interest using commercially reasonable efforts.
- Section 9 of the Clearing Agreement, ''Limitations of Authority and Responsibility,'' has been amended to specify that OCC shall have no responsibility to enforce standards relating to the conduct of trading on NFX unless OCC finds it reasonably necessary in order to appropriately risk manage the products that are being traded on NFX.

In addition to the above, the Clearing Agreement will also make several changes to the Previous Agreement, which include:

- Section 3(c), ''Procedures for Selection of Underlying Interests,'' has been amended to state that NFX must submit a certificate for a new class of contracts not already listed or traded on NFX as soon as practicable (rather than ten days prior to the commencement of trading). It has also been amended to state that OCC will be obligated to use commercially reasonable efforts to authorize the clearance and settlement of such contracts as soon as practicable. In addition, the Clearing Agreement expressly obligates NFX to provide OCC with any additional information as requested by OCC from time to time that will assist OCC in identifying a new product proposed for clearing by NFX. OCC believes that these amendments to Section 3(c), related to the procedures for the selection of underlying interests, will ensure that OCC not only has the correct information needed to evaluate a proposed new product but that the information will be produced to OCC in a timely manner which will provide OCC sufficient time to evaluate the proposed new product.
- Section 3(d), ''Notice of Additional Maturity or Expiration Dates,'' has been amended to state that, for a class of products previously certified, NFX may introduce a new maturity or expiration date that is in the cycle set forth in the certificate by providing notice to OCC through electronic means specified by OCC. The Previous Agreement required such notice to be sent to OCC only by email or facsimile.
- A universal conforming change has been made to various sections in the Clearing Agreement to replace the term ''matched'' trades with ''confirmed'' trades to better describe trades that are processed for clearance and settlement.[9]
- Section 5(a), ''Confirmed Trade Reports,'' has been amended to remove language discussing the possibility that NFX will provide OCC with a confirmed trade report on a real time basis as this capability is already captured in the language ''as the Corporation may reasonably prescribe.''
- Section 5(c)(i) has been amended to include language that will allow OCC to determine the final settlement price for a futures contract in which the underlying interest is a cash-settled foreign currency if the organized market in which that foreign currency future is traded on, or the foreign currency itself, did not open or remain open for trading at or before the time in which the settlement price for such futures contract would ordinarily be determined. In addition, Section 5(c)(i) has been amended to include a reference to ''variance'' when listing factors that will allow OCC to determine a final reasonable settlement price, if not reported at the ordinary time of final

[3] *See http://www.cftc.gov/ucm/groups/public/@otherif/documents/ifdocs/nasdaqorderofreinstatement.pdf.*

[4] *See* Securities Exchange Act Release No. 66340 (February 7, 2012), 77 FR 7621 (February 13, 2012) (SR–OCC–2012–02).

[5] *See* 17 CFR 40.1.

[6] More specifically, the Previous Agreement, in relevant part, stated that it would terminate if NFX terminates trading of all Cleared Contracts. *See* Section 19(b) of the Previous Agreement. *See also* note 4 *supra.*

[7] *See* note 3 *supra.*

[8] *See* Sections 3(a) and 9 of the Clearing Agreement in which language has been added allowing such flexibility.

[9] *See* Article I, Section 1(C)(28) of OCC's By-Laws. *See also* Sections 3(g), 6(a), 7, 19, and Schedule A, Section 1 of the Clearing Agreement.

settlement. OCC believes that these additions to the Clearing Agreement clarify the potential underlying interests in which NFX may introduce futures contracts and make the Clearing Agreement more precise.

• Section 7, ''Acceptance and Rejection of Transactions in Cleared Contracts,'' has been amended to include a provision that will allow OCC, in accordance with its By-Laws, to reject transactions due to validation errors which will allow OCC to better manage its clearance and settlement obligations by expressly allowing it to reject transactions that do not contain complete terms. These validation errors include, for example, an incorrect Clearing Member, account, product or format.

• Section 8, ''Non-Discrimination,'' has been amended to delete a provision restricting OCC from changing its By-Laws or Rules in any manner that may limit its obligations to clear and settle for NFX. In addition, a provision has been deleted requiring OCC to amend the Clearing Agreement in the event that OCC has made changes to its standard form agreement for clearing and settlement services. Section 8 has also been amended to delete a provision stating OCC is required to consult with NFX and modify OCC's By-Laws or Rules to incorporate product design features specified by NFX for new products. OCC believes that these provisions are no longer necessary as they limit OCC's ability to modify its By-Laws, Rules and agreements which may be necessary for OCC to fulfill its obligations as a clearing organization. OCC will, however, continue to be obligated to fulfill both the provisions of the Clearing Agreement and OCC's regulatory responsibilities. Section 8 has additionally been amended to delete an obligation for each party to provide the other with proposed rule changes. The elimination of this contractual obligation reflects the parties' determination that their respective obligations to post filed regulatory submissions on their public Web sites provides sufficient notice of such changes.

• Section 11, ''Financial Requirements for Clearing Members,'' has been amended to delete a provision stating the specific financial responsibility standards OCC has with respect to its Clearing Members. This change was made to further streamline the Clearing Agreement given OCC's general obligation to remain consistent with OCC By-Laws and Rules.

• Section 14, ''Programs and Projects,'' has been amended to eliminate a provision expressly requiring OCC to offer futures contract clearing terms to NFX that are no less favorable to the terms offered to other exchanges.

• Sections 15 and 24 in the Previous Agreement, ''Information Sharing'' and ''Quality Standards'' respectively, have been deleted in their entirety in an attempt to simplify the Clearing Agreement as the sections create unnecessary obligations on the parties and are duplicative of general regulatory responsibilities of both parties.

• Section 18(b), ''Other Grounds for Termination,'' has been amended to include a provision that OCC may terminate the Clearing Agreement at any time so long as NFX is given 120 days prior written notice. The addition of this provision better balances the rights of both parties to terminate the Clearing Agreement at their discretion provided that proper notice is given as required by the Clearing Agreement.

• Various administrative changes have been made throughout the document including, but not limited to, an amended legal name and description of NFX, updated references to sections within the document, and clean-up changes of duplicative terms.

Finally, Schedule A of the Clearing Agreement, ''Description of Clearing and Settlement Services'' and Schedule B of the Clearing Agreement, ''Information Sharing,'' have been amended making several changes to the Previous Agreement, which include:

• Section (1) of Schedule A of the Clearing Agreement, ''Trade Acceptance,'' has been updated to reflect current OCC operational requirements with respect to submission of confirmed trades.

• Section (4) of Schedule A, ''Information for Clearing Members,'' has been amended to delete specific information sharing obligations of OCC to its Clearing Members and to state that the information provided to Clearing Members will be in accordance with OCC's By-Laws and Rules.

• Section (I)(A) of Schedule B has been amended to delete specific references to information that OCC will provide to Clearing Members on a daily basis and instead adds a provision that OCC will provide NFX with its ''Data Distribution Service'' information for regulatory and financial purposes.

• Section (I)(B) of Schedule B has been amended to delete certain information sharing provisions and to state that the information sharing obligations OCC continues to have may be satisfied by posting the required information on OCC's public Web site which streamlines the information sharing process.

Conclusion

The Clearing Agreement has remained substantially similar to the Previous Agreement but has been amended in certain respects as described above. Generally, the amendments will provide OCC more discretion in which products it manages based upon its risk management framework, remove unnecessary obligations for each party, and make the Clearing Agreement more precise and reflective of current practices. The Clearing Agreement also allows OCC to continue to provide clearance and settlement purposes while fulfilling its obligations as a self-regulating organization. As such, as stated above, OCC is proposing to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (''Act'').[10] By entering into the Clearing Agreement, OCC will help ensure that derivatives contracts traded on NFX will be promptly and accurately cleared pursuant to OCC's prudent risk management framework. By bringing derivatives contracts traded on NFX within the scope of OCC's clearance and settlement processes, OCC believes the proposed rule change contributes to the protection of investors and the public interest. By ensuring that the derivatives contracts traded on NFX are prudently risk managed under OCC's risk management framework, the proposed rule change also helps ensure the safeguarding of securities and funds in the custody and control of OCC. Finally, the proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

[10] 15 U.S.C. 78q–1(b)(3)(F).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–OCC–2015–03 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–OCC–2015–03. 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 OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_03.pdf.*

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–OCC–2015–03 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05479 Filed 3–9–15; 08:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74435; File No. SR–EDGA–2015–10]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 11.6, 11.8, 11.9, 11.10 and 11.11 of EDGA Exchange, Inc.

March 4, 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 February 20, 2015, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') 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 self-regulatory organization. On February 27, 2015, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as modified by Amendment No. 1, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rules 11.6, 11.8, 11.9, 11.10 and 11.11 to clarify and to include additional specificity regarding the current functionality of the Exchange's System,[4] including the operation of its order types and order instructions, as further described below.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 5, 2014, Chair Mary Jo White asked all national securities exchanges to conduct a comprehensive review of each order type offered to members and how it operates.[5] The Exchange notes that a comprehensive rule filing clarifying and updating Exchange rules was recently approved.[6] However, based on the request from Chair White, the Exchange did indeed conduct further review of each order types and its operation. The proposals set forth below are based on this comprehensive review and are intended to clarify and to include additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and order instructions. The proposals set forth below are intended to supplement the recently approved filing based on further review conducted by the Exchange and are intended to clarify and enhance the understandability of

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces SR–EDGA–2015–10 and supersedes such filing in its entirety.

[4] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[5] *See* Mary Jo White, Chair, Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference, (June 5, 2014) (*available at http://www.sec.gov/News/Speech/Detail/Speech/1370542004312#.VD2HW610w6Y*).

[6] Securities Exchange Act Release No. 73592 (November 13, 2014), 79 FR 68937 (November 19, 2014) (SR–EDGA–2014–20).

the Exchange's rules related to the ranking and execution of orders. The proposal is also intended to add additional detail with respect to the handling of orders with a Discretionary Range [7] instruction. The Exchange is not proposing any substantive modifications to the System.

Orders With a Discretionary Range

Pursuant to current Rule 11.6(d), the Exchange defines a Discretionary Range as an instruction the User [8] may attach to an order to buy (sell) a stated amount of a security at a specified, displayed price with discretion to execute up (down) to a specified, non-displayed price. For purposes of this proposal, the Exchange will use the term ''Discretionary Range'' to describe the amount between the displayed price to and including the highest price at which a buyer is willing to buy or lowest price at which a seller is willing to sell. The Exchange proposes to make clear that although an order with a Discretionary Range instruction may be accompanied by a Displayed [9] instruction, an order with a Discretionary Range instruction may also be accompanied by a Non-Displayed instruction, and if so, will have a non-displayed ranked price as well as a discretionary price. The Exchange further proposes to specifically state that resting orders with a Discretionary Range instruction will be executed at a price that uses the minimum amount of discretion necessary to execute the order against an incoming order. In addition, the Exchange proposes to make clear certain circumstances where the Discretionary Range of an order is temporarily reduced due to contra-side interest resting on the EDGA Book.[10]

The Exchange also proposes to specify certain situations where the Discretionary Range of an order could be temporarily reduced based on contra-side interest resting on the Exchange. The Exchange notes that an order with a Post Only instruction [11] will, in all cases, remove contra-side liquidity from the EDGA Book because under its current taker-maker pricing structure, the remover of liquidity is provided a rebate while the provider of liquidity is charged a fee. Therefore, in all cases, the value of the execution to remove liquidity will equal or exceed the value of such execution once posted to the EDGA Book, including the applicable fees charged or rebates received. However, the Exchange proposes to adopt language to reflect the operation of the System in the event the Exchange's fee structure is modified and an order with a Post Only instruction is able to be posted to the EDGA Book without removing liquidity. The Exchange notes that if this were the case, it would be possible for an order with a Discretionary Range instruction to have its Discretionary Range temporarily reduced based on contra-side interest resting on the Exchange because an incoming order with a Post Only instruction would be posted to the EDGA Book rather than executing against the Discretionary Range of a resting order.

With respect to displayed contra-side liquidity, the Exchange proposes to make clear that if an order posted to the EDGA Book has a Discretionary Range and there is a contra-side order that is displayed by the System on the EDGA Book within such Discretionary Range, the order with a Discretionary Range will not be permitted to execute at the price of or at a price more aggressive than such contra-side displayed order unless and until there is no contra-side displayed order on the EDGA Book within the Discretionary Range. In such case, the order with a Discretionary Range will have discretion to one Minimum Price Variation [12] below (above) the contra-side offer (bid) that is displayed by the System on the EDGA Book.

With respect to non-displayed contra-side liquidity, the Exchange proposes to make clear that if an order posted to the EDGA Book has a Discretionary Range and there is a contra-side order with a Non-Displayed instruction,[13] the order with a Discretionary Range will not be permitted to execute at a price more aggressive than the ranked price of such contra-side order unless and until there is no contra-side order on the EDGA Book within the Discretionary Range. In such case, the order with a Discretionary Range will have discretion to the ranked price of the contra-side offer (bid) with a Non-Displayed instruction that is maintained by the System on the EDGA Book.

The Exchange notes that the language proposed with respect to the temporary reduction of the Discretionary Range of an order is consistent with the Exchange's recently amended rules.[14] Specifically, the Exchange suspends the discretion of an order subject to the Displayed Price Sliding [15] instruction for so long as a contra-side order that equals the Locking Price [16] is displayed by the System on the EDGA Book. The Exchange suspends this discretion to avoid an apparent priority issue. In particular, in such a situation the Exchange believes a User representing an order that is displayed on the Exchange might believe that an incoming order was received by the Exchange and then bypassed such displayed order, removing some other non-displayed liquidity on the same side of the market as such displayed order. For the same reason, the Exchange believes it is appropriate to prevent an order with a Discretionary Range instruction to execute at the same price or at a price more aggressive than a contra-side order that is displayed on the EDGA Book. Similarly, although the Exchange believes it is appropriate to permit an order with a Discretionary Range instruction to execute at the same price as a contra-side order with a Non-Displayed instruction, the Exchange suspends such discretion at any more aggressive prices in order to avoid trading through orders that have been ranked on and are resting on the EDGA Book.

Below are examples of the operation of orders with a Discretionary Range.

Example No. 1: Modification and Reinstatement of Discretionary Range With a Displayed Contra-Side Order

Assume the NBBO is $10.00 by $10.10, that the best-priced order to buy in the System is a displayed bid at $9.99, and that the best-priced order to sell in the System is a displayed offer at $10.11. Also assume that orders with a Post Only instruction do not remove liquidity from the EDGA Book because the value of an execution would not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4).[17] A Limit Order [18] to buy 100 shares at $10.00 with a Discretionary Range of $0.05 is entered into the System. The order will be displayed on the EDGA Book at $10.00 with discretion to execute up to $10.05. If a

[7] *See* Exchange Rule 11.6(d).

[8] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[9] *See* Exchange Rule 11.6(e)(1).

[10] The term ''EDGA Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

[11] *See* Exchange Rule 11.6(n)(4).

[12] *See* Exchange Rule 11.6(i).

[13] The Exchange notes that the reference to orders with a Non-Displayed instruction is intended to apply to all orders that are not displayed on the Exchange, such as MidPoint Peg Orders as defined in Rule 11.8(d).

[14] *See supra* note 6.

[15] *See* Exchange Rule 11.6(l)(1)(B).

[16] *See* Exchange Rule 11.6(f).

[17] As described elsewhere in the proposal, under the Exchange's current pricing structure a Limit Order with a Post Only instruction will remove contra-side liquidity in all cases.

[18] *See* Exchange Rule 11.8(b).

Limit Order to sell 100 shares at $10.05 with a Displayed instruction and a Post Only instruction [19] is entered into the System such order will be posted and displayed by the System on the EDGA Book as an order to sell 100 shares at $10.05. The buy order with the Discretionary Range instruction will have its discretion to execute at $10.05 temporarily suspended but such order will continue to have discretion to execute up to $10.04. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.05.

- If a non-routable Limit Order to sell 100 shares at $10.05 is entered into the System, depending on applicable User instructions, such order will either be posted and displayed by the System on the EDGA Book as an order to sell 100 shares (*i.e.,* with priority behind the order to sell that is already displayed on the EDGA Book at $10.05) or will be cancelled back to the entering User.
- If, instead, a Limit Order to sell 100 shares at $10.04 is entered into the System, such order will execute at $10.04 against the resting buy order with a Discretionary Range instruction.
- If, instead, a Limit Order to sell 100 shares at $10.02 is entered into the System, such order will execute at $10.02 against the resting buy order with a Discretionary Range instruction.
- If, instead, a Limit Order to sell 100 shares at $10.00 or lower or a Market Order to sell 100 shares is entered into the System, such order will execute at $10.00 against the resting buy order with a Discretionary Range instruction.
- If, instead, the sell order at $10.05 with a Post Only instruction is then canceled, the buy order with a Discretionary Range instruction with have its discretion to execute up to $10.05 reinstated.
- If, instead, a Limit Order to buy 100 shares at $10.05 or higher or a Market Order to buy 100 shares is then entered into the System, such order will execute at $10.05 against the displayed order to sell with a Post Only instruction and the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.05 reinstated.

Example No. 2: Modification and Reinstatement of Discretionary Range With a Non-Displayed Contra-Side Order

Assume the NBBO is $10.00 by $10.10, that the best-priced order to buy in the System is a displayed bid at $9.99, and that the best-priced order to sell in the System is a displayed offer at $10.11. Also assume that orders with a Post Only instruction do not remove liquidity from the EDGA Book because the value of an execution would not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4).[20] A Limit Order with to buy 100 shares at $10.00 with a Discretionary Range of $0.07 is entered into the System. The order will be ranked and displayed on the EDGA Book at $10.00 with discretion to execute up to $10.07. If a Limit Order to sell 100 shares at $10.06 with a Non-Displayed instruction and a Post Only instruction is entered into the System such order will be posted by the System on the EDGA Book as an order to sell 100 shares at $10.06. The buy order's discretion to execute at $10.07 will be temporarily suspended but such order will continue to have discretion to execute up to $10.06. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.07.

- If a non-routable Limit Order to sell 100 shares at $10.07 with a Displayed instruction is entered into the System, depending on applicable User instructions, such order will be posted and displayed by the System on the EDGA Book as an order to sell 100 shares at $10.07 or will be cancelled back to the entering User.
- If, instead, a Limit Order to sell 100 shares at $10.06 is entered into the System, such order will execute at $10.06 against the resting buy order with a Discretionary Range instruction.
- If, instead, a Limit Order to sell 100 shares at $10.02 is entered into the System, such order will execute at $10.02 against the resting buy order with a Discretionary Range instruction.
- If, instead, a Limit Order to sell 100 shares at $10.00 or lower or a Market Order to sell 100 shares is entered into the System, such order will execute at $10.00 against the resting buy order with a Discretionary Range instruction.
- If, instead, the sell order with a Non-Displayed instruction of 100 shares that is ranked at $10.06 is then canceled, the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.07 reinstated.

The Exchange's handling of orders with a Discretionary Range instruction is intended to reflect the relatively passive nature of orders with a Discretionary Range. In all cases, although the Users submitting such orders have indicated a willingness to execute at a more aggressive price, such orders are ranked at a lower price to buy or a higher price to sell. In turn, if an order is executed at its ranked price, rather than at a price within the Discretionary Range, then the User that submitted the order receives a better result in each case (*i.e.,* buys for less or sells for more). With this background, the Exchange believes it is reasonable that an order with a Discretionary Range instruction might temporarily become not executable at certain prices because such prices are more aggressive than their ranked price (*i.e.,* higher prices for orders to buy or lower prices for orders to sell). Further, to the extent a User would prefer an execution at more aggressive price levels, such User could simply choose other order type instructions that would increase the likelihood of execution at these prices (*e.g.,* a routable order rather than a non-routable order or an order that is ranked at its full price rather than an order ranked at a less aggressive price with a Discretionary Range).

In addition to the changes described above, the Exchange proposes to re-locate within Rule 11.8(b) and re-word the statement regarding the inclusion of a Discretionary Range on a Limit Order. Current Rule 11.8(b)(8) currently states that a ''User may include a Discretionary Range instruction.'' This ability to include a Discretionary Range instruction on a Limit Order is currently grouped with other functionality that can be elected for Limit Orders that also include a Post Only or Book Only instruction as well as specified time-in-force instructions for orders that can be entered into the System and post to the EDGA Book. However, the System does not allow the combination of a Discretionary Range and a Post Only instruction. Accordingly, the Exchange proposes to re-locate the reference to the Discretionary Range instruction within Rule 11.8(b) so that it is no longer grouped with other orders that can be combined with a Post Only instruction. The Exchange also proposes to state in Rule 11.8(b) that: (i) A Limit Order with a Discretionary Range instruction may also include a Book Only instruction; and (ii) a Limit Order with a Discretionary Range instruction and a Post Only instruction will be rejected. Further, the Exchange proposes to refer to the ability of a Limit Order to include a Discretionary Range instruction, rather than a ''User'' that may include a Discretionary Range instruction.

[19] *See* Exchange Rule 11.6(n)(4).

[20] As described elsewhere in the proposal, under the Exchange's current pricing structure a Limit Order with a Post Only instruction will remove contra-side liquidity in all cases.

Priority and Execution Algorithm

With respect to the Exchange's priority and execution algorithm, the Exchange is proposing various minor and structural to changes that are intended to emphasize the processes by which orders are accepted, priced, ranked, displayed and executed, as well as a new provision related to the ability of orders to rest at locking prices that is consistent with the changes to provisions related to the operation of orders with a Discretionary Range instruction described above. First, the Exchange has proposed modifications to Rule 11.9, Priority of Orders, to make clear that the ranking of orders described in such rule is in turn dependent on Exchange rules related to the execution of orders, primarily Rule 11.10. The Exchange believes that this has always been the case under Exchange rules but there was not previously a description of the cross-reference to Rule 11.10 within such rules. Accordingly, the Exchange proposes to add reference to the execution process in addition to the numeric cross-reference to Rule 11.10. The Exchange also proposes to change certain references within Rule 11.9 to refer to ranking rather than executing equally priced trading interest, as the Rule as a whole is intended to describe the manner in which resting orders are ranked and maintained, specifically in price and time priority, while awaiting execution against incoming orders. The Exchange does not believe that the proposed modifications substantively modify the operation of the rules but the Exchange believes that it is important to make clear that the ranking of orders is a separate process from the execution of orders. The Exchange also proposes changes to Rule 11.9(a)(4) and (a)(5) to specify that orders retain and lose ''time'' priority under certain circumstances as opposed to priority generally because retaining or losing price priority does not require the same descriptions, as price priority will always be retained unless the price of an order changes.

Next, the Exchange proposes to move language contained within sub-paragraph (a)(2) of Rule 11.10 to the main paragraph, paragraph (a), such that the language is more generally applicable to the rules. Although sub-paragraph (a)(2) contains information relevant to executability, in that it describes orders that are executable in compliance with Regulation NMS or otherwise do not trade through quotations of other markets, there are other provisions set forth in paragraph (a) that relate to executability. Accordingly, the Exchange proposes to relocate language stating that any order falling within the parameters of this paragraph shall be referred to as ''executable'' and that an order will be cancelled back to the User, if based on market conditions, User instructions, applicable Exchange Rules and/or the Act and the rules and regulations thereunder, such order is not executable, cannot be routed to another Trading Center pursuant to Rule 11.11 or cannot be posted to the EDGA Book.

The Exchange proposes to adopt paragraph (C) of Rule 11.10(a)(4) to provide further clarity regarding the situations where orders are not executable, which although covered in other existing rules, would focus on the incoming order on the same side of an order displayed on the EDGA Book rather than the resting order that is rendered not executable because it is opposite such order displayed on the EDGA Book. Proposed paragraph (C) would further state that if an incoming order is on the same side of the market as an order displayed on the EDGA Book and upon entry would execute against contra-side interest at the same price as such displayed order, such incoming order will be cancelled or posted to the EDGA Book and ranked in accordance with Rule 11.9. As described above, the Exchange suspends the ability of an order subject to the Displayed Price Sliding instruction to execute at the Locking Price for so long as a contra-side order that equals the Locking Price is displayed by the System on the EDGA Book. Similarly, as proposed to be added to EDGA Rules, the Exchange temporarily suspends the ability of an order to execute at the same price as a contra-side displayed order for any order with a Discretionary Range instruction. The Exchange temporarily suspends this discretion to avoid an apparent priority issue where a User representing an order that is displayed on the Exchange either believes such order has time priority among displayed orders at that price or that the displayed order is the only order at such price level and then sees an execution published by the Exchange at that price.

To demonstrate the functionality in place on the Exchange described above, assume the NBBO is $10.00 by $10.01. Also assume that orders with a Post Only instruction do not remove liquidity from the EDGA Book because the value of an execution would not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4).[21] A non-routable Limit Order to buy 100 shares at $10.01 with a Displayed Price Sliding instruction is entered into the System. The order will be displayed on the EDGA Book at $10.00 and ranked at $10.01. If a Limit Order to sell 100 shares at $10.01 with a Displayed instruction and a Post Only instruction is entered into the System such order will be posted and displayed by the System on the EDGA Book as an order to sell 100 shares at $10.01. The buy order with the Displayed Price Sliding instruction will no longer be executable at $10.01 but will continue to be displayed and executable at $10.00. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's ability to execute at $10.01.

- If a non-routable Limit Order to sell 100 shares at $10.01 is entered into the System, depending on applicable User instructions, such order will either be posted and displayed by the System on the EDGA Book as an order to sell 100 shares (*i.e.,* with priority behind the order to sell that is already displayed on the EDGA Book at $10.01) or will be cancelled back to the entering User.
- If, instead, a Limit Order to sell 100 shares at $10.00 is entered into the System, such order will execute at $10.00 against the resting buy order with a Displayed Price Sliding instruction.
- If, instead, a Limit Order to buy 100 shares at $10.01 or higher or a Market Order to buy 100 shares is entered into the System,[22] such order will execute at $10.01 against the resting sell order displayed on the EDGA Book, as such

[21] As described elsewhere in the proposal, under the Exchange's current pricing structure a Limit Order with a Post Only instruction will remove contra-side liquidity in all cases.

[22] The Exchange notes that an incoming order for purposes of comparison to a resting order can be any incoming order unless the terms of that incoming order itself preclude execution. In this example, a Limit Order to buy 100 shares at $10.01 that executes against the order to sell displayed at $10.01 on the EDGA Book could be a Limit Order with a Displayed instruction, a Limit Order with a Non-Displayed instruction, a Limit Order with a Displayed Price Sliding instruction, a Limit Order with a Price Adjust instruction, a routable Limit Order, a non-routable Limit Order, an order with a Limit Price of $10.00 and a Discretionary Range of $0.01, or any other type of incoming Limit Order to buy that is executable at $10.01. Thus, this example demonstrates that on entry the incoming order is compared to contra-side orders on the EDGA Book regardless of the modifiers that will determine how it will be displayed, ranked or otherwise handled by the System and that unless the ability of an order to execute has been suspended based on the Exchange's rules, the resting contra-side order with priority at that price will be executed against the incoming order.

resting order is fully executable and displayed as an offer on the EDGA Book.

The Exchange notes that it is proposing to add descriptive titles to paragraphs (A) and (B) of Rule 11.10(a)(4), which describe the process by which executable orders are matched within the System. Specifically, so long as it is otherwise executable, an incoming order to buy will be automatically executed to the extent that it is priced at an amount that equals or exceeds any order to sell in the EDGA Book and an incoming order to sell will be automatically executed to the extent that it is priced at an amount that equals or is less than any other order to buy in the EDGA Book. These rules further state that an order to buy shall be executed at the price(s) of the lowest order(s) to sell having priority in the EDGA Book and an order to sell shall be executed at the price(s) of the highest order(s) to buy having priority in the EDGA Book. The Exchange emphasizes these current rules only insofar as to highlight the interconnected nature of the priority rule.

The Exchange also proposes to modify paragraph (h) of Rule 11.11 to clarify the Exchange's rule regarding the priority of routed orders. Paragraph (h) currently sets forth the proposition that a routed order does not retain priority on the Exchange while it is being routed to other markets. The Exchange believes that its proposed clarification to paragraph (h) is appropriate because it more clearly states that a routed order is not ranked and maintained in the EDGA Book pursuant to Rule 11.9(a), and therefore is not available to execute against incoming orders pursuant to Rule 11.10.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') [23] and further the objectives of Section 6(b)(5) of the Act [24] because they 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, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule changes are also designed to support the principles of Section 11A(a)(1) [25] of the Act in that they seek to assure fair competition among brokers and dealers and among exchange markets.

Specifically, the Exchange also believes that the changes to provide additional clarity and specificity regarding the functionality of the System with respect to an order with a Discretionary Range instruction would promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of the System. The Exchange also believes that the proposed amendments to clarify and re-structure the Exchange's priority, execution and routing rules will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand. As described above, the Exchange has proposed to adopt rules that describe functionality in the System that will only be implicated to the extent an order with a Post Only instruction does not remove liquidity on entry and is posted to the EDGA Book. As also described above, under the Exchange's current pricing structure, an order with a Post Only instruction will, in all cases, remove contra-side liquidity from the EDGA Book. However, the Exchange proposes to adopt language to reflect the operation of the System in the event the Exchange's fee structure is modified and an order with a Post Only instruction is able to be posted to the EDGA Book without removing liquidity.

The Exchange believes that it is consistent with the Act to temporarily reduce the Discretionary Range of an order that has been posted to the EDGA Book for so long as there is contra-side liquidity on the EDGA Book because this functionality prevents an apparent priority issue on the EDGA Book as described above as well as the ability of an order to execute at a price that trades through the ranked price of an order resting on the EDGA Book. The Exchange reiterates that such behavior, as described above, is temporary in nature; an order's full Discretionary Range will be returned as soon as the contra-side liquidity that caused the reduction in the first place is no longer maintained on the EDGA Book. The Exchange believes that its overall handling of orders, including the temporary suspension of the ability of an order with a Discretionary Range to execute at one or more prices is consistent with the Act because it removes impediments to and perfects the mechanism of a free and open market and a national market system by reflecting the relatively passive nature of an order with a Discretionary Range instruction while honoring the instructions of a User submitting a contra-side order that does not remove liquidity on entry. As explained above, the Exchange's handling of orders with a Discretionary Range instruction is intended to reflect the relatively passive nature of orders with a Discretionary Range. The Exchange believes it is reasonable that an order with a Discretionary Range instruction might temporarily become not executable at certain prices because such prices are more aggressive than their ranked price (*i.e.,* higher prices for orders to buy or lower prices for orders to sell). Further, to the extent a User would prefer an execution at more aggressive price levels, such User could simply choose other order type instructions that would increase the likelihood of execution at these prices. Finally, the Exchange believes that its proposal to re-locate and re-word the Discretionary Range instruction reference within Rule 11.8(b), related to Limit Orders, is consistent with the Act because the change will correct an error within the Exchange's rules and prevent potential confusion regarding the ability to combine a Discretionary Range instruction with a Post Only instruction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are not designed to address any competitive issue but rather to add specificity and clarity to Exchange rules, thus providing greater transparency regarding the operation of the System.

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 changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78k–1(a)(1).

to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2015–10 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–EDGA–2015–10. 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 a.m. and 3 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–EDGA–2015–10 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05482 Filed 3–9–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74431; File No. SR–EDGX–2015–05]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Increase the Fee for Orders Yielding Fee Code K

March 4, 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 January 28, 2015, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to increase the fee for orders yielding fee code K, which routes to NASDAQ OMX PSX (''PSX'') using ROUC or ROUE routing strategy.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 increase the fee for orders yielding fee code K, which routes to PSX using ROUC or ROUE routing strategy. In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0024 per share for Members' orders that yield fee code K. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0026 per share. The proposed change represents a pass through of the rate that BATS Trading, Inc. (''BATS Trading''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to PSX when it does not qualify for a volume tiered reduced fee. The proposed change is in response to PSX's February 2015 fee change where PSX increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0024 per share to a fee of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[6] When BATS Trading routes to PSX, it will now be charged a standard rate of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[7] BATS Trading will pass through this rate to the Exchange and the Exchange, in turn, will pass through of a rate of $0.0026 per share to its Members. The proposed increase to the

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[6] *See* PSX, Equity Trader Alert 2014–95, Updates to PSX and BX Pricing for November 2014, dated October 27, 2014 [sic], *available at http://www.nasdaqtrader.com/MicroNews.aspx?id=ETA2014-95.*

[7] The Exchange notes that to the extent BATS Trading does or does not achieve any volume tiered reduced fee on PSX, its rate for fee code K will not change.

fee under fee code K would enable the Exchange to equitably allocate its costs among all Members utilizing fee code K.

The Exchange proposes to implement these amendments to its Fee Schedule on February 2, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the pass through fee for Members' orders that yield Flag K from $0.0024 per share to $0.0026 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to PSX through BATS Trading. Prior to PSX's February 2015 fee change, PSX charged its members, which includes BATS Trading, a fee of $0.0024 per share to remove liquidity using non-routable order types, which BATS Trading passed through to the Exchange and the Exchange charged to its Members. In February 2015, PSX increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0024 per share to a fee of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[10] Therefore, the Exchange believes that its proposal to pass through a fee of $0.0026 per share for orders that yield Flag K is equitable and reasonable because it accounts for the pricing changes on PSX. In addition, the proposal allows the Exchange to charge its Members a pass-through rate for orders that are routed to PSX. Furthermore, the Exchange notes that routing through BATS Trading is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent [sic] a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.0026 per share for Members' orders that yield Flag K would increase intermarket competition because it offers customers an alternative means to route to PSX. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 No. SR–EDGX–2015–05 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 No. *SR–EDGX–2015–05.* 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 No. SR–EDGX–2015–05 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05478 Filed 3–9–15; 8:45 am]

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[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See supra* note 6.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74434; File No. SR–PHLX–2015–20]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend One Aspect of the Administration of Income Generated by Payment for Order Flow Fees

March 4, 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 February 20, 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 amend one aspect of the administration of income generated by Payment for Order Flow fees which are assessed under Section II of the Pricing Schedule which pertains to Multiply Listed Options fees.

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 purpose of this filing is to streamline the Exchange's administration of its payment for order flow (''PFOF'') program, by allowing the Exchange to consolidate on its books two separate pools of PFOF funds per Specialist[3] into one consolidated pool of PFOF funds per Specialist, as explained below. The Exchange is proposing no change in the level or manner of imposition of PFOF fees. Rather, it is simply proposing to change the manner in which income from PFOF fees is reflected on the Exchange's books for each Specialist.

The Exchange's PFOF program helps its Specialists and Directed Registered Options Traders (''Directed ROTs'')[4] establish PFOF arrangements with an order flow provider in exchange for that order flow provider directing some or all of its order flow to that Specialist or Directed ROT. This program is funded through fees paid by Registered Options Traders (''ROTs''), Specialists and Directed ROTs and assessed on transactions resulting from customer orders (the ''PFOF Fees'').[5]

These PFOF Fees are available to be disbursed by the Exchange according to the instructions of the Specialists or Directed ROTs to order flow providers who are members or member organizations, who submit, as agent, customer orders to the Exchange or non-members or non-member organizations who submit, as agent, customer orders to the Exchange through a member or member organization who is acting as agent for those customer orders. Any excess PFOF funds billed but not utilized by the Specialist or Directed ROT are carried forward unless the Directed ROT or Specialist elects to have those funds rebated to the applicable ROT, Directed ROT or Specialist on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and subsequently rebates excess funds on a pro-rata basis to the applicable ROT, Directed ROT or Specialist who paid into that pool of funds.

The Exchange provides administrative support for the PFOF program by maintaining the funds generated by PFOF fees, keeping track of the number of qualified orders each Specialist and Directed ROT has directed to the Exchange, and making payments to order flow providers on behalf of, and at the direction of, the Specialist or Directed ROT. The Exchange collects and holds the funds generated by the PFOF fees to be disbursed according to the instructions of the Specialists or Directed ROTs to order flow providers as stated above. The PFOF fees are collected by the Exchange for use by these Specialists and Directed ROTs to attract Customer orders to the Exchange from order flow providers that accept payment as a factor in making their order routing decisions.

The Exchange currently maintains on its books individual pools of PFOF funds for each Directed ROT and Specialist participating in the PFOF program. Further, the Exchange maintains two separate pools of funds for each Specialist who elects to participate in the PFOF program.[6] PFOF fees resulting from *undirected* orders in a Specialist's option are reflected on the Exchange's books as the Specialist's ''Specialist'' pool. PFOF fees resulting from orders *directed* to the Specialist as a Directed Specialist are maintained on the Exchange's books for the Specialist as a separate ''Directed ROT'' pool.[7] The Exchange is now proposing to consolidate each Specialist's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Specialist is an Exchange member who is registered as an options Specialist pursuant to Rule 1020(a).

[4] A Registered Option Trader is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014 (b)(i) and (ii). A ''Directed ROT'' is an ROT who is a Directed Participant. The term ''Directed Participant'' applies to transactions for the account of a Specialist or ROT resulting from a customer order that is (1) directed to it by an order flow provider, and (2) executed by it electronically on Phlx XL II.

[5] *See* Securities Exchange Act Release No. 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR–Phlx–2009–38).

[6] By contrast, the Exchange maintains only a single pool of PFOF funds allocated for use by each Directed ROT. The pool consists of PFOF fees attributable to Directed Orders that were directed to that ROT. The Exchange established the separate pools of funds for each Directed ROT and each Specialist that participates in the Exchange's PFOF program in 2005. *See* Securities Exchange Act Release No. 52568 (October 6, 2005) 70 FR 60120 (October 14, 2005) (SR–Phlx–2005–58). In that filing, the Exchange stated that separate pools of funds would be available to each Specialist unit and Directed ROT solely for those trades where the PFOF fee was assessed and would be aggregated for use by each Specialist unit and each Directed ROT to attract customer orders to the Exchange from Order Flow Providers that accept payment as a factor in making their order routing decisions. For Directed Orders, PFOF fees would be assessed on a per contract basis (when the Specialist or Directed ROT opts into the program) and would be aggregated into separate pools of funds for use by each Specialist unit or Directed ROT. For non-directed electronically-delivered orders, PFOF fees would continue to be assessed on a per contract basis and would be allocated for use by the participating Specialist.

[7] For purposes of assessing PFOF fees, the Exchange does not differentiate between Specialists and Specialists who receive Directed Orders. The Specialist's pool generated by PFOF fees associated with orders directed to the Specialist has long been known as the ''Directed ROT'' pool, which is a slight misnomer as a Specialist receiving Directed Orders is known as a Directed Specialist rather than a Directed ROT. Nevertheless, the Directed ROT pool is the pool reflecting PFOF resulting from Directed Orders; the other pool reflects PFOF resulting from non-Directed orders.

''Specialist'' pool and ''Directed ROT'' pool into one single pool of PFOF funds per Specialist on the Exchange's books. The Exchange believes that maintaining two separate PFOF pools for a single Specialist imposes an unnecessary administrative burden on the Exchange and the Specialist. Instead, the Exchange will establish and administer on its books only one pool per Specialist which will reflect funds resulting from all PFOF fees allocable to that Specialist, whether resulting from Directed Orders or non-Directed Orders.

The Exchange originally established the separate ''Directed ROT'' pool and ''Specialist'' pool for each Specialist for purposes of transparency when Directed ROTs were first permitted, like Specialists, to opt in to the PFOF program and to use the funds generated by the fee applicable to Directed Orders to pay order flow providers, to attract orders to the Exchange.[8] The inclusion of Directed ROTs in the PFOF program in addition to Specialists was a significant change at the time. Specialists who opted into PFOF would be eligible to receive a pool of funds even if orders were not directed to them—the key was that they opted in, and their standing as Specialist. On the other hand, Directed ROTs who opted into the PFOF program would be eligible to receive a PFOF pool of funds on only those orders that were directed to them.

Specialists also became eligible to receive Directed Orders. Having two separate pools for Specialists reflecting (a) PFOF fees attributable to undirected Orders (the ''Specialist'' pool), and (b) PFOF fees attributable to Directed Orders directed to the Specialist (the ''Directed ROT'' pool) provided transparency and clarity as to the source of the PFOF funds. Today, the need for transparency provided by two separate pools per Specialist is not as necessary, as Specialists receive significantly detailed PFOF marketing reports, driven by the enhanced technology and supporting automated processes that underscore the Exchange's billing and reporting systems.

Additionally, the report accompanying payments that the Exchange makes to order flow providers on behalf of the pool-owners specifies only the Specialist from which the funds are coming. The report does not identify the type of pool that is the source of the payment. From the Exchange's perspective, there is no benefit to maintaining the two separate types of pools on its books for each Specialist. Additionally, from an external perspective, based on the Exchange's interaction with Specialists who are pool-owners and with order-flow providers, the maintenance of separate pools of funds on the Exchange's books is no longer necessary. The single pool will be termed the PFOF pool.

Lastly, the above proposal will result in each Specialist or Directed ROT having only one PFOF pool. This will also streamline their administrative and accounting processes with regard to the information provided by the Exchange and instructions they in turn provide to the Exchange. To illustrate, assume Market Maker A [9] is both a Specialist and a Directed ROT. Market Maker B is a Directed ROT that has opted into the PFOF program. Today, after the Exchange collects and processes the PFOF fees, Market Maker A will receive information on their ''Specialist'' pool and separate information on their ''Directed ROT'' pool. Market Maker B receives information on their ''Directed ROT'' pool. After the proposal is in effect, Market Maker A will receive information on its PFOF pool and Market Maker B will receive information on its PFOF pool. The distinction between ''Specialist'' pools and ''Directed ROT'' pools will be eliminated.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(5) of the Act [11] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposal is designed simply to eliminate an unnecessary administrative burden on the Exchange and its members, and to result in accounting and operational efficiencies for both. All Specialists opting into the PFOF program will be treated equally under the proposal and will realize the administrative benefits of the proposal uniformly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to combine the PFOF pools will simply result in administrative efficiencies for the Exchange and its members.

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)(ii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

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,

[8] *See* Securities Exchange Act Release No. 52568 (October 6, 2005) 70 FR 60120 (October 14, 2005) (SR–Phlx–2005–58). *See also* Securities Exchange Act Release Nos. 51909 (June 22, 2005), 70 FR 37484 (June 29, 2005) (SR–Phlx–2005–37, modifying the Exchange's schedule of dues, fees, and charges to revise its equity option payment for order flow program to establish a payment for order flow program that takes into account Directed Orders) and 51984 (July 7, 2005), 70 FR 40413 (July 13, 2005) (order abrogating SR–Phlx–2005–37).

[9] As used in this paragraph, the term ''Market Maker'' includes both Specialists and ROTs.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(a)(ii).

[13] 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.

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–2015–20 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.

All submissions should refer to File Number SR–PHLX–2015–20. 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–PHLX–2015–20 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05481 Filed 3–9–15; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74441; File No. SR–NYSEArca–2014–150]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 6.60 and To Adopt Rule 6.61, Which Was Previously Reserved, To Provide Price Protection for Market Maker Quotes

March 4, 2015.

I. Introduction

On December 29, 2014, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 6.60 (Price Protection) and to adopt Exchange Rule 6.61 to provide price protection for Market Maker quotes. The proposed rule change was published for comment in the **Federal Register** on January 14, 2015.[3] The Commission received no comment letters on the proposal. On March 2, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal

The Exchange proposed to amend Exchange Rule 6.60 and to adopt Exchange Rule 6.61, which was previously Reserved, to provide price protection for Market Maker quotes. Exchange Rule 6.60 currently applies and will continue to apply solely to orders. Exchange Rule 6.60(b), provides a price protection filter for incoming limit orders, pursuant to which the Exchange rejects limit orders priced a specified percentage[5] through the National Best Bid (''NBB'') or National Best Offer (''NBO'') (''Limit Order Filter''). To clarify that Exchange Rule 6.60 applies only to orders, the Exchange proposed to append the word ''Orders'' to the Exchange Rule 6.60 header to provide ''Rule 6.60. Price Protection—Orders.''[6]

A. Proposed Market Maker Quote Price Protection

The Exchange proposed to adopt new Exchange Rule 6.61 to provide for a price protection mechanism for quotes entered by a Market Maker. Exchange Rule 6.61(a) will provide price protection filters applicable only for quotes entered by a Market Maker pursuant to Rule 6.37B and will not be applicable to orders entered by a Market Maker. The Exchange proposed to provide for two layers of price protection that will be applicable to all incoming Market Maker quotes.[7] The first layer of price protection will assess incoming sell quotes against the NBB and incoming buy quotes against the NBO.[8] The second layer of price protection will assess the price of call or put bids against a specified benchmark.

1. NBBO Price Reasonability Check

Proposed Exchange Rule 6.61(a)(1) sets forth the Exchange's proposed NBBO price reasonability check, which will compare Market Maker bids with the NBO and Market Maker offers with the NBB. Specifically, provided that an NBBO is available, a Market Maker quote will be rejected if it is priced a specified dollar amount or percentage through the contra-side NBBO as follows:

(A) $1.00 for Market Maker bids when the contra-side NBO is priced at or below $1.00; or

(B) 50% for Market Maker bids (offers) when the contra-side NBO (NBB) is priced above $1.00.

The Exchange will reject inbound Market Maker quotes that exceed the parameters set forth in proposed Exchange Rule 6.61(a)(1)(A)–(B).[9] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74018 (January 8, 2015), 80 FR 1982 (''Notice'').

[4] In Amendment No. 1, the Exchange clarified that it believes that Market Maker bids should not be priced the same as or higher than the corresponding benchmark, which would be the price of the underlying security for call options and the strike price for put options. Amendment No. 1 does not change any of the proposed rule text that was submitted in the original filing. Amendment No. 1 is technical in nature and, therefore, the Commission is not publishing it for comment.

[5] Pursuant to Exchange Rule 6.60(b), unless determined otherwise by the Exchange and announced to OTP Holders and OTP Firms via Trader Update, the specified percentage is 100% for the contra-side NBB or NBO priced at or below $1.00 and 50% for contra-side NBB or NBO priced above $1.00. *See* Notice, *supra* note 3, at 1983.

[6] *See* Notice, *supra* note 3, at 1983.

[7] The Exchange states that the proposal will assist with the maintenance of fair and orderly markets by averting the risk of Market Maker quotes sweeping through multiple price points resulting in executions at prices that are through the last sale price or National Best Bid or Best Offer (''NBBO''). *See* Notice, *supra* note 3, at 1983.

[8] The Exchange represents that this proposed price protection mechanism is similar to the Exchange's Limit Order Filter. *See* Notice, *supra* note 3, at 1983.

[9] The Exchange states that the proposed percentages are appropriate because they are based on the percentages established for the Limit Order Filter. *See* Notice, *supra* note 3, at 1983.

Exchange states that it has proposed a specific dollar threshold for when the NBO is priced at or below $1.00 because, for such low-priced NBOs, the Exchange believes it is appropriate to provide Market Makers with the ability to enter quotes at least $1.00 higher than the prevailing NBO.[10] For example, if the NBO were $0.06, when using a 100% filter, the Exchange would be required to reject any bids priced $0.12 or more. In addition, the Exchange proposed that pursuant to proposed Exchange Rule 6.61(a)(1)(A), Market Maker offers that arrive when the NBB is priced at or below $1.00 will not be subject to this filter. The Exchange notes that when the NBB is priced at or below $1.00, the price of an offer will be bound by $0.00, and therefore an offer will always be less than $1.00 away from the NBB.[11]

Because there may be market scenarios that require the proposed parameters to be adjusted, for example, during periods of extreme price volatility, the Exchange has further proposed that the Exchange may revise these parameters, provided such revised parameters are announced to OTP Holders or OTP Firms via a Trader Update.[12]

The Exchange also proposed that if a Market Maker quote is rejected pursuant to paragraph (a)(1) of the proposed rule, the Exchange will also cancel any resting same-side quote in the affected series from that Market Maker.[13] According to the Exchange, even if the new quote is rejected because it is priced a specified dollar amount or percentage through the contra-side NBBO, in violation of proposed Exchange Rule 6.61(a)(1), the Market Maker's implicit instruction to cancel the resting quote remains valid nonetheless.[14]

[10] *See* Notice, *supra* note 3, at 1983.

[11] The Exchange states that such offer prices would likely not be erroneous and therefore the Exchange does not believe it necessary to reject such Market Maker offers. *See* Notice, *supra* note 3, at 1983.

[12] *See* proposed Exchange Rule 6.61(a)(1)(A)–(B) (setting forth the specified dollar amount or percentages ''unless determined otherwise by the Exchange and announced to OTP Holders and OTP Firms via Trader Update'').

[13] *See* proposed Exchange Rule 6.61(b). The Exchange states that it believes it is appropriate to reject any resting same-side quote because when a Market Maker submits a new quote, that Market Maker is implicitly instructing the Exchange to cancel any resting quote in that same series. *See* Notice, *supra* note 3, at 1983.

[14] *See* Notice, *supra* note 3, at 1984 for examples illustrating how proposed Exchange Rule 6.61(a) will operate.

2. *Underlying Stock Price/Strike Price Check*

The Exchange also has proposed new Exchange Rule 6.61(a)(2) and (3) which will set forth the Exchange's proposed second layer of price protection filters for Market Maker quotes. These price protection mechanisms will be applicable when either there is no NBBO available, for example, during pre-opening or prior to conducting a re-opening after a trading halt, or if the NBBO is so wide as to not to reflect an appropriate price for the respective options series. Proposed Exchange Rule 6.61(a)(2) will also provide price protection for Market Maker bids in call options. As proposed, if such bids equal or exceed the price of the underlying security, the Market Maker bid will be rejected.[15]

Under new Exchange Rule 6.61(a)(2)(A), before the underlying security is open, the Exchange will use the previous day's closing price to determine the price of the underlying security.[16] Under new Exchange Rule 6.61(a)(2)(B), once the underlying security has opened, the Exchange will use the consolidated last sale price to determine the price of the underlying security. Under new Exchange Rule 6.61(a)(2)(C), during a trading halt of the underlying security, the Exchange will use the consolidated last sale reported immediately prior to the trading halt to determine the price of the underlying security.[17] New Exchange Rule 6.61(a)(3) will provide for price protection for Market Maker bids in put options. In particular, any Market Maker bid for put options will be rejected if the price of the bid is equal to or greater than the strike price of the option.[18]

The Exchange also has proposed that when a Market Maker quote is rejected pursuant to paragraph (a)(2) or (a)(3) of the proposed rule, the Exchange will also cancel all resting quote(s) in the affected class(es) from that Market Maker and will not accept new quote(s) in the affected class(es) until the Market Maker submits a message (which may be automated) to the Exchange to enable the entry of new quotes.[19]

B. Implementation

The Exchange stated that it would announce the implementation date of the proposed rule change in a Trader Update and publish such announcement at least 30 days prior to implementation.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[20] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) of the Act,[21] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[15] *See* proposed Exchange Rule 6.61(a)(2). With a call bid, a Market Maker is bidding to buy an option that would be exercised into the right to acquire the underlying security. The Exchange states that it does not believe that a derivative product, which conveys the right to purchase a security underlying the derivative, should ever be priced the same as or higher than the prevailing price of the underlying security itself. Accordingly, the Exchange believes it is appropriate to reject Market Maker bids for call options that are equal to or in excess of the price of the underlying security. *See* Notice, *supra* note 3, at 1984. *See also* Amendment No. 1, *supra* note 4.

[16] According to the Exchange, although the underlying securities may trade in the equities markets outside of 9:30 a.m. ET to 4:00 p.m. ET, the equities market is generally not as liquid during this time and equity market makers generally do not have quoting obligations in after-hours trading. Therefore, the Exchange believes that using the previous day's closing price—based on trading during Core Trading Hours, when the market is most liquid—provides a more accurate benchmark and thus a more precise price protection filter for underlying securities that have not yet opened. *See* Notice, *supra* note 3, at 1984.

[17] The Exchange believes that the consolidated last sale price for an underlying security that has already opened will provide the most accurate benchmark because the market is most liquid during Core Trading Hours. *See* Notice, *supra* note 3, at 1984.

[18] The Exchange states that the value of a put can never exceed the strike price of the option, even if the stock goes to zero. For example, a put with a strike price of $50 gives the holder the right to sell the underlying security for $50 (no more, or no less), therefore the Exchange states that it would be illogical to pay $50 or more for the right to sell that underlying security, no matter what the price of the underlying security. *See* Notice, *supra* note 3, at 1984. *See also* Amendment No. 1, *supra* note 4.

[19] *See* proposed Exchange Rule 6.61(b). The Exchange believes that this temporary suspension from quoting in the affected option class(es) would operate as a safety valve that forces Market Makers to re-evaluate their positions before requesting to re-enter the market. *See* Notice, *supra* note 3, at 1984. *See also* Notice, *supra* note 3, at 1984–5 for examples illustrating how proposed Exchange Rule 6.61(a)(2) and (a)(3) would operate.

[20] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

The proposed rule change provides a price protection mechanism for quotes entered by a Market Maker when an NBBO is available that are priced a specified dollar amount or percentage through the last sale or prevailing contra-side market, which the Exchange believes is evidence of error. The Commission believes that the proposed price protection mechanism is reasonably designed to promote just and equitable principles of trade by preventing potential price dislocation that could result from erroneous Market Maker quotes sweeping through multiple price points resulting in executions at prices that are through the last sale price or NBBO.[22]

The Exchange's proposed use of benchmarks to check the reasonability of Market Maker bids for call and put options affords a second layer of price protection to Market Maker quotes. The Commission believes that the additional price reasonability check on Market Maker bids that are priced equal to or greater than the price of the underlying security for call options, and equal to or greater than the strike price for put options, is reasonably designed to operate in manner that would remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest. Further, the Commission notes the Exchange's belief that the additional risk controls that result in the cancellation of a Market Maker's resting same side quote and/or the temporary suspension a Market Maker's quoting activity in the affected option class(es), as applicable, provide market participants with additional protection from anomalous executions.[23]

Accordingly, the Commission believes that the proposed price protection for Market Maker quotes is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEArca–2014–150), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05497 Filed 3–9–15; 8:45 am]

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[22] *See* Notice, *supra* note 3, at 1985.

[23] *See* Notice, *supra* note 3, at 1985.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74439; File No. SR–EDGX–2015–08]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 11.6, 11.8, 11.9, 11.10 and 11.11 of EDGX Exchange, Inc.

March 4, 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 February 20, 2015, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. On February 27, 2015, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as modified by Amendment No. 1, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rules 11.6, 11.8, 11.9, 11.10 and 11.11 to clarify and to include additional specificity regarding the current functionality of the Exchange's System,[4] including the operation of its order types and order instructions, as further described below.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 5, 2014, Chair Mary Jo White asked all national securities exchanges to conduct a comprehensive review of each order type offered to members and how it operates.[5] The Exchange notes that a comprehensive rule filing clarifying and updating Exchange rules was recently approved.[6] However, based on the request from Chair White, the Exchange did indeed conduct further review of each order types and its operation. The proposals set forth below are based on this comprehensive review and are intended to clarify and to include additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and order instructions. The proposals set forth below are intended to supplement the recently approved filing based on further review conducted by the Exchange and are intended to clarify and enhance the understandability of the Exchange's rules related to the ranking and execution of orders. The proposal is also intended to add additional detail with respect to the handling of orders with a Discretionary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces SR–EDGX–2015–08 and supersedes such filing in its entirety.

[4] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[5] *See* Mary Jo White, Chair, Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference, (June 5, 2014) (*available at http://www.sec.gov/News/Speech/Detail/Speech/1370542004312#.VD2HW610w6Y*).

[6] Securities Exchange Act Release No. 73468 (October 29, 2014), 79 FR 65450 (November 4, 2014) (SR–EDGX–2014–18).

Range [7] instruction and orders with a Non-Displayed [8] instruction. The Exchange is not proposing any substantive modifications to the System.

Orders With a Discretionary Range and Non-Displayed Orders

Pursuant to current Rule 11.6(d), the Exchange defines a Discretionary Range as an instruction the User [9] may attach to an order to buy (sell) a stated amount of a security at a specified, displayed price with discretion to execute up (down) to a specified, non-displayed price. For purposes of this proposal, the Exchange will use the term ''Discretionary Range'' to describe the amount between the displayed price to and including the highest price at which a buyer is willing to buy or lowest price at which a seller is willing to sell. The Exchange proposes to make clear that although an order with a Discretionary Range instruction may be accompanied by a Displayed [10] instruction, an order with a Discretionary Range instruction may also be accompanied by a Non-Displayed instruction, and if so, will have a non-displayed ranked price as well as a discretionary price. The Exchange further proposes to specifically state that resting orders with a Discretionary Range instruction will be executed at a price that uses the minimum amount of discretion necessary to execute the order against an incoming order. In addition, the Exchange proposes to make clear certain circumstances where the Discretionary Range of an order is temporarily reduced due to contra-side interest resting on the EDGX Book.[11]

The Exchange also proposes to specify certain situations where the Discretionary Range of an order is temporarily reduced based on contra-side interest resting on the Exchange. The Exchange notes that it is possible for an order with a Discretionary Range instruction have its Discretionary Range temporarily reduced based on contra-side interest resting on the Exchange because an incoming order with a Post Only instruction [12] will be posted to the EDGX Book rather than executing against the Discretionary Range of a resting order.

With respect to displayed contra-side liquidity, the Exchange proposes to make clear that if an order posted to the EDGX Book has a Discretionary Range and there is a contra-side order that is displayed by the System on the EDGX Book within such Discretionary Range, the order with a Discretionary Range will not be permitted to execute at the price of or at a price more aggressive than such contra-side displayed order unless and until there is no contra-side displayed order on the EDGX Book within the Discretionary Range. In such case, the order with a Discretionary Range will have discretion to one Minimum Price Variation [13] below (above) the contra-side offer (bid) that is displayed by the System on the EDGX Book.

With respect to non-displayed contra-side liquidity, the Exchange proposes to make clear that if an order posted to the EDGX Book has a Discretionary Range and there is a contra-side order with a Non-Displayed instruction,[14] the order with a Discretionary Range will not be permitted to execute at a price more aggressive than the ranked price of such contra-side order unless and until there is no contra-side order on the EDGX Book within the Discretionary Range. In such case, the order with a Discretionary Range will have discretion to the ranked price of the contra-side offer (bid) with a Non-Displayed instruction that is maintained by the System on the EDGX Book.

Similarly, the Exchange proposes to amend Rule 11.6(l)(3), which addresses re-pricing of orders with a Non-Displayed instruction. As set forth in Rule 11.6(l)(3), an order with a Non-Displayed instruction that is priced better than the midpoint of the NBBO will be ranked at the midpoint of the NBBO with discretion to execute to its limit price. The Exchange proposes to add language stating that if a contra-side order is resting on the EDGX Book at the limit price within the Discretionary Range, the order will be ranked at the mid-point of the NBBO but its discretion to execute to its limit price will be temporarily reduced consistent with the Discretionary Range definition described above.

The Exchange notes that the language proposed with respect to the temporary reduction of the Discretionary Range of an order is consistent with the Exchange's recently amended rules.[15] Specifically, the Exchange suspends the discretion of an order subject to the Hide Not Slide [16] instruction for so long as a contra-side order that equals the Locking Price [17] is displayed by the System on the EDGX Book. The Exchange suspends this discretion to avoid an apparent priority issue. In particular, in such a situation the Exchange believes a User representing an order that is displayed on the Exchange might believe that an incoming order was received by the Exchange and then bypassed such displayed order, removing some other non-displayed liquidity on the same side of the market as such displayed order. For the same reason, the Exchange believes it is appropriate to prevent an order with a Discretionary Range instruction to execute at the same price or at a price more aggressive than a contra-side order that is displayed on the EDGX Book. Similarly, although the Exchange believes it is appropriate to permit an order with a Discretionary Range instruction to execute at the same price as a contra-side order with a Non-Displayed instruction, the Exchange suspends such discretion at any more aggressive prices in order to avoid trading through orders that have been ranked on and are resting on the EDGX Book. Below are examples of the operation of orders with a Discretionary Range.

Example No. 1: Modification and Reinstatement of Discretionary Range With a Displayed Contra-Side Order

Assume the NBBO is $10.00 by $10.10, that the best-priced order to buy in the System is a displayed bid at $9.99, and that the best-priced order to sell in the System is a displayed offer at $10.11. A Limit Order [18] to buy 100 shares at $10.00 with a Discretionary Range of $0.05 is entered into the System. The order will be displayed on the EDGX Book at $10.00 with discretion to execute up to $10.05. If a Limit Order to sell 100 shares at $10.05 with a Displayed instruction and a Post Only instruction is entered into the System such order will be posted and displayed by the System on the EDGX Book as an order to sell 100 shares at $10.05. The buy order with the Discretionary Range instruction will

[7] *See* Exchange Rule 11.6(d).

[8] *See* Exchange Rule 11.6(e)(2).

[9] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[10] *See* Exchange Rule 11.6(e)(1).

[11] The term ''EDGX Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

[12] *See* Exchange Rule 11.6(n)(4).

[13] *See* Exchange Rule 11.6(i).

[14] The Exchange notes that the reference to orders with a Non-Displayed instruction is intended to apply to all orders that are not displayed on the Exchange, such as MidPoint Match Orders as defined in Rule 11.8(d). The Exchange notes, however, that because neither MidPoint Match Orders nor orders with a Discretionary Range instruction (as described below) can be entered with a Post Only instruction, that the Rule is not currently applicable to any orders other than Limit Orders with a Non-Displayed instruction.

[15] *See supra* note 6.

[16] *See* Exchange Rule 11.6(l)(1)(B).

[17] *See* Exchange Rule 11.6(f).

[18] *See* Exchange Rule 11.8(b).

have its discretion to execute at $10.05 temporarily suspended but such order will continue to have discretion to execute up to $10.04. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.05.

• If a non-routable Limit Order to sell 100 shares at $10.05 is entered into the System, depending on applicable User instructions, such order will either be posted and displayed by the System on the EDGX Book as an order to sell 100 shares (*i.e.,* with priority behind the order to sell that is already displayed on the EDGX Book at $10.05) or will be cancelled back to the entering User.

• If, instead, a Limit Order to sell 100 shares at $10.04 is entered into the System, such order will execute at $10.04 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to sell 100 shares at $10.02 is entered into the System, such order will execute at $10.02 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to sell 100 shares at $10.00 or lower or a Market Order to sell 100 shares is entered into the System, such order will execute at $10.00 against the resting buy order with a Discretionary Range instruction.

• If, instead, the sell order at $10.05 with a Post Only instruction is then canceled, the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.05 reinstated.

• If, instead, a Limit Order to buy 100 shares at $10.05 or higher or a Market Order to buy 100 shares is then entered into the System, such order will execute at $10.05 against the displayed order to sell with a Post Only instruction and the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.05 reinstated.

Example No. 2: Modification and Reinstatement of Discretionary Range With a Non-Displayed Contra-Side Order Priced Less Aggressive Than the Midpoint of the NBBO

Assume the NBBO is $10.00 by $10.10, that the best-priced order to buy in the System is a displayed bid at $9.99, and that the best-priced order to sell in the System is a displayed offer at $10.11. A Limit Order with to buy 100 shares at $10.00 with a Discretionary Range of $0.07 is entered into the System. The order will be ranked and displayed on the EDGX Book at $10.00 with discretion to execute up to $10.07. If a Limit Order to sell 100 shares at $10.06 with a Non-Displayed instruction and a Post Only instruction is entered into the System such order will be posted by the System on the EDGX Book as an order to sell 100 shares at $10.06. The buy order's discretion to execute at $10.07 will be temporarily suspended but such order will continue to have discretion to execute up to $10.06. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.07.

• If a non-routable Limit Order to sell 100 shares at $10.07 with a Displayed instruction is entered into the System, depending on applicable User instructions, such order will be posted and displayed by the System on the EDGX Book as an order to sell 100 shares at $10.07 or will be cancelled back to the entering User.

• If, instead, a Limit Order to sell 100 shares at $10.06 is entered into the System, such order will execute at $10.06 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to sell 100 shares at $10.02 is entered into the System, such order will execute at $10.02 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to sell 100 shares at $10.00 or lower or a Market Order to sell 100 shares is entered into the System, such order will execute at $10.00 against the resting buy order with a Discretionary Range instruction.

• If, instead, the sell order with a Non-Displayed instruction of 100 shares that is ranked at $10.06 is then canceled, the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.07 reinstated.

Example No. 3: Modification and Reinstatement of Discretionary Range With a Non-Displayed Contra-Side Order Priced More Aggressive Than the Midpoint of the NBBO

Assume the NBBO is $10.00 by $10.10, that the best-priced order to buy in the System is a displayed bid at $9.99, and that the best-priced order to sell in the System is a displayed offer at $10.11. A Limit Order with to buy 100 shares at $10.00 with a Discretionary Range of $0.07 is entered into the System. The order will be displayed on the EDGX Book at $10.00 with discretion to execute up to $10.07. If a Limit Order to sell 100 shares at $10.04 with a Non-Displayed instruction and a Post Only instruction is entered into the System such order will be posted by the System on the EDGX Book as an order to sell 100 shares at $10.05 (*i.e.,* ranked at the midpoint of the NBBO, as described above) with discretion to $10.04. The buy order's discretion to execute at $10.07 will be temporarily suspended but such order will continue to have discretion to execute up to $10.05. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.07.

• If a non-routable Limit Order to sell 100 shares at $10.07 with a Displayed instruction is entered into the System, depending on applicable User instructions, such order will be posted and displayed by the System on the EDGX Book as an order to sell 100 shares at $10.07 or will be cancelled back to the entering User.

• If, instead, a Limit Order to sell 100 shares at $10.05 is entered into the System, such order will execute at $10.05 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to buy 100 shares at $10.05 is entered into the System, such order will execute at $10.05 against the resting sell order with a Non-Displayed instruction and a Post Only instruction (*i.e.,* at the ranked price of such order).

• If, instead, a Limit Order to sell 100 shares at $10.04 is entered into the System, such order will execute at $10.04 against the resting buy order with a Discretionary Range instruction.

• If, instead, a Limit Order to buy 100 shares at $10.04 is entered into the System, such order will execute at $10.04 against the resting sell order with a Non-Displayed instruction and a Post Only instruction (*i.e.,* using the discretion of the resting sell order with a Non-Displayed instruction to sell at the order's limit price).

• If, instead, a Limit Order to sell 100 shares at $10.00 or lower or a Market Order to sell 100 shares is entered into the System, such order will execute at $10.00 against the resting buy order with a Discretionary Range instruction.

• If, instead, the sell order with a Non-Displayed instruction of 100 shares that is ranked at $10.05 is then canceled, the buy order with a Discretionary Range instruction will have its discretion to execute up to $10.07 reinstated.

As the above examples demonstrate, the Exchange prevents executions against the Discretionary Range of an order *at or through* the price of a resting contra-side order with a Displayed instruction and *through* the price of a resting contra-side order with a Non-Displayed instruction (*i.e.,* an execution can occur at the ranked price of an order with a Non-Displayed instruction but not at a price that would be better than such order's ranked price). The

Exchange does not, however, prevent executions against the Discretionary Range of an order when there is a contra-side order with a Discretionary Range at or through that price same price.

The Exchange's handling of orders with a Discretionary Range instruction, including the discretion of an order with a Non-Displayed instruction more aggressive than the midpoint of the NBBO to its limit price, is intended to reflect the relatively passive nature of orders with a Discretionary Range. In all cases, although the Users submitting such orders have indicated a willingness to execute at a more aggressive price, such orders are ranked at a lower price to buy or a higher price to sell. In turn, if an order is executed at its ranked price, rather than at a price within the Discretionary Range, then the User that submitted the order receives a better result in each case (*i.e.,* buys for less or sells for more). With this background, the Exchange believes it is reasonable that an order with a Discretionary Range instruction or a Non-Displayed instruction might temporarily become not executable at certain prices because such prices are more aggressive than their ranked price (*i.e.,* higher prices for orders to buy or lower prices for orders to sell). Further, to the extent a User would prefer an execution at more aggressive price levels, such User could simply choose other order type instructions that would increase the likelihood of execution at these prices (*e.g.,* a routable order rather than a non-routable order, an order that is ranked at its full price rather than an order ranked at a less aggressive price with a Discretionary Range, or an order with a Displayed instruction rather than an order with a Non-Displayed instruction).

In addition to the changes described above, the Exchange proposes to re-locate within Rule 11.8(b) and re-word the statement regarding the inclusion of a Discretionary Range on a Limit Order. Current Rule 11.8(b)(8) currently states that a ''User may include a Discretionary Range instruction.'' This ability to include a Discretionary Range instruction on a Limit Order is currently grouped with other functionality that can be elected for Limit Orders that also include a Post Only or Book Only instruction as well as specified time-in-force instructions for orders that can be entered into the System and post to the EDGX Book. However, the System does not allow the combination of a Discretionary Range and a Post Only instruction. Accordingly, the Exchange proposes to re-locate the reference to the Discretionary Range instruction within Rule 11.8(b) so that it is no longer grouped with other orders that can be combined with a Post Only instruction. The Exchange also proposes to state in Rule 11.8(b) that: (i) A Limit Order with a Discretionary Range instruction may also include a Book Only instruction; and (ii) a Limit Order with a Discretionary Range instruction and a Post Only instruction will be rejected. Further, the Exchange proposes to refer to the ability of a Limit Order to include a Discretionary Range instruction, rather than a ''User'' that may include a Discretionary Range instruction.

Priority and Execution Algorithm

With respect to the Exchange's priority and execution algorithm, the Exchange is proposing various minor and structural to changes that are intended to emphasize the processes by which orders are accepted, priced, ranked, displayed and executed, as well as a new provision related to the ability of orders to rest at locking prices that is consistent with the changes to provisions related to the operation of orders with a Discretionary Range instruction described above. First, the Exchange has proposed modifications to Rule 11.9, Priority of Orders, to make clear that the ranking of orders described in such rule is in turn dependent on Exchange rules related to the execution of orders, primarily Rule 11.10. The Exchange believes that this has always been the case under Exchange rules but there was not previously a description of the cross-reference to Rule 11.10 within such rules. Accordingly, the Exchange proposes to add reference to the execution process in addition to the numeric cross-reference to Rule 11.10.[19] The Exchange also proposes to change certain references within Rule 11.9 to refer to ranking rather than executing equally priced trading interest, as the Rule as a whole is intended to describe the manner in which resting orders are ranked and maintained, specifically in price and time priority, while awaiting execution against incoming orders. The Exchange does not believe that the proposed modifications substantively modify the operation of the rules but the Exchange believes that it is important to make clear that the ranking of orders is a separate process from the execution of orders. The Exchange also proposes changes to Rule 11.9(a)(4) and (a)(5) to specify that orders retain and lose ''time'' priority under certain circumstances as opposed to priority generally because retaining or losing price priority does not require the same descriptions, as price priority will always be retained unless the price of an order changes.

Next, the Exchange proposes to move language contained within sub-paragraph (a)(2) of Rule 11.10 to the main paragraph, paragraph (a), such that the language is more generally applicable to the rules. Although sub-paragraph (a)(2) contains information relevant to executability, in that it describes orders that are executable in compliance with Regulation NMS or otherwise do not trade through quotations of other markets, there are other provisions set forth in paragraph (a) that relate to executability. Accordingly, the Exchange proposes to relocate language stating that any order falling within the parameters of this paragraph shall be referred to as ''executable'' and that an order will be cancelled back to the User, if based on market conditions, User instructions, applicable Exchange Rules and/or the Act and the rules and regulations thereunder, such order is not executable, cannot be routed to another Trading Center pursuant to Rule 11.11 or cannot be posted to the EDGX Book.

The Exchange proposes to adopt paragraph (C) of Rule 11.10(a)(4) to provide further clarity regarding the situations where orders are not executable, which although covered in other existing rules, would focus on the incoming order on the same side of an order displayed on the EDGX Book rather than the resting order that is rendered not executable because it is opposite such order displayed on the EDGX Book. Proposed paragraph (C) would further state that if an incoming order is on the same side of the market as an order displayed on the EDGX Book and upon entry would execute against contra-side interest at the same price as such displayed order, such incoming order will be cancelled or posted to the EDGX Book and ranked in accordance with Rule 11.9. As described above, the Exchange suspends the discretion of an order subject to the Hide Not Slide instruction for so long as a contra-side order that equals the Locking Price is displayed by the System on the EDGX Book. Similarly, as proposed to be added to EDGX Rules, the Exchange temporarily suspends the ability of an order to execute at the same price as a contra-side displayed order for any order with a Discretionary Range

[19] The Exchange notes that it recently filed an immediately effective proposal containing marking errors with respect to the rule text proposed for sub-paragraphs (a)(2), (a)(2)(A) and (a)(2)(B). *See* Securities Exchange Act Release No. 74023 (January 9, 2015), 80 FR 2163 (January 15, 2015) (SR–EDGX–2015–03). Accordingly, the Exchange has correctly marked the change in connection with this proposal.

instruction or any order with a Non-Displayed instruction that has been re-priced to the midpoint of the NBBO pursuant to Exchange rules. The Exchange temporarily suspends this discretion to avoid an apparent priority issue where a User representing an order that is displayed on the Exchange either believes such order has time priority among displayed orders at that price or that the displayed order is the only order at such price level and then sees an execution published by the Exchange at that price.

To demonstrate the functionality in place on the Exchange described above, assume the NBBO is $10.00 by $10.01. A non-routable Limit Order to buy 100 shares at $10.01 with a Hide Not Slide instruction is entered into the System. The order will be displayed on the EDGX Book at $10.00 and ranked at $10.005 with discretion to $10.01. If a Limit Order to sell 100 shares at $10.01 with a Displayed instruction and a Post Only instruction is entered into the System such order will be posted and displayed by the System on the EDGX Book as an order to sell 100 shares at $10.01. The buy order with the Hide Not Slide instruction will have its discretion to execute at $10.01 temporarily suspended but such order will continue to be ranked at $10.005. The following examples demonstrate various potential outcomes following the temporary suspension of the buy order's discretion to execute at $10.01.

- If a non-routable Limit Order to sell 100 shares at $10.01 is entered into the System, depending on applicable User instructions, such order will either be posted and displayed by the System on the EDGX Book as an order to sell 100 shares (*i.e.,* with priority behind the order to sell that is already displayed on the EDGX Book at $10.01) or will be cancelled back to the entering User.
- If, instead, a Limit Order to sell 100 shares at $10.00 is entered into the System, such order will execute at $10.005 against the resting buy order with a Hide Not Slide instruction.
- If, instead, a Limit Order to buy 100 shares at $10.01 or higher or a Market Order to buy 100 shares is entered into the System,[20] such order will execute at $10.01 against the resting sell order displayed on the EDGX Book, as such resting order is fully executable and displayed as an offer on the EDGX Book.

The Exchange notes that it is proposing to add descriptive titles to paragraphs (A) and (B) of Rule 11.10(a)(4), which describe the process by which executable orders are matched within the System. Specifically, so long as it is otherwise executable, an incoming order to buy will be automatically executed to the extent that it is priced at an amount that equals or exceeds any order to sell in the EDGX Book and an incoming order to sell will be automatically executed to the extent that it is priced at an amount that equals or is less than any other order to buy in the EDGX Book. These rules further state that an order to buy shall be executed at the price(s) of the lowest order(s) to sell having priority in the EDGX Book and an order to sell shall be executed at the price(s) of the highest order(s) to buy having priority in the EDGX Book. The Exchange emphasizes these current rules only insofar as to highlight the interconnected nature of the priority rule.

The Exchange also proposes to modify paragraph (h) of Rule 11.11 to clarify the Exchange's rule regarding the priority of routed orders. Paragraph (h) currently sets forth the proposition that a routed order does not retain priority on the Exchange while it is being routed to other markets. The Exchange believes that its proposed clarification to paragraph (h) is appropriate because it more clearly states that a routed order is not ranked and maintained in the EDGX Book pursuant to Rule 11.9(a), and therefore is not available to execute against incoming orders pursuant to Rule 11.10.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') [21] and further the objectives of Section 6(b)(5) of the Act [22] because they 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, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. The proposed rule changes are also designed to support the principles of Section 11A(a)(1) [23] of the Act in that they seek to assure fair competition among brokers and dealers and among exchange markets.

Specifically, the Exchange also believes that the changes to provide additional clarity and specificity regarding the functionality of the System with respect to an order with a Discretionary Range instruction and an order with a Non-Displayed instruction that has discretion pursuant to the Exchange's re-pricing process would promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of the System. The Exchange also believes that the proposed amendments to clarify and re-structure the Exchange's priority, execution and routing rules will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand. Further, the Exchange believes that it is consistent with the Act to temporarily reduce the Discretionary Range of an order that has been posted to the EDGX Book for so long as there is contra-side liquidity on the EDGX Book because this functionality prevents an apparent priority issue on the EDGX Book as described above as well as the ability of an order to execute at a price that trades through the ranked price of an order resting on the EDGX Book. The Exchange reiterates that such behavior, as described above, is temporary in nature; an order's full Discretionary Range will be returned as soon as the contra-side liquidity that caused the reduction in the first place is no longer maintained on the EDGX Book. The Exchange believes that its overall handling of orders, including the temporary suspension of the ability of an order with a Discretionary Range to execute at one or more prices is consistent with the Act because it removes impediments to and perfects the mechanism of a free and open market and a national market system by reflecting the relatively passive nature of an order with a Discretionary Range instruction while honoring the instructions of a User submitting a contra-side order that does not remove liquidity on entry. As explained above, the Exchange's handling of orders with

[20] The Exchange notes that an incoming order for purposes of comparison to a resting order can be any incoming order unless the terms of that incoming order itself preclude execution. In this example, a Limit Order to buy 100 shares at $10.01 that executes against the order to sell displayed at $10.01 on the EDGX Book could be a Limit Order with a Displayed instruction, a Limit Order with a Non-Displayed instruction, a Limit Order with a Hide Not Slide instruction, a Limit Order with a Price Adjust instruction, a routable Limit Order, a non-routable Limit Order, an order with a Limit Price of $10.00 and a Discretionary Range of $0.01, or any other type of incoming Limit Order to buy that is executable at $10.01. Thus, this example demonstrates that on entry the incoming order is compared to contra-side orders on the EDGX Book regardless of the modifiers that will determine how it will be displayed, ranked or otherwise handled by the System and that unless the ability of an order to execute has been suspended based on the Exchange's rules, the resting contra-side order with priority at that price will be executed against the incoming order.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S. C. 78k–1(a)(1).

a Discretionary Range instruction, including the discretion of an order with a Non-Displayed instruction more aggressive than the midpoint of the NBBO to its limit price, is intended to reflect the relatively passive nature of orders with a Discretionary Range. The Exchange believes it is reasonable that an order with a Discretionary Range instruction or a Non-Displayed instruction might temporarily become not executable at certain prices because such prices are more aggressive than their ranked price (*i.e.,* higher prices for orders to buy or lower prices for orders to sell). Further, to the extent a User would prefer an execution at more aggressive price levels, such User could simply choose other order type instructions that would increase the likelihood of execution at these prices. Finally, the Exchange believes that its proposal to re-locate and re-word the Discretionary Range instruction reference within Rule 11.8(b), related to Limit Orders, is consistent with the Act because the change will correct an error within the Exchange's rules and prevent potential confusion regarding the ability to combine a Discretionary Range instruction with a Post Only instruction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are not designed to address any competitive issue but rather to add specificity and clarity to Exchange rules, thus providing greater transparency regarding the operation of the System.

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 changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2015–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2015–08. 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–EDGX–2015–08 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05485 Filed 3–9–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74438; File No. SR–CBOE–2015–022]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to Equipment and Communication on the Exchange's Trading Floor

March 4, 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 February 20, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange seeks to amend its rules related to equipment and communication on the Exchange's trading floor

(additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.23. [Trading Permit Holder Wires From Floor] Equipment and Communications on the Trading Floor

(a) Subject to the requirements of this Rule Trading Permit Holders may use any communication device (e.g., any hardware or software related to a phone, system or other device, including an instant messaging system, email system or similar device) on the floor of the Exchange and in any trading crowd of the Exchange. The Exchange reserves

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the right to designate certain portions of this rule as not applicable to certain classes on a class by class basis.

(b) The Exchange may deny, limit or revoke the use of any communication device whenever it determines that use of such communication device: (1) interferes with the normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties, (2) is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or (3) interferes with the obligations of a Trading Permit Holder to fulfill its duties under, or is used to facilitate any violation of, the Securities Exchange Act or rules thereunder, or Exchange rules.

(c) Any communication device may be used on the floor of the Exchange and in any trading crowd of the Exchange to receive orders, provided that audit trail and record retention requirements of the Exchange are met; however, no person in a trading crowd or on the floor of the Exchange may use any communication device for the purpose of recording activities in the trading crowd or maintaining an open line of continuous communication whereby a non-associated person not located in the trading crowd may continuously monitor the activities in the trading crowd. This prohibition covers digital recorders, intercoms, walkie-talkies and any similar devices.

(d) After providing notice to an affected Trading Permit Holder and complying with applicable laws, the Exchange may provide for the recording of any telephone line on the floor of the Exchange or may require Trading Permit Holders at any time to provide for the recording of a fixed phone line on the floor of the Exchange. Trading Permit Holders, and their clerks, using the telephones consent to the Exchange recording any telephone or line.

(e) Trading Permit Holders may not use communication devices to disseminate quotes and/or last sale reports originating on the floor of the Exchange in any manner that would serve to provide a continuous or running state of the market for any particular series or class of options over any period of time; provided, however, that an associated person of a Trading Permit Holder on the floor of the Exchange may use a communication device to communicate quotes that have been disseminated pursuant to Rule 6.43 and/or last sale reports to other associated persons of the same Trading Permit Holder business unit. An associated person of a Trading Permit Holder may also use a communications device to communicate an occasional, specific quote that has been disseminated pursuant to Rule 6.43 or last sale report to a person who is not an associated person of the same Trading Permit Holder.

(f) Use of any communications device for order routing or handling must comply with all applicable laws, rules, policies and procedures of the Securities and Exchange Commission and the Exchange including related to record retention and audit trail requirements. Orders must be systemized using Exchange systems or proprietary systems approved by the Exchange in accordance with Rule 6.24.

(g) Trading Permit Holders must maintain records of the use of communication devices, including, but not limited to, logs of calls placed; emails; and chats, for a period of not less than three years, the first two years in an easily accessible place. The Exchange reserves the right to inspect such records pursuant to Rule 17.2

(h) The Exchange may designate, via circular, specific communication devices that will not be permitted on the floor of the Exchange or Exchange trading crowds. In addition, the Exchange may designate other operational requirements regarding the installation of any communication devices via circular.

[(a) No Trading Permit Holder shall establish or maintain any telephone or other wire communications between his or its office and the Exchange without prior approval by the Exchange. The Exchange may direct discontinuance of any communication facility terminating on the floor of the Exchange.

(b) Equity Option Telephone Policy. Persons in the equity option trading crowds (including DPM crowds which trade equity options) may have access to outside telephone lines and may receive telephone orders directly at equity options posts from locations outside the Exchange, subject to certain requirements. The Exchange will review and may approve any applications to install or to use telephones in the equity option crowds.

(1) Requirements and conditions that apply to the use of telephone services at the equity option posts shall include the following:

(A) Only those quotations that have been publicly disseminated pursuant to Rule 6.43 may be provided over telephones at the post.

(B) Trading Permit Holders may give their clerks their PIN access code. Although both Trading Permit Holders and clerks may use telephones, Trading Permit Holders will have priority. Each Trading Permit Holder will be responsible for all calls made using that Trading Permit Holder's PIN access code.

(C) Clerks will not be permitted to establish a base of operation utilizing general use telephones at the equity option posts. This means, for example, that a clerk may not monopolize the use of a telephone receiver on a telephone that has multiple lines if all of those lines are not dedicated to the Trading Permit Holder for whom the clerk works.

(D) The Exchange may provide for the taping of any telephone line into the equity option posts or may require Trading Permit Holders to provide for the tape recording of a dedicated line at the equity option posts at any time. Trading Permit Holders and their clerks using the telephones consent to the Exchange tape recording any telephone or line.

(E) The telephones may be used for voice service only, unless they have been specifically approved for other uses.

(F) The Exchange may prohibit the use of any telephone technology that interferes with the normal operation of the Exchange's own systems or facilities or that the Exchange determines interferes with its regulatory duties.

(G) Orders transmitted by registered Exchange market-makers may be entered over the outside telephone lines directly to the equity option posts. All other orders may be entered over the outside telephone lines to the equity option posts only during outgoing telephone calls that are initiated at the equity option posts.

(H) Only those individuals that are properly qualified in accordance with Chapter IX of the Rules of the Exchange, and all other applicable rules and regulations, may accept orders from public customers pursuant to this Rule.

. . . Interpretations and Policies:

.01 A Trading Permit Holder or TPH organization which has been granted approval of any means of communication under this rule shall be responsible for assuring compliance with all Exchange rules and requirements in connection with any business conducted by means of such electronic or telephonic communication.]

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its rules regarding equipment and communication on the Exchange trading floor. More specifically, the Exchange is proposing to delete the current rule on the topic, Exchange Rule 6.23, and introduce more relevant rules governing the use of communication devices [3] on the Exchange trading floor.[4] Exchange and Trading Permit Holder (''TPH'') systems have become much more electronic since the adoption of CBOE Rule 6.23; however, the rule has not been updated to reflect the electronic environment. The Exchange believes it is in the interest of TPHs to allow electronic communications to and from the Exchange trading floor and that these amendments will eliminate confusion that may arise from outdated Exchange rules. As such, the Exchange believes that eliminating the current rule in its entirety and promulgating language that contemplates modern rules is appropriate.[5]

First, Rule 6.23 is currently applicable to ''telephone or other wire communications.'' [6] Proposed Rule 6.23(a) expands the applicability of Rule 6.23 and provides that TPHs may use any communication device [7] on the Exchange trading floor and in any Exchange trading crowd subject to the restrictions in proposed Rule 6.23. The Exchange is also proposing to apply these restrictions on a class by class basis. The Exchange believes this discretion is appropriate as different classes of options on the trading floor behave differently, and, as such, different means of communication might be more appropriate in one options class but not in another.

Next, proposed Rule 6.23(b) specifically states that the Exchange will retain the authority to deny, limit or revoke the use of any communication device.[8] Under the proposed rule, the Exchange may take such actions whenever it determines that use of such communication device: (1) Interferes with the normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties,[9] (2) is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or (3) interferes with the obligations of a TPH to fulfill its duties under, or is used to facilitate any violation of, the Securities Exchange Act of 1934 (''the Act'') or rules thereunder, or the Exchange rules. This authorization will allow the Exchange to regulate the equipment and communications on the Exchange trading floor and in the Exchange trading crowds to ensure they are not disruptive to the operation of the Exchange or in violation of the Act. The Exchange believes this will allow the Exchange to better protect investors and the integrity of the market. The Exchange notes, however, that current Rule 6.23(a) requires TPHs to receive prior approval from the Exchange before establishing or maintaining a telephone or other wire communications.[10] In addition, the Exchange recognizes that AMEX and ARCA rules require the registration of all new telephones [11] and approval prior to the use of a communication device other than a telephone. The Exchange believes the combination of the record retention requirements of proposed Rule 6.23(g) and the power to revoke the use of a communication device pursuant to proposed Rule 6.23(b) negates the necessity for prior approval and registration. If an issue with a particular device is discovered, the Exchange will work with TPHs to ensure the devices are no longer utilized.

Next, proposed Rule 6.23(c) codifies the current policy that allows any communication device to be utilized to receive orders in and out of the trading crowd, provided that audit trail and record retention requirements of the Exchange are met.[12] Formerly, CBOE Regulatory Circular RG10–20 prohibited TPH's [sic] from receiving orders in the trading crowd via instant messaging or email; [13] however, TPHs were not restricted from receiving orders via instant messaging and email while not in a trading crowd. The Exchange believes the difference caused inequity between TPHs because TPHs near the edge of the trading crowd can more quickly correspond with their clerks and trading desks that are outside of the trading crowd. The Exchange believes that removing the restriction on receiving orders via IM and email levels the playing field in the trading crowds and reflects the electronic nature of the current marketplace. In addition, proposed Rule 6.23(c) specifically prohibits the use of any communication device to record activities in the trading crowd or to maintain an open line of continuous communication that would allow a non-associated person off of the Exchange floor to continuously monitor the activities in the trading crowd. As proposed, this prohibition covers digital recorders, intercoms, walkie-talkies and any similar devices. The addition of this text will preserve the integrity of the Exchange trading floor while monitoring TPHs to ensure they have the required authorization to operate on the Exchange trading floor should that be their intent.[14]

Further, proposed Rule 6.23(d) specifies that, after providing notice to an affected Trading Permit Holder and complying with the applicable laws, the Exchange may provide for the recording of any telephone line on the floor of the Exchange or require TPHs to provide for the recording of a fixed phone line on the floor of the Exchange, and that TPHs utilizing telephones consent to the Exchange recording any telephone or line.[15] This added provision will not require but allow the Exchange to record any communications via telephone connections to the trading floor if a situation where [sic] to arise where this may be necessary. In addition, this proposed provision would allow the Exchange to provide necessary

[3] As proposed, ''communication device'' will include ''*e.g.,* any hardware or software related to a phone, system or other device, including an instant messaging system, email system or similar device[.]''

[4] Although the Exchange seeks to replace Rule 6.23 in its entirety, portions of the current rule are included in proposed Rule 6.23. The relevant holdover language is identified where applicable.

[5] Many of the provisions of proposed Rule 6.23 are modeled after NYSE Amex LLC (''Amex'') Rule 902NY(i)—Telephones on the Trading Floor and NYSE Arca, Inc. (''Arca'') Rule 6.(h) [sic]—Telephones on the Options Floor.

[6] *See* CBOE Rule 6.23(a).

[7] *See supra* note 1 [sic].

[8] Proposed Rule 6.23(c) [sic] is similar to Amex Rule 902NY(i)(6) and Arca Rule 6.2(h)(6).

[9] This language remains from the current CBOE Rule 6.23. *See* CBOE Rule 6.23(b)(1)(F).

[10] *See* CBOE Rule 6.23(a).

[11] *See* Amex Rule 902NY(i)(1) and Arca Rule 6.2(h)(1).

[12] *See* CBOE Regulatory Circular RG14–162 (November 19, 2014).

[13] *See* CBOE Regulatory Circular RG10–20 (January 29, 2010).

[14] Proposed Rule 6.23(c) is similar to Amex Rule 902NY(i)(2) and Arca Rule 6.2(h)(2).

[15] This language remains from the current CBOE Rule 6.23. *See* CBOE Rule 6.23 (b)(1)(D).

equipment for the recording of communications on the Exchange trading floor.[16]

Next, proposed Rule 6.23(e) prohibits the use of communication devices to disseminate quotes and/or last sale reports originating on the Exchange trading floor in any manner that would serve to provide a continuous or running state of the market; however, the proposed rule specifically states that, ''an associated person of a TPH may use a communications device to communicate quotes that have been disseminated pursuant to Rule 6.43 and/or last sale reports to other associated persons of the same TPH business unit.'' Further, as proposed, an associated person of a TPH may use a communications device to communicate an ''occasional, specific, quote that has been disseminated pursuant to Rule 6.43 [17] or last sale report or quote to a person who is not an associated person of the same TPH.'' The Exchange believes this proposed addition is necessary to allow the use of instant messaging or email as the industry has grown to become more and more reliant upon technology. The Exchange, however, also thinks it is important that any communications made within TPH organizations should be within the same business unit so that TPHs are not abusing the privilege and allowing for communication of the activity on the Exchange trading floor to be disseminated to unrelated areas of the TPH.

Next, proposed Rule 6.23(f) requires that any use of any communications device on the trading floor shall comply with applicable laws, rules, policies, and procedures of the Commission and Exchange including all record retention and audit trail requirements. Proposed Rule 6.23(f) would also require that orders are systemized using Exchange systems or proprietary systems approved by the Exchange in accordance with Exchange Rule 6.24.[18] This proposed addition would ensure that any communications device on the Exchange's trading floor or in the Exchange trading crowds will follow any and all other applicable statues [sic] including the Act along with ensure [sic] that orders are properly systematized. In addition, proposed Rule 6.23(f) will allow misconduct to be investigated if regulatory issues arise after the adoption of a new communication device.

Next, proposed Rule 6.23(g) requires TPHs to maintain records related to the ''use of communication devices, including, but not limited to, logs of calls placed; emails; and chats, for a period of not less than three years, the first two years in an easily accessible place.'' Although similar to Amex and Arca Rules on the subject,[19] the Exchange added language referring to emails and chats to reflect the current electronic environment. In addition, proposed rule 6.23(g) states that ''[t]he Exchange reserves the right to inspect such records pursuant to Rule 17.2.'' [20] As previously noted, the proposed Rule will allow misconduct to be investigated if regulatory issues arise after the adoption of a new communication device. This requirement is consistent with the retention period of Securities and Exchange Commission Rule 17a–4.[21]

Finally, proposed Rule 6.23(h) authorizes the Exchange to designate more specific communication devices that will not be permitted on the Exchange trading floor or other operational requirements via circular. Given the propensity for technology to continue to evolve, the Exchange believes this proposed text will allow the Exchange to change the exact requirements from time to time as needed while continuing to provide TPHs specifications on the allowed technology and communication mechanism.

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 30 days following the approval date. The implementation date will be no later than 60 days following the approval of the proposed changes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[22] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [23] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [24] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange does not believe the proposed changes are unfairly discriminatory as they are applied to all TPHs trading on the Exchange trading floor, a similarly situated group, equally. In addition, the Exchange believes the proposed changes [sic] designed to prevent fraudulent and manipulative acts and practices because they are more appropriately designed to monitor the equipment and communications on a modern trading floor. Without the proposed changes, the current Exchange rules do not adequately address the relevant communication tools. Finally, the Exchange believes that the proposed rules intend to foster cooperation and coordination by introducing new means of communication to the Exchange trading floor. Finally, the Exchange believes that the proposed changes protect investors and the public interest by ensuring that all equipment and communication on the Exchange trading floor will adhere to all other applicable statutes and the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. More

[16] Proposed Rule 6.23(d) is similar to Amex Rule 902NY(i)(3)(C) and Arca Rule 6.2(h)(3)(C).

[17] Proposed Rule 6.23(e) referring to quotes disseminated pursuant to Rule 6.43 is similar to Amex Rule 902NY(i)(3)(A) and Arca Rule 6.2(h)(3)(A). *See* CBOE Rule 6.43—Manner of Bidding and Offering.

[18] Orders must be systematized in accordance with Rule 6.24 (Required Order Information). Generally, subject to certain exceptions, each order, cancellation of, or change to an order transmitted to the Exchange must be ''systematized,'' in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the floor of the Exchange. An order is systematized if: (i) The order is sent electronically to the Exchange; or (ii) the order that is sent to the Exchange non-electronically (*e.g.,* telephone orders) is input electronically into the Exchange's systems contemporaneously upon receipt on the Exchange, and prior to representation of the order.

[19] Proposed Rule 6.23(g) is similar to Amex Rule 902NY(i)(5) and Arca NYSE Arca Rule 6.2(h)(5).

[20] CBOE Rule 17.2 (b)—Requirements to Furnish Information. Rule 17.2(b) requires TPHs and persons associated with TPHs to, among other things, ''furnish documentary materials and other information requested by the Exchange in connection with (i) an investigation initiated pursuant to paragraph (a) of this Rule[.]''

[21] 17 CFR 240.17a-4.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.*

specifically, the Exchange does not believe that the proposed rule changes will impose any [sic] intramarket competition because it [sic] will be applicable to all TPHs trading on the Exchange trading floor. In addition, the Exchange does not believe the proposed changes will impose any intermarket burden because the Exchange trading floor will operate in a similar manner only with more relevant equipment and communication requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission invites comment on CBOE's proposal to no longer require a member to obtain prior approval from CBOE before using a new communication device on the CBOE floor and instead adopt the open-ended approach in proposed paragraph (c) of Rule 6.23 under which a member would be permitted to use any communication device unless specifically otherwise prohibited and would not be required to seek Exchange approval or otherwise register the communication devices with the Exchange in advance of using them on the CBOE floor. 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–CBOE–2015–022 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–CBOE–2015–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–022, and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05484 Filed 3–9–15; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74430; File No. SR–CBOE–2015–023]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To List and Trade Options on the MSCI EAFE Index and on the MSCI Emerging Markets Index

March 4, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2015, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to list and trade options that overlie the MSCI EAFE Index and the MSCI Emerging Markets Index (''EAFE options'' and ''EM options''). EAFE and EM options would be P.M., cash-settled contracts with European-style exercise. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to permit the Exchange to list and trade options that overlie the MSCI EAFE Index and the MSCI Emerging Markets Index (''EAFE options'' and ''EM options''). EAFE and EM options would be P.M., cash-settled contracts with European-style exercise.[3]

MSCI EAFE Index Design, Methodology and Dissemination

The MSCI EAFE Index (Europe, Australasia, Far East) is a free, [sic] float-adjusted market capitalization index that is designed to measure the equity market performance of developed markets, excluding the U.S. & Canada. The MSCI EAFE Index consists of the following 21 developed market country indexes: Australia, Austria, Belgium, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. The MSCI EAFE Index consists of large and midcap components, has 910 constituents and ''covers approximately 85% of the free float-adjusted market capitalization in each country.'' [4]

The MSCI EAFE Index was launched on December 31, 1969 and is calculated by MSCI Inc. (''MSCI''), which is a provider of investment support tools. The MSCI EAFE Index is calculated in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last marked [sic] on which the components are traded. The methodology used to calculate the MSCI EAFE Index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes. Specifically, the MSCI EAFE Index is based on the MSCI Global Investable Market Indexes (''GIMI'') Methodology.[5] The level of the MSCI EAFE Index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the MSCI EAFE Index by the index divisor.

The MSCI EAFE Index is monitored and maintained by MSCI. Adjustments to the MSCI EAFE Index are made on a daily basis with respect to corporate events and dividends. MSCI reviews the MSCI EAFE Index quarterly (February, May, August and November) ''with the objective of reflecting change in the underlying equity markets in a timely manner, while limiting undue index turnover. During the May and November reviews, the [MSCI EAFE Index] is rebalanced and the large and mid capitalization cutoff points are recalculated.'' [6]

Real-time data is distributed approximately every 15 seconds while the index is being calculated using MSCI's real-time calculation engine to Bloomberg L.P. (''Bloomberg''), FactSet Research Systems, Inc. (''FactSet'') and Thomson Reuters (''Reuters''). End of day data is distributed daily to clients through MSCI as well as through major quotation vendors, including Bloomberg, FactSet, and Reuters.

The Exchange notes that the iShares MSCI EAFE exchange traded fund (''ETF'') is an actively traded product. CBOE also lists options overlying that ETF (''EFA options'') and those options are actively traded as well. MSCI EAFE Mini Index (''EAFE'') futures contracts are listed for trading on the Intercontinental Exchange, Inc. (''ICE'') [7] and other derivatives contracts on the MSCI EAFE Index are listed for trading in Europe.

EM Index Design and Calculation

The MSCI EM Index is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets. The MSCI EM Index consists of the following 23 emerging market country indexes: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Peru, Philippines, Poland, Qatar, Russia, South Africa, Taiwan, Thailand, Turkey and United Arab Emirates. The MSCI EM Index consists of large and midcap components, has 834 constituents and ''covers approximately 85% of the free float-adjusted market capitalization in each country.'' [8]

The MSCI EM Index was launched on June 30, 1988 and is calculated by MSCI. The MSCI EM Index is calculated in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last marked [sic] on which the components are traded. The methodology used to calculate the MSCI EM Index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes. Specifically, the MSCI EM Index is based on the MSCI GIMI Methodology.[9] The level of the MSCI EM Index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the MSCI EM Index by the index divisor.

The MSCI EM Index is monitored and maintained by MSCI. Adjustments to the MSCI EM Index are made on a daily basis with respect to corporate events and dividends. MSCI reviews the MSCI EM Index quarterly (February, May, August and November) ''with the objective of reflecting change in the underlying equity markets in a timely manner, while limiting undue index turnover. During the May and November reviews, the [MSCI EM Index] is rebalanced and the large and mid capitalization cutoff points are recalculated.'' [10]

Real-time data is distributed approximately every 15 seconds using MSCI's real-time calculation engine to Bloomberg, FactSet and Reuters. End of day data is distributed daily to clients through MSCI as well as through major quotation vendors, including Bloomberg, FactSet, and Reuters.

The Exchange notes that the iShares MSCI Emerging Markets ETF is an actively traded product. CBOE also lists options overlying that ETF (''EEM options'') and those options are actively traded as well. MSCI Emerging Markets Mini Index (''EM'') futures contracts are listed for trading on ICE [11] and other

[3] CBOE's proposed rule change is substantially similar to approved filings made by NASDAQ OMX Phlx (''Phlx'') in 2011 and 2012 to list and trade EM and EAFE options, respectively. *See* Securities Exchange Act Release Nos. 66420 (February 17, 2012), 77 FR 11177 (February 24, 2012) (approving SR–Phlx–2011–179 to list EM options) and 66861 (April 26, 2012), 77 FR 26056 (May 2, 2012) (approving SR–Phlx–2012–28 to list EAFE options).

[4] *See* MSCI EAFE Index fact sheet (dated December 31, 2014) located at: *http://www.msci.com/resources/factsheets/index_fact_sheet/msci-eafe-index-usd-price.pdf.*

[5] Summary and comprehensive information about the GIMI methodology may be reviewed at: *http://www.msci.com/products/indexes/size/all_cap/methodology.html.*

[6] *See* MSCI EAFE Index fact sheet (dated December 31, 2014) located at: *http://www.msci.com/resources/factsheets/index_fact_sheet/msci-eafe-index-usd-price.pdf.*

[7] *See* EAFE futures contract specifications located at: *https://globalderivatives.nyx.com/node/10864.*

[8] *See* MSCI EM Index fact sheet (dated December 31, 2014) located at: *http://www.msci.com/resources/factsheets/index_fact_sheet/msci-emerging-markets-index-usd-price.pdf.*

[9] Summary and comprehensive information about the GIMI methodology may be reviewed at: *http://www.msci.com/products/indexes/size/all_cap/methodology.html.*

[10] *See* MSCI EM Index fact sheet (dated December 31, 2014) located at: *http://www.msci.com/resources/factsheets/index_fact_sheet/msci-emerging-markets-index-usd-price.pdf.*

[11] *See* EM futures contract specifications located at: *https://globalderivatives.nyx.com/node/10846.*

derivatives contracts on the MSCI EM Index are listed for trading in Europe.

Initial and Maintenance Listing Criteria

The MSCI EAFE Index and MSCI EM Index each meet the definition of a broad-based index as set forth in Rule 24.1(i)(1).[12] In addition, the Exchange proposes to create specific initial and maintenance listing criteria for options on the MSCI EAFE Index and on the MSCI EM Index. Specifically, the Exchange proposes to add new Interpretation and Policy .01(a) to Rule 24.2, *Designation of the Index,* to provide that he [sic] Exchange may trade EAFE and EM options if each of the following conditions is satisfied: (1) The index is broad-based, as defined in Rule 24.1(i)(1); (2) Options on the index are designated as P.M.-settled index options; (3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted; (4) The index consists of 500 or more component securities; (5) All of the component securities of the index will have a market capitalization of greater than $100 million; (6) No single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index; (7) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than: (i) Twenty percent (20%) of the weight of the EAFE Index, and (ii) twenty-two and a half percent (22.5%) of the weight of the EM Index; (8) During the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors. However, the Exchange may continue to trade EAFE options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that EAFE futures contracts are trading and prices for those contracts may be used as a proxy for the current index value; (9) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and (10) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

Additionally, the Exchange proposes to add new Interpretation and Policy .01(b) to Rule 24.2, *Designation of the Index,* to set forth the following maintenance listing standards for options on the MSCI EAFE Index and on the MSCI EM Index: (1) The conditions set forth in subparagraphs .01(a)(1), (2), (3), (4), (7), (8), (9) and (10) must continue to be satisfied. The conditions set forth in subparagraphs .01(a)(5) and (6) must be satisfied only as of the first day of January and July in each year; and (2) the total number of component securities in the index may not increase or decrease by more than thirty-five percent (35%) from the number of component securities in the index at the time of its initial listing. In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Exchange Act.

The Exchange believes that P.M. settlement is appropriate for EAFE and EM options due to the natures of these indexes that encompass multiple markets around the world. As to the MSCI EAFE Index, the components open with the start of trading in certain parts of Asia at approximately 5:00 p.m. (Chicago time) (prior day) and close with the end of trading in Europe at approximately 11:30 a.m. (Chicago time) (next day) as closing prices from Ireland are accounting [sic] for in the closing calculation. The closing MSCI EAFE Index level is distributed by MSCI between approximately 1:00 p.m. and 2:00 p.m. (Chicago time) each trading day.

As a result, there will not be a current MSCI EAFE Index level calculated and disseminated during a portion of the time during which EAFE options would be traded (from approximately 11:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time)).[13] However, the EAFE futures contract that trades on ICE will be trading during this time period.[14] The Exchange believes that the EAFE futures prices would be a proxy for the current MSCI EAFE Index level. Therefore, the Exchange believes that EAFE options should be permitted to trade after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that EAFE futures contracts are trading and prices for those contracts may be used as a proxy for the current index value.

As to the MSCI EM index, the components open with the start of trading in certain parts of Asia at approximately 6:00 p.m. (Chicago time) (prior day) and close with the end of trading in Mexico and Peru at approximately 3:30 p.m. (Chicago time) (next day) as closing prices from Brazil, Chile, Peru and Mexico, including late prices, are accounted for in the closing calculation. The closing MSCI EM Index level is distributed at approximately 5:00 p.m. (Chicago time) each trading day.[15]

Because the MSCI EAFE Index and on [sic] the MSCI EM Index each has a large number of component securities, representative of many countries, the Exchange believes that the initial listing requirements are appropriate to trade options on this index [sic]. In addition, similar to other broad based indexes, the Exchange proposes various maintenance requirements, which require continual compliance and periodic compliance.

Options Trading

Generally, the proposed trading rules for EAFE and EM options would be the same except for their respective trading hours, which the Exchange will describe separately below. Exhibit 3 presents contract specifications for EAFE and EM options.

The contract multiplier for EAFE and EM options would be $100. EAFE and EM options would be quoted in index points and one point would equal $100. The minimum tick size for series trading below $3 would be 0.05 ($5.00) and above $3 will be 0.10 ($10.00).

Initially, the Exchange would initially list in-, at- and out-of-the-money strike prices. Additional series may be opened

[12] Rule 24.2(i)(1) [sic] defines a broad-based index to mean an index designed to representative [sic] of a stock market as a whole or of a range of companies in unrelated industries.

[13] The trading hours for multiply listed EFA options are from 8:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time). *See* EFA Options Product Specifications located at: *http://www.cboe.com/micro/efa/specifications.aspx.*

[14] The trading hours for EAFE futures are from 6:16 p.m. (Chicago time) to 4:00 p.m. (Chicago time) the following day, Sunday through Friday. *See* MSCI EAFE Mini Index Future Contract specifications located at: *https://globalderivatives.nyx.com/node/10864.*

[15] Late prices indicate that while the last real-time stock tick come [sic] in at approximately 3:00 p.m. (Chicago time), the MSCI EM Index will stay open for a few minutes longer to allow any late price information to be obtained. At approximately 3:30 p.m. (Chicago time), the final foreign currency rates are applied and the last real-time MSCI EM Index value is disseminated.

for trading as the underlying index level moves up or down.[16] The minimum strike price interval for EAFE and EM series would be 2.5 points if the strike price is less than 200. When the strike price is 200 or above, strike price intervals would be no less than 5 points.[17] New series would be permitted to be added up to the fifth business day prior to expiration.[18]

The Exchange would be permitted to list up to twelve near-term expiration months.[19] The Exchange would also be permitted to list up to ten expirations in Long-Term Index Option Series (''LEAPS'') on the EAFE and EM indexes and those indexes would be eligible for all other expirations permitted for other broad-based indexes, *e.g.,* End of Week/End of Month Expirations, Short Term Option Series and Quarterly Option Series.[20]

The trading hours for EAFE options would be from 8:30 a.m. (Chicago time) to 3:15 p.m. (Chicago time), except that trading in expiring EAFE options would end at 10:00 a.m. (Chicago time) on their expiration date. The Exchange is proposing that EAFE options trade only during a portion of the day on their expiration date to align the trading hours of expiring EAFE options with expiring EAFE futures. EAFE futures trade on ICE and stop trading at 10:00 a.m. (Chicago time) on the third Friday of the futures contract month.[21]

The trading hours for EM options would be from 8:30 a.m. to 3:15 p.m. (Chicago time).

Exercise and Settlement

The proposed EAFE and EM options would expire on the third Friday of the expiring month. Trading in expiring EAFE options would cease at 10:00 a.m. (Chicago time) on their expiration date and trading in expiring EM options would cease at 3:15 p.m. (Chicago time) on their expiration date. When the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

Exercise would result in delivery of cash on the business day following expiration. EAFE and EM options would be P.M.-settled. The exercise settlement value would be the official closing values of the MSCI EAFE Index and the MSCI EM Index as reported by MSCI on the last trading day of the expiring contract.[22]

The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier ($100).

If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of The Options Clearing Corporation (''OCC'').[23]

Position and Exercise Limits

The Exchange proposes to apply the default position limits for broad-based index options to EAFE and EM options. Specifically, the chart set forth in Rule 24.4(a), *Position Limits for Broad-Based Index Options,* provides that the positions limits applicable to ''other broad-based indexes'' is 25,000 contracts (standard limit/on the same side of the market) and 15,000 contracts (near-term limit). Pursuant to Rule 24.5, *Exercise Limits,* the exercise limits for EAFE and EM options would be equivalent to the position limits for EAFE and EM options. All position limit hedge exemptions would apply.

Margin

The Exchange proposes that EAFE and EM options be margined as ''broad-based index'' options, and under CBOE rules, especially, Rule 12.3(c)(5)(A), the margin requirement for a short put or call shall be 100% of the current market value of the contract plus 15% of the ''product of the current index group value and the applicable index multiplier,'' reduced by any out-of-the-money amount. There would be a minimum margin requirement of 100% of the current market value of the contract plus: 10% of the aggregate put exercise price amount in the case of puts, and 10% of the product of the current index group value and the applicable index multiplier in the case of calls. Additional margin may be required pursuant to Rules 12.3(h) and 12.10 (Margin Required is Minimum).

Exchange Rules Applicable

Except as modified herein, the rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to EAFE and EM options. EAFE and EM options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules,[24] margin requirements [25] and trading rules.[26]

The Exchange hereby designates EAFE and EM options as eligible for trading as Flexible Exchange Options as provided for in Chapters XXIVA (Flexible Exchange Options) and XXIVB (FLEX Hybrid Trading System).[27]

Surveillance and Capacity

The Exchange represents that is [sic] has an adequate surveillance program in place for EAFE and EM options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in EAFE and EM options.

The Exchange is a member of the Intermarket Surveillance Group (''ISG''), which ''covers major self-regulatory bodies across the world.'' ''The purpose of the ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. The ISG plays a crucial role in

[16] *See* Rules 24.9(c) [sic] and 24.9.04. These rules set forth the criteria for listing additional series of the same class as the current value of the underlying index moves. Generally, additional series must be ''reasonably related'' to the current index value, which means that strike prices must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest.

[17] *See* proposed amendments to Rule 24.9.01(a) adding EAFE and EM as classes eligible for 2.5 point minimum strikes if the strike price is below 200.

[18] *See* Rule 24.9.01(c).

[19] *See* proposed amendments to Rule 24.9(a)(2). The Exchange is proposing to allow the listing of up to twelve expiration months at any one time for EAFE and EM options.

[20] *See, e.g.,* Rules 24.9(b) (LEAPS), 24.9(e) (End of Week/End of Month Expirations), 24.9(a)(2)(A) (Short Term Option Series) and 24.9(a)(2)(B) (Quarterly Option Series).

[21] *See* EAFE futures contract specifications located at: *https://globalderivatives.nyx.com/node/10864. See also* Securities Exchange Act Release No. 67070 [sic] (May 29, 2012), 77 FR 33013 (June 4, 2012) (Notice of SR-Phlx-2012–67 to close the trading of expiring EAFE options at 10:00 a.m. (Chicago time) on their expiration date).

[22] *See* proposed amendment to Rule 24.1.01(a) [sic] to identify MSCI Inc. as the Reporting Authority for the MSCI EAFE Index (EAFE) and the MSCI Emerging Markets Index (EM). As the designated Reporting Authority for each of these indexes, the disclaimers set forth in Rule 24.14 (Disclaimers) would apply to MSCI Inc.

[23] *See* Rule 24.7.

[24] *See* Chapter IX (Doing Business with the Public).

[25] *See* Chapter XII (Margins).

[26] *See, e.g.,* Chapters IV (Business Conduct), VI (Doing Business on the Trading Floor), Chapter VIII (Market-Makers, Trading Crowds and Modified Trading Systems) and Chapter XXIV (Index Options).

[27] *See* proposed amendments to Rules 24A.7, *Position Limits and Reporting Requirements,* and 24B.7, *Position Limits and Reporting Requirements,* providing that the position limits for FLEX Index options on the MSCI EAFE Index and on the MSCI Emerging Market [sic] Index would be equal to the position limits for Non-FLEX options on those indexes. Per existing Rules 24A.8, *Exercise Limits,* and 24B.8, *Exercise Limits,* the exercise limits for FLEX EAFE and EM option would be equivalent to the position limits for FLEX EAFE and EM options.

information sharing among markets that trade securities, options on securities, security futures products, and futures and options on broad-based security indexes.'' A list identifying the current ISG members is available at: *https://www.isgportal.org/home.html.*

The Exchange is also an affiliate member of the International Organization of Securities Commissions (''IOSCO''), which has members from over 100 different countries. Each of the countries from which there is a component security in the [sic] both the MSCI EAFE and MSCI EM Indexes is a member of IOSCO.[28] A list identifying the current ordinary IOSCO members is available at: *http://www.iosco.org/about/?subsection=membership&memid=1.* Finally, the Exchange has entered into various comprehensive surveillance agreements (''CSAs'') and/or Memoranda of Understanding with various stock exchanges. Given the capitalization of the EAFE and EM Indexes and the deep and liquid markets for the securities underlying these Indexes, the concerns for market manipulation and/or disruption in the underlying markets are greatly reduced.

The Exchange notes that the EFA and EM ETFs are actively traded products. CBOE also lists options overlying those ETFS (EFA and EEM options) and those options are actively traded as well.

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of EAFE and EM options. Because the proposal is limited to two new classes, the Exchange believes that the additional traffic that would be generated from the introduction of EAFE and EM options would be manageable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[29] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [30] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Currently, the Exchange believes that there is unmet market demand for exchange-listed security options listed on these two popular cash indexes. (CBOE understands that Phlx no longer lists EAFE and EM options). As described above, the iShares MSCI EAFE ETF and iShares MSCI Emerging Markets ETF are actively traded products, as are the options on those ETFs. EAFE and EM futures are listed for trading on ICE. In addition, other derivatives contracts on the MSCI EAFE Index and the MSCI EM Index are listed for trading in Europe. As a result, CBOE believes that EAFE and EM options are designed to provide different and additional opportunities for investors to hedge or speculate on the market risk on the MSCI EAFE Index and the MSCI EM Index by listing an option directly on these indexes.

The Exchanges believes that both the MSCI EAFE Index and the MSCI EM Index are not easily susceptible to manipulation. Both indexes are broad-based indexes and have high market capitalizations. The MSCI EAFE Index is comprised of 910 component stocks and no single component comprises more than 5% of the index, making it not easily subject to market manipulation. Similarly, the MSCI EM Index is comprised of 834 components stocks and no single component comprises more than 3% to 5% of the index, making it not easily subject to market manipulation.

Additionally, the iShares MSCI EAFE and iShares MSCI Emerging Markets ETFs are actively traded products, as are options on those ETFs. Because both indexes have large numbers of component securities, are representative of many countries and trade a large volume with respect to ETFs and options on those ETFs, the Exchange believes that the initial listing requirements are appropriate to trade options on these indexes. In addition, similar to other broad-based indexes, the Exchange proposes to adopt various maintenance criteria, which would require continual compliance and periodic compliance.

EAFE and EM options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules,[31] margin requirements [32] and trading rules.[33] The Exchange would apply the same default position limits for broad-based index options to EAFE and EM options. Specifically, the applicable position limits would be 25,000 contracts (standard limit/on the same side of the market) and 15,000 contracts (near-term limit). The exercise limits for EAFE and EM options would be equivalent to the position limits for EAFE and EM options. These same position and exercise limits would apply to FLEX trading. All position limit hedge exemptions would apply. The Exchange would apply existing index option margin requirements for the purchase and sale of EAFE and EM options.

The Exchange represents that is [sic] has an adequate surveillance program in place for EAFE and EM options. The Exchange also represents that it has the necessary systems capacity to support the new option series.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, CBOE believes that the introduction of new cash index options will enhance competition among market participants and will provide a new type of options to compete with domestic products such as EFA and EEM options, EAFE and EM futures and European-traded derivatives on the MSCI EAFE Index and the MSCI EM Index to the benefit of investors and the marketplace.

[28] There are three categories of IOSCO members: ordinary, associate and affiliate. In general, the ordinary members (124) are the national securities commissions in their respective jurisdictions. Associate members (12) are usually agencies or branches of government, other than the principal national securities regulator in their respective jurisdictions that have some regulatory competence over securities markets, or intergovernmental international organizations and other international standard-setting bodies, such as the IMF and the World Bank, with a mission related to either the development or the regulation of securities markets. Affiliate members (62) are self-regulatory organizations, stock exchanges, financial market infrastructures, investor protection funds and compensation funds, and other bodies with an appropriate interest in securities regulation. *See* IOSCO Fact Sheet located at: *http://www.iosco.org/about/pdf/IOSCO-Fact-Sheet.pdf.*

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] *See* Chapter IX (Doing Business with the Public).

[32] *See* Chapter XII (Margins).

[33] *See, e.g.,* Chapters IV (Business Conduct), VI (Doing Business on the Trading Floor), Chapter VIII (Market-Makers, Trading Crowds and Modified Trading Systems) and Chapter XXIV (Index Options).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–CBOE–2015–023 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–023. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–023 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05477 Filed 3–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of Aspire International, Inc., Border Management, Inc., and Landmark Energy Enterprises, Inc.

March 5, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aspire International, Inc. because it has not filed any periodic reports since the period ended December 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Border Management, Inc. because it has not filed any periodic reports since the period ended September 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Landmark Energy Enterprises, Inc. because it has not filed any periodic reports since the period ended July 31, 2012.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on March 5, 2015, through 11:59 p.m. EDT on March 18, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05516 Filed 3–6–15; 11:15 am]

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[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74422; File No SR–CBOE–2015–020]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Adopt Fees for Extended Trading Hours

March 4, 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 February 18, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt fees for its Extended Trading Hours session. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 recently amended its rules to offer trading in two exclusively listed options (SPX, including SPXW, and VIX) during extended trading hours from 2:00 a.m. to 8:15 a.m. Chicago time Monday through Friday (''Extended Trading Hours'' or ''ETH''). The Exchange intends to commence trading in the ETH session on Monday, March 2, 2015 for VIX and Monday, March 9, 2015 for SPX/SPXW. As such, the Exchange proposes to establish fees for the trading of SPX, SPXW and VIX options during ETH (all fees referenced herein are per-contract unless otherwise stated). First, the Exchange proposes to adopt Footnote 37, which provides general information regarding the two trading sessions and indicates which products will be available in ETH.

Transaction Fees

The Exchange proposes to assess the same fees regarding SPX, SPXW and VIX in the ETH session as are assessed regarding SPX, SPXW and VIX in the Regular Trading Hours session (''RTH'') [3] (with a few exceptions, which shall be explained herein). As in RTH, the Proprietary Index Options Rate Table will apply during ETH. Transaction fees for SPX (including SPXW) options will be as follows (all listed rates are per contract):

Customer (Premium > or = $1)	$0.44
Customer (Premium <$1)	0.35
Clearing Trading Permit Holder Proprietary	0.25
CBOE Market-Maker/LMM	0.20
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker	0.40
Professional/Voluntary Professional (Premium > or = $1)	0.40
Professional/Voluntary Professional (Premium <$1)	0.40

Transaction fees for VIX options will be as follows (all listed rates are per contract):

Customer (Premium > or = $1)	$0.48
Customer (Premium $0.11–$.99)	0.27
Customer (Premium <$0.11)	0.10
Clearing Trading Permit Holder Proprietary	0.25
CBOE Market-Maker/LMM (Premium > or = $0.11)	0.23
CBOE Market-Maker/LMM (Premium <$0.11)	0.05
Joint Back-Office, Broker-Dealer, Non-Trading Permit Holder Market-Maker	0.40
Professional/Voluntary Professional	0.40

Surcharges

The Exchange also proposes to apply in ETH, like RTH, an Index License Surcharge Fee of $0.13 per contract for SPX options, including SPXW, and $0.10 per contract for VIX options for all non-customer orders. The surcharges are assessed to help the Exchange recoup license fees the Exchange pays to index licensors for the right to list S&P 500 Index-based products and volatility index options for trading. Additionally, in order to have consistency and to avoid a cost differential between the ETH and RTH sessions, the Exchange proposes to apply the Customer Priority Surcharges for VIX and SPXW in ETH. Specifically, as in RTH, all customer (C) contracts in VIX that have a premium of $0.11 or greater, are executed electronically and that are Maker non-Turner will be assessed a $0.10 surcharge.[4] As in RTH, all customer (C) contracts in SPXW executed electronically will be assessed a $0.05 surcharge. The Exchange notes that as ETH opening trades will not affect the Index Settlement price for VXST, the exception from the SPXW Customer Priority Surcharge in RTH for SPXW options in the SPXW electronic book that are executed during opening rotation on the final settlement day of VXST options and futures and which have the expiration that contribute to the VXST settlement calculation will not exist in ETH.

Exceptions

All of the proposed transaction fees and surcharges listed above are the same amounts as those currently assessed for SPX, SPXW and VIX during RTH, with certain exceptions. The first exception relates to Professional/Voluntary Professional (''W'' origin code) fees.[5] Particularly, the Exchange notes that SPX is traded on the Exchange's Hybrid 3.0 system (''Hybrid 3.0'') during RTH, and the Professional and Voluntary Professional designation is not available in Hybrid 3.0 classes. As such, Professionals and Voluntary Professionals trading SPX are currently assessed the same fee amounts as customers during RTH. During ETH however, SPX will be traded on the Hybrid Trading System (''Hybrid''), which recognizes the difference between Professionals/Voluntary Professionals and Customers. Accordingly, the Exchange proposes to assess to Professionals/Voluntary Professionals the same fee amount for SPX transactions during ETH as apply to the majority of other proprietary index options trading on Hybrid (*i.e.*, $0.40 per contract). The Exchange also proposes to assess the Index License Surcharge to SPX orders with the ''W'' origin code during ETH.

In order to have consistency between the two trading sessions, the Exchange also proposes to provide that SPX orders that have a Professional/Voluntary Professional designation (''W'' origin code) during RTH will be assessed the same transaction fees as apply to the other Underlying Symbol List A [6] Products (*i.e.*, $0.40 per contract). The Exchange also proposes to apply the Index License Surcharge to SPX orders that have a Professional/Voluntary Professional designation during RTH (*i.e.*, $0.13 per contract). The purpose of these proposed rule changes is to minimize cost differentials between the two trading sessions, as well as provide consistent fees for similar products. Specifically, similarly situated Trading Permit Holders (''TPHs'') (*i.e.*, Professional/Voluntary Professionals) will be assessed the same transaction fees and Index License Surcharges regardless of session.

Next, the Exchange notes that during RTH, the Automated Improvement Mechanism (''AIM'') is activated for VIX options, but not SPX (or SPXW) options. During ETH however, AIM will be activated for both VIX and SPX (including SPXW) options. As such, SPX and SPXW transactions executed via AIM during ETH will be assessed AIM Agency/Primary and AIM Contra fees based on an order's origin code. As in RTH, the current AIM Agency/Primary and AIM Contra fees for VIX options will apply during ETH. The Exchange also proposes to make a minor, non-substantive change to the title of the AIM fees column.

[3] Rule 1.1(qqq) defines ''Regular Trading Hours'' as the hours during which transactions in options may be made on the Exchange as set forth in Rule 6.1 (which hours are from 8:30 a.m. to either. 3:00 p.m. or 3:15 p.m. Chicago time).

[4] As of the date of this filing, the Customer Priority Surcharge for VIX is waived for complex orders. This waiver will also apply during ETH and will remain in effect until and unless a rule filing is submitted reinstating the surcharge for VIX complex orders. *See* Exchange Fees Schedule, Customer Priority Surcharge.

[5] *See* Exchange Fees Schedule, Proprietary Index Options Rate Table—Underlying Symbol List A.

[6] As of the date of this filing, ''Underlying Symbol List A'' consists of OEX, XEO, SPX (including SPXW), SPXpm, SRO, VIX, VXST, Volatility Indexes and binary options.

Particularly, the Exchange notes that throughout the Fees Schedule, when listing proprietary products, ''VIX'' generally precedes ''VXST.'' To remain consistent, the Exchange proposes switching the order of these products in the AIM fees column.

The Exchange next notes that the Hybrid 3.0 Execution Surcharge will not apply in ETH. As described above, while SPX is traded on Hybrid 3.0 during RTH, SPX will be traded on Hybrid during ETH, and thus the Hybrid 3.0 Execution Surcharge would not be applicable. Additionally, the Exchange notes that as the ETH session will not support trading in FLEX options, all fees relating to FLEX in RTH, would not apply in ETH. Finally, unlike RTH, the Exchange does not propose to assess a Tier Appointment Fee [7] to SPX/SPXW or VIX at this time, as the Exchange does not want to discourage Market-Makers from participating in ETH.

LMM Rebate

In the filing that adopted Extended Trading Hours, CBOE stated that it would submit a separate rule filing to adopt all fees applicable to Extended Trading Hours, including the amount of a rebate to be provided to Lead Market-Makers (''LMMs'') that satisfy a heightened quoting standard.[8] Accordingly, the Exchange proposes to provide that LMM's that meet a certain heightened quoting standard (which shall be explained herein), will receive a pro-rata share of a ''compensation pool'' equal to $25,000 times the number of LMMs in that class.

By way of background, pursuant to subparagraph (e)(iii)(A) of Rule 6.1A, the Exchange may approve one or more Market-Makers to act as LMMs in each class during Extended Trading Hours in accordance with Rule 8.15A for terms of at least one month.[9] However, to the extent the Exchange approves Market-Makers to act as LMMs during ETH, subparagraph (e)(iii)(B) of Rule 6.1A provides that LMMs must comply with the continuous quoting obligation and other obligations of Market-Makers described in subparagraph (ii) of Rule 6.1A,[10] but not the obligations set forth in Rule 8.15A [11] during Extended Trading Hours for their allocated classes. It further provides that LMMs do not receive a participation entitlement as set forth in Rules 6.45B and 8.15B during ETH. Rather, pursuant to subparagraph (e)(iii)(C) of Rule 6.1A, if an LMM (1) provides continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair in an ETH allocated class (excluding intra-day add-on series on the day during which such series are added for trading) during ETH in a given month and (2) ensures an opening of the same percentage of series by 2:05 a.m. for at least 90% of the trading days during ETH in a given month, the LMM will receive a rebate for that month in an amount to be set forth in the Fees Schedule.[12] Specifically, the Exchange proposes to provide in the Fees Schedule (new Footnotes 38) that if a LMM meets the heightened standard described above, the LMM will receive a pro-rata share of an LMM compensation pool totaling an amount of $25,000 per month, per LMM, per class. To clarify how the rebate will work, the Exchange proposes to include in the Fees Schedule the following example: ''if three LMMs are appointed in SPX, a compensation pool will be established each month totaling $75,000. If each LMM meets the heightened continuous quoting standard in SPX during a month, each will receive $25,000. If two LMM's meet the heightened continuous quoting standard in SPX during a month, those two LMM's would each receive $37,500 and the third LMM would receive nothing. If only one LMM meets the heightened continuous quoting standard in SPX during a month, that LMM would receive $75,000 and the other two would receive nothing.''

In establishing the rebate, the Exchange believed it was more fitting to implement an incentive program with a rebate during ETH, rather than the obligation/benefit structure that currently exists during RTH. LMMs will not be obligated to satisfy heightened continuous quoting and opening quoting standards during ETH. Instead, LMMs must satisfy a heightened standard to receive a rebate, which the Exchange believes will encourage LMMs to provide significant liquidity during ETH. Additionally, the Exchange notes that it expects that TPHs may need to undertake significant expenses to be able to quote at a significantly heightened standard during ETH, such as performing system work and adding personnel. The Exchange believes providing a rebate will incent appointed LMMs to increase liquidity during ETH, as the rebate could offset the costs that accompany providing quotes during ETH.

CBOE Proprietary Products Sliding Scale

Next, the Exchange proposes to apply the CBOE Proprietary Products Sliding Scale in ETH. The CBOE Proprietary Products Sliding Scale table provides that Clearing Trading Permit Holder Proprietary transaction fees and transaction fees for Non-Clearing Trading Permit Holder Affiliates in Underlying Symbol List A [13] are reduced provided a Clearing Trading Permit Holder (''Clearing TPH'') reaches certain average daily volume (''ADV'') thresholds in all underlying symbols excluding Underlying Symbol List A and mini-options on the Exchange in a month. The Exchange proposes to provide that if a TPH reaches these thresholds in RTH, that TPH would be entitled to reduced proprietary transaction fees during both RTH and ETH. Specifically, if a TPH meets the ADV thresholds in all underlying symbols excluding Underlying Symbol

[7] *See* Exchange Fees Schedule, Trading Permit and Tier Appointment Fees Table.

[8] *See* Securities Exchange Act Release No. 34–73704 (November 28, 2014), 79 FR 233 (December 4, 2014) (SR–CBOE–2014–062).

[9] On September 22, 2014, the Exchange issued Regulatory Circular RG14–134 which announced that the Exchange had appointed 3 LMMs in SPX options and 3 LMMs in VIX options during ETH. The LMM appointments will be effective for a one-year period, beginning on the launch date for ETH trading of the applicable class.

[10] Rule 6.1A(e)(ii) provides that notwithstanding the 20% contract volume requirement in Rule 8.7(d)(ii), Market-Makers with appointments during Extended Trading Hours must comply with the quoting obligations set forth in Rule 8.7(d)(ii) (except during ETH the Exchange may determine to have no bid/ask differential requirements as set forth in subparagraph (A) and there will be no open outcry quoting obligation as set forth in subparagraph (C)) and all other obligations set forth in Rule 8.7 during that trading session. Additionally, notwithstanding the 90-day and next calendar quarter delay requirements in Rule 8.7(d), a Market-Maker with an ETH appointment in a class must immediately comply with the quoting obligations in Rule 8.7(d)(ii) during ETH.

[11] Rule 8.15A (and Rule 1.1(ccc)) requires LMMs to provide continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair within their appointed classes, with the term call-put pair referring to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price, for 90% of the time.

[12] Notwithstanding Rule 1.1(ccc), for purposes of subparagraph (C) of Rule 6.1A, an LMM is deemed to have provided ''continuous electronic quotes'' if the LMM provides electronic two-sided quotes for 90% of the time during Extended Trading Hours in a given month. If a technical failure or limitation of a system of the Exchange prevents the LMM from maintaining, or prevents the LMM from communicating to the Exchange, timely and accurate electronic quotes in a class, the duration of such failure shall not be considered in determining whether the LMM has satisfied the 90% quoting standard with respect to that option class. The Exchange may consider other exceptions to this quoting standard based on demonstrated legal or regulatory requirements or other mitigating circumstances.

[13] SROs are currently excluded from the CBOE Proprietary Products Sliding Scale. *See* Exchange Fees Schedule, CBOE Proprietary Products Sliding Scale.

List A and mini-options, the Exchange would then calculate the proprietary product volume thresholds by aggregating VIX and SPX/SPXW volume in ETH with RTH volume in Underlying Symbol List A (*i.e.*, a TPH's total volume in Underlying Symbol List A during both RTH and ETH in a calendar month would be divided by the total volume in Underlying Symbol List A executed with an ''F'' or ''L'' origin code during both RTH and ETH in the same calendar month).[14] The Exchange proposes to apply the Proprietary Products Sliding Scale during ETH in order to avoid a cost differential between the two sessions. Additionally, the Exchange believes applying the CBOE Proprietary Products Sliding Scale to the ETH session will encourage Clearing TPHs to provide liquidity during ETH.

Customer Large Trade Discount

The Customer Large Trade Discount program (the ''Discount'') provides a discount in the form of a cap on the quantity of customer (''C'' origin code'') contracts that are assessed transactions fees in certain options classes. The Discount table currently in the Fees Schedule sets forth the quantity of contracts necessary for a large customer trade to qualify for the Discount, which varies by product. Currently, under the ''Products'' section in the Discount table, the following S&P products for which the Discount is in effect are listed: ''SPX, SPXw, SPXpm, SRO.'' Customer transaction fees for each of these products are currently charged up to the first 15,000 contracts in a qualifying customer transaction. Additionally, the Fees Schedule currently provides that regular customer transaction fees will only be assessed for the first 10,000 VIX options contracts in a qualifying customer transaction. The Exchange proposes to apply the Discount in ETH, the same as RTH. The Exchange notes however, that as the trading sessions will have separate order books and require separate logins for access, and as there will be no ''rolling'' of orders by the Exchange between the two sessions, in order to be eligible to qualify for the Discount, an order must be executed in its entirety in either RTH or ETH, but not partly in both. As in many cases there will be separate personnel staffing the ETH and RTH sessions, with different logins, different systems and different customer relationships, and as orders entered into each session will have different Order Routing System (ORS) IDs, and as there will be no Floor Broker participants in ETH who, during a normal RTH session may need to execute a large and/or complex order using different means and mechanisms, the Exchange does not wish to offer a cross-session Discount program at this time.

Trading Permits

The Exchange next seeks to set forth the access fees for ETH Trading Permit types as well as a description of each Trading Permit type. Specifically, the Exchange proposes to charge $1,000 per month for each ETH Market-Maker Trading Permit and $500 per month for each ETH Electronic Access Trading Permit. The ETH Market-Maker Trading Permit will entitle the holder to act as a Market-Maker in ETH and will provide an appointment credit of 1.0, a quoting and order entry bandwidth allowance, and up to three logins. The ETH Electronic Access Permit will entitle the holder to electronic access to the Exchange during the ETH session. The Exchange notes that as during the RTH session, holders of an ETH Electronic Access Permit must be broker-dealers registered with the Exchange in one or more of the following capacities: (a) Clearing Trading Permit Holder; (b) TPH organization approved to transact business with the public; and (c) Proprietary Trading Permit Holder. Additionally, the Exchange notes that a Proprietary Trading Permit Holder is a Trading Permit Holder with electronic access to the Exchange to submit proprietary orders that are not Market-Maker orders (*i.e.*, that are not M orders for the Proprietary Trading Permit Holder's own account or an affiliated Market-Maker account). Finally, the ETH Electronic Access Permit provides an order entry bandwidth allowance and up to three logins. The Exchange notes, that similar to RTH, Trading Permits purchased for the ETH session will be renewed automatically for the next month unless the Trading Permit Holder submits written notification to the Registration Services Department by 4:00 p.m. Central Standard Time on the second-to-last business day of the prior month to cancel the Trading Permit effective at or prior to the end of the applicable month. Additionally, if a Trading Permit is issued during a calendar month after the first trading day of the month, the access fee for the ETH Trading Permit for that calendar month is prorated based on the remaining trading days in the calendar month. Finally, the Exchange notes that as in RTH, Market-Maker Trading Permits in ETH will not be eligible for the the Market-Maker Trading Permit Sliding Scale, as the scale does not apply to Trading Permits used for appointments in SPX/SPXW and VIX.[15]

Bandwidth Packets

The Exchange also proposes to establish fees for Bandwidth Packets that may be used during ETH. By way of background, each RTH and ETH Trading Permit entitles the holder to a maximum number of orders and quotes per second(s) as determined by the Exchange. Bandwidth Packets provide TPHs with additional bandwidth. As during RTH, Market-Makers in ETH will be provided the opportunity to purchase one or more Quoting and Order Entry Bandwidth Packets. Each Quoting and Order Entry Bandwidth Packet will entitle the TPH up to three additional logins and contain the standard Market-Maker quoting and order entry bandwidth allowance, which may then be added onto the total bandwidth pool for a Market-Maker's acronym(s) and ETH Trading Permit(s) without the Market-Maker having to obtain additional ETH Trading Permits. Additionally, all TPHs will have the opportunity to purchase one or more Order Entry Bandwidth Packets. Each Order Entry Bandwidth Packet will entitle the TPH up to three additional logins and an order entry bandwidth allowance to use during the ETH session. The Exchange notes that Bandwidth Packets purchased for RTH may not be applied during ETH and Bandwidth Packets purchased for ETH may not be applied during RTH. Similar to RTH, Bandwidth Packets purchased for the ETH session will be renewed automatically for the next month unless the Trading Permit Holder submits written notification to the Registration Services Department by the last business day of the prior month to cancel the bandwidth packet effective at or prior to the end of the applicable

[14] For example, Clearing Trading Permit Holder A executes ADV of 25,000 options contracts on CBOE across all classes excluding Underlying Symbol List A and Mini-Options during RTH in March 2015. Clearing Trading Permit Holder A also executes a total of 600,000 Firm (F or L origin code) contracts in Underlying Symbol List A during RTH and 200,000 Firm (F or L origin code) contracts in SPX and/or VIX during ETH in March 2015. In March 2015, 7,605,000 total Firm (F or L origin code) options contracts in Underlying Symbol List A are executed on CBOE during RTH and 4,095,000 total Firm (F or L origin code) options contracts in SPX and VIX are executed during ETH (for a monthly total of 11,700,000 Firm contracts). Clearing Trading Permit Holder A's total 800,000 contracts represents 6.84% of the total monthly Firm (F or L origin code) options contracts volume in Underlying Symbol List A. Trading Permit Holder A's transaction fees for classes in Underlying Symbol List A for January 2015 are $0.20 per contract on the first 760,500 contracts (6.50% × 11,700,000), or $152,100, and $0.10 per contract on the remaining 39,500 contracts, or $3,950, for a total of $156,050, or $0.195/contract.

[15] *See* Exchange Fees Schedule, Market-Maker Trading Permit Sliding Scale.

month. Additionally, as in RTH, if a bandwidth packet is issued during a calendar month after the first trading day of the month, the bandwidth packet fee for that calendar month is prorated based on the remaining trading days in the calendar month. The Exchange notes that a TPH will only be able to request Bandwidth Packets during RTH. To request an additional Bandwidth Packet, a TPH must submit the ETH Trading Permit & Bandwidth Packet Additions/Removals form indicating the date on which it intends to begin trading during ETH.

Additionally, the Exchange notes that the Fees Schedule states that the quoting bandwidth allowance for a Market-Maker Trading Permit is equivalent to a maximum of 35,640,000 quotes over the course of a trading day. The Exchange intends to amend the Fees Schedule to clarify that quoting bandwidth allowance for a Market-Maker Trading Permit is equivalent to a maximum of 35,640,000 quotes over the course of a trading session (*i.e.*, a RTH and ETH Market-Maker Trading Permit each have a quoting bandwidth allowance of 35,640,000 quotes over the course of the RTH and ETH session, respectively).

Waiver of Trading Permit and Bandwidth Packet Fees

In order to promote and encourage trading during the ETH session, the Exchange proposes to waive ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated TPH, through the first six (6) calendar months immediately following the implementation of ETH, including the month ETH is launched (*i.e.*, August 31, 2015). Any Trading Permits and Bandwidth Packets purchased in excess of one each, will be assessed the fees described above.

Extra CAS Server Fees

In order to connect to CBOE Command, which will allow a TPH to trade on the CBOE System during ETH, a TPH must connect via either a CMI or FIX interface (depending on the configuration of the TPH's own systems). TPHs that connect via a CMI interface must use CMI CAS Servers. The Exchange proposes to provide that each TPH in ETH will receive one CAS Server (plus access to a pool of shared backup CAS Servers). If a TPH elects to connect via an extra CMI CAS Server (in order to segregate TPH users for business or availability purposes) beyond the one CAS server, the Exchange proposes to provide that the TPH will be assessed a fee of $10,000 per month for each additional CMI CAS Server. The purpose of the fee for extra CMI CAS Servers is to cover the costs related to the provision, management and upkeep of such CMI CAS Servers for the ETH session. Additionally, the proposed change prevents the Exchange from being required to expend large amounts of resources (the provision and management of the CMI CAS Servers can be costly) in order to provide TPHs with an unlimited amount of CMI CAS Servers.

CBOE Command Connectivity Charges

By way of background, CBOE market participants can access the Exchange's trading systems via Network Access Ports, and can elect for a Network Access Port (or Ports) of either 1 gigabit per second (''Gbps'') or 10 Gbps. Currently, the Exchange assesses a fee of $750 per month for a 1 Gbps Network Access Port and a fee of $3,500 per month for a 10 Gbps Network Access Port. The Exchange notes that these fees would also be applicable to a TPH that holds an ETH Trading Permit. More specifically, if a TPH that holds an ETH Trading Permit, also holds an RTH Trading Permit(s) and already is assessed this fee, it would not be charged twice. A TPH that holds only an ETH Trading Permit (or only an RTH Trading Permit) would be subject to these fees (*i.e.*, any Trading Permit Holder that accesses the exchange via Network Access Ports would be subject to the fee).

Additionally, the CMI Login ID and FIX Login ID fees, which are currently $500 per Login ID, per month, will also be applicable to ETH. However, the Exchange notes that the fees related to waived ETH trading permits and/or waived ETH bandwidth packets will also be waived through August 31, 2015.[16]

PULSe Fees

The Exchange currently charges a fee of $400 per month per PULSe TPH login ID for the first 15 login IDs and $100 per month for all subsequent login IDs. The Exchange anticipates making PULSe available during ETH. The Exchange notes that these fees would also be applicable to a TPH during ETH. Particularly, if a TPH is already being assessed the PULSe login ID fees during RTH, the TPH would not be charged again for using the same login ID during ETH.

Miscellaneous Fees

The Exchange notes that a number of fees apply the same in ETH as in RTH. For example, the fees set forth in the Trading Permit Holder Application Fees table are applicable for the ETH session (*i.e.*, if a non-CBOE TPH seeks to become a CBOE TPH and hold an ETH Trading Permit only, the applicable application fees would apply). Similarly, Web CRD Fees would also apply to TPHs that hold ETH Trading Permits only to the extent applicable. The Trading Permit Holder Transaction Fee Policies and Rebate Programs table in the Fees Schedule will also apply during ETH.[17]

The Trade Processing Services fee will also be assessed during the ETH session. Currently, the Exchange assesses a $0.0025 fee per contract side for each matched trade. The Exchange notes that the Regulatory Fees also are applicable to TPHs who hold ETH Trading Permits. Specifically, the Options Regulatory Fee (''ORF'') will include options transactions executed or cleared by the TPH that are cleared by the Options Clearing Corporation (OCC) in the customer range during both RTH and ETH. The ''DPM's and Firm Designated Examining Authority Fee'' will also continue to apply to applicable TPHs.

The Exchange lastly notes that fees, rebates and programs that excluded SPX, SPXW and VIX during RTH will also not apply in ETH.[18]

The proposed changes are to take effect on March 2, 2015.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged

[16] For example, if a TPH has 2 ETH Market-Maker Trading Permits and enables 5 logins, the CMI and/or FIX Login IDs for the first 3 logins will be waived and the TPH will be assessed $1,000 per month for the logins associated with the second Trading Permit ($500 per login).

[17] *See* Exchange Fees Schedule, Trading Permit Holder Transaction Fee Policies and Rebate Programs table.

[18] *See e.g.*, Exchange Fees Schedule, Liquidity Provider Sliding Scale, Marketing Fee, Clearing Trading Permit Holder Fee Cap, and Volume Incentive Program (''VIP'').

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[21] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The proposed transaction fee amounts for SPX, SPXW and VIX orders during the ETH session are reasonable, equitable and not unfairly discriminatory because they are the same as the amounts of corresponding fees for SPX, SPXW and VIX orders during the RTH session, with the exception of the current Professional and Voluntary Professional fees and AIM Agency/Primary and Contra fees. The Exchange notes that the fee amounts for each separate type of market participant will be assessed equally for each product to all such market participants (*i.e.*, all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.). The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess Professional/Voluntary Professionals the same fee amounts, including the Index License Surcharge Fee, for SPX transactions during ETH as apply to the majority of other proprietary index options trading on Hybrid (including SPXW), because unlike RTH, SPX will trade on Hybrid and the Professional and Voluntary Professional designation exists on Hybrid. The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to assess the same fee amounts, including the Index License Surcharge Fee, for SPX transactions with a Professional/Voluntary Professional designation during RTH as apply to the majority of other proprietary index options, because it provides for consistent fees for similar products, as well as avoids a cost differential between the two trading sessions (*i.e.*, orders with a ''W'' origin code will be treated the same during RTH and ETH). Applying the AIM Agency/Primary and Contra Fees to SPX and SPXW orders in RTH is reasonable, equitable and not unfairly discriminatory because the amount of the AIM Agency/Primary and Contra fees will be the same for SPX and SPXW orders as it is for non-AIM Agency/Primary and Contra orders and because unlike, RTH, AIM will be active in SPX and SPXW during ETH. Not applying any RTH fees related to FLEX options in ETH is reasonable, equitable and not unfairly discriminatory because ETH will not support trading in FLEX options.

Assessing the Index License Surcharge Fee of $0.13 per contract to SPX and SPXW and $0.10 per contract to VIX transactions during ETH is reasonable because the amounts are the same as the amounts of the corresponding surcharge for SPX, SPXW and VIX orders during RTH. The Surcharge fees are equitable and not unfairly discriminatory because they will be assessed to all market participants to whom the SPX, SPXW and VIX Surcharges apply and will apply in both RTH and ETH. Similarly, assessing the Customer Priority Surcharge of $0.05 per contract for SPXW and $0.10 per contract for VIX options that are Maker, non-Turner during ETH is also reasonable, equitable and not unfairly discriminatory because the surcharges are the same as the amounts of the Customer Priority Surcharges during RTH and will be assessed to all market participants to whom these surcharges apply. Additionally the Customer Priority Surcharges for SPXW and VIX will apply in both RTH and ETH.

Not applying the SPX/SPXW and VIX Tier Appointment Fees as well as the Hybrid 3.0 Execution Fee is reasonable because market participants involved in the trading of SPX, SPXW and VIX will not have to pay such fees. Particularly, not applying Tier Appointment Fees during ETH, as compared to RTH is equitable and not unfairly discriminatory because ETH is a new trading session and the Exchange desires to encourage Market-Makers to register for SPX/SPXW and VIX tier appointments, and the more Market-Makers that do so, the more SPX/SPXW and VIX quoting there will be, which benefits all market participants. Not applying the Hybrid 3.0 Execution Fee during ETH is reasonable, equitable and not unfairly discriminatory because SPX will be not traded on Hybrid 3.0 during ETH.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to offer LMM's that meet a certain heightened quoting standard (described above) a pro-rata share of a compensation pool equal to $25,000 times the number of LMMs in that class given the potential added costs that an LMM may undertake in order to satisfy that heightened quoting standard. Additionally, if an LMM does not satisfy the heightened quoting standard, then it will not receive the proposed rebate. The Exchange believes it is equitable and not unfairly discriminatory to only offer the rebate to LMMs because it benefits all market participants in ETH to encourage LMMs to satisfy the heightened quoting standards, which may increase liquidity during those hours and provide more trading opportunities and tighter spreads. The Exchange also believes it is more fitting, as well as equitable and not unfairly discriminatory to implement an incentive program with a rebate during ETH, rather than the obligation/benefit structure that exists during RTH. Particularly, the Exchange notes that creating an incentive program in which LMMs must satisfy a heightened standard to receive the rebate, encourages LMMs to provide significant liquidity during ETH, which is important as the Exchange expects lower trading liquidity and trading levels during ETH and thus fewer opportunities for an LMM to receive a participation entitlement (as they currently do during RTH). Without the possibility of receiving a participation entitlement on a sufficient volume of trades, there would not be sufficient incentive for Trading Permit Holders to undertake an obligation to quote at heightened levels, which could result in even lower levels of liquidity. Therefore, a rebate is more appropriate than imposing an obligation to receive a participation entitlement. The Exchange notes that offering a rebate during ETH is merely a different type of financial benefit that may be given to LMMs during ETH if it achieves a heightened quoting level.

Applying to SPX, SPXW and VIX the CBOE Proprietary Products Sliding Scale and the Customer Large Trade Discount during ETH is reasonable, equitable and not unfairly discriminatory because these items apply to SPX, SPXW and VIX during RTH. Applying the CBOE Proprietary Products Sliding Scale during ETH avoids a cost differential between RTH and ETH. Moreover, the Exchange notes that all thresholds in the CBOE Proprietary Products Sliding Scale will be the same in ETH as it is in RTH. The Exchange believes requiring an order be executed in its entirety in either RTH or ETH, but not partly in both to qualify for the Customer Large Trade Discount is reasonable, equitable and not unfairly discriminatory because the RTH and ETH trading sessions will have separate order books and require separate logins

[21] 15 U.S.C. 78f(b)(4).

for access, and as there will be no ''rolling'' of orders by the Exchange between the two sessions.

The Exchange believes the Trading Permit fees for Market-Maker and Electronic Access Trading Permits are reasonable as they are lower than the Trading Permit fees assessed during RTH. The Exchange believes it is equitable and not unfairly discriminatory to charge lower Trading Permit fees for ETH than RTH because ETH is a new trading session and the Exchange seeks to encourage market participants to participate in ETH. The Exchange notes that the more ETH Trading Permit Holders there are during ETH, the more liquidity there will be, which benefits all market participants. The Exchange also believes it is equitable to assess different access fees for trading permits that provide differential access as long as the same access fee is assessed to all Holders of the same type of Trading Permit. The Exchange notes that different types of Trading Permits during RTH are also assessed different amounts.[22]

The Exchange believes the proposed Bandwidth Packet fees are reasonable because they are within the range of the cost of Bandwidth Packet fees during RTH. The Exchange believes it is equitable and not unfairly discriminatory to charge lower fees for Bandwidth Packets during ETH than RTH because ETH is a new trading session and the Exchange seeks to encourage market participants to participate in ETH. The Exchange also believes it is equitable to assess different fees for different types of Bandwidth Packets as long as the same access fee is assessed to all Holders of the same type of Bandwidth Packet. Additionally, the Exchange believes it is equitable to assess higher Quoting and Order Bandwidth Packet fees than Order Bandwidth Packet fees, because Quoting and Order Bandwidth Packets provide quoting bandwidth in addition to order bandwidth. The Exchange notes that different types of Bandwidth Packets during RTH are also assessed different amounts.[23] Finally, the Exchange believes amending the Fees Schedule to clarify that the maximum quoting bandwidth allowance of each Market-Maker Trading Permit is over the course of a trading session, instead of a trading day alleviates confusion, thereby removing impediments to and perfecting the mechanism of a free open market and a national market system, and, in general, protect investors and the public interest.

The Exchange believes waiving ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through August 31, 2015 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs.

The Exchange believes the proposed monthly fee of $10,000 for each extra CMI CAS Server that a TPH requests is reasonable because it is necessary to recoup the costs related to the provision, maintenance and upkeep of such Servers, and is equitable and not unfairly discriminatory because the fee will be applied to all TPHs that request an extra CMI CAS Server to be used during ETH. Additionally, TPHs during RTH that request an additional CMI CAS Server are assessed the same monthly amount.

The Exchange believes it is reasonable to apply the Network Access Port fees to the ETH session because the Exchange has expended significant resources setting up, providing and maintaining this connectivity and the Exchange seeks to recoup those costs. The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess these costs per port regardless of session (*i.e.,* not assess a TPH twice if using the same port for RTH and ETH), as the costs associated with using the port do not increase if a TPH uses that port for both sessions.

Similarly, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory to assess the same PULSe fees to the ETH session, but not charge a TPH twice if using the same PULSe login ID for both sessions, because the Exchange expended significant resources developing PULSe and desires to recoup some of those costs, but does not wish to charge TPHs twice if using the same login ID.

The Exchange believes assessing the CMI Login ID and FIX Login ID fees to Login IDs for ETH is reasonable because the fee amounts are the same as in RTH. The Exchange believes it's equitable and not unfairly discriminatory because all TPHs will be assessed the Login ID fees for each Login ID they have for both RTH and ETH. The Exchange believes it's reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage initial participation in ETH.

The Exchange believes it's reasonable to assess a $0.0025 fee per contract side for each matched trade because the same fee amount is assessed during RTH. The Exchange believes it's equitable and not unfairly discriminatory to assess such fee because it applies to all TPHs and applies in both RTH and ETH.

The proposed ORF during the ETH session is reasonable, equitable and not unfairly discriminatory because it is the same amount assessed during the RTH session. The Exchange believes the ORF is equitable and not unfairly discriminatory in that it is charged to all TPHs during both sessions on all their transactions that clear in the customer range at the OCC. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those TPHs that require more Exchange regulatory services based on the amount of customer options business they conduct in each trading session. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Trading Permit Holder proprietary transactions) of its regulatory program.[24]

Having Trading Permit Holder Application fees, Web CRD fees Trading Permit Holder Transaction Fee Policies and Rebate Programs apply the same in ETH as RTH is reasonable, equitable and not unfairly discriminatory because the fees, rebates and programs are the same in both sessions and are based on a market participant's status as a TPH and not based upon which trading session a TPH participates.

Not applying in ETH fees, rebates and programs that exclude SPX, SPXW and VIX during RTH is reasonable because these fees rebates and programs will not apply to all TPHs and will be consistent across sessions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not

[22] *See e.g.,* Exchange Fees Schedule, Trading Permit Fees. Market-Maker Trading Permits during RTH are assessed $5,500 per month per permit while Electronic Access Permits during RTH are assessed $1,600 per month per permit.

[23] *See e.g.,* Exchange Fees Schedule, Bandwidth Packet Fees.

[24] If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Trading Permit Holder proprietary transactions if the Exchange deems it advisable.

necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances. For example, Clearing TPHs have clearing obligations that other market participants do not have. Market-Makers have quoting obligations that other market participants do not have. There is a history in the options markets of providing preferential treatment to Customers, as they often do not have as sophisticated trading operations and systems as other market participants, which often makes other market participants prefer to trade with Customers. Further, the proposed fees, rebates and programs for ETH are intended to encourage market participants to bring liquidity to the Exchange during ETH (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems). The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the products offered during ETH (SPX, SPXW and VIX), are proprietary products that will only be traded on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f) of Rule 19b–4 [26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–020 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.

All submissions should refer to File Number SR–CBOE–2015–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–020 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05476 Filed 3–9–15; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74440; File No. SR–NYSEMKT–2014–116]

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 967NY and To Adopt Rule 967.1NY To Provide Price Protection for Market Maker Quotes

March 4, 2015.

I. Introduction

On December 29, 2014, NYSE MKT LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 967NY (Price Protection) and to adopt Exchange Rule 967.1NY to provide price protection for Market Maker quotes. The proposed rule change was published for comment in the **Federal Register** on January 14, 2015.[3] The Commission received no comment letters on the proposal. On March 2, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal

The Exchange proposed to amend Exchange Rule 967NY and to adopt Exchange Rule 967.1NY to provide price protection for Market Maker quotes. Exchange Rule 967NY currently applies

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74017 (January 8, 2015), 80 FR 1979 (''Notice'').

[4] In Amendment No. 1, the Exchange clarified that it believes that Market Maker bids should not be priced the same as or higher than the corresponding benchmark, which would be the price of the underlying security for call options and the strike price for put options. Amendment No. 1 does not change any of the proposed rule text that was submitted in the original filing. Amendment No. 1 is technical in nature and, therefore, the Commission is not publishing it for comment.

and will continue to apply solely to orders. Exchange Rule 967NY(b), provides a price protection filter for incoming limit orders, pursuant to which the Exchange rejects limit orders priced a specified percentage [5] through the National Best Bid (''NBB'') or National Best Offer (''NBO'') (''Limit Order Filter''). To clarify that Exchange Rule 967NY applies only to orders, the Exchange proposed to append the word ''Orders'' to the Exchange Rule 967NY header to provide ''Rule 967NY. Price Protection—Orders.''[6]

A. Proposed Market Maker Quote Price Protection

The Exchange proposed to adopt new Exchange Rule 967.1NY to provide for a price protection mechanism for quotes entered by a Market Maker. Exchange Rule 967.1NY(a) will provide price protection filters applicable only for quotes entered by a Market Maker pursuant to Rule 925.1NY and will not be applicable to orders entered by a Market Maker. The Exchange proposed to provide for two layers of price protection that will be applicable to all incoming Market Maker quotes.[7] The first layer of price protection will assess incoming sell quotes against the NBB and incoming buy quotes against the NBO.[8] The second layer of price protection will assess the price of call or put bids against a specified benchmark.

1. NBBO Price Reasonability Check

Proposed Exchange Rule 967.1NY(a)(1) sets forth the Exchange's proposed NBBO price reasonability check, which will compare Market Maker bids with the NBO and Market Maker offers with the NBB. Specifically, provided that an NBBO is available, a Market Maker quote will be rejected if it is priced a specified dollar amount or percentage through the contra-side NBBO as follows:

(A) $1.00 for Market Maker bids when the contra-side NBO is priced at or below $1.00; or

(B) 50% for Market Maker bids (offers) when the contra-side NBO (NBB) is priced above $1.00.

The Exchange will reject inbound Market Maker quotes that exceed the parameters set forth in proposed Exchange Rule 967.1NY(a)(1)(A)–(B).[9] The Exchange states that it has proposed a specific dollar threshold for when the NBO is priced at or below $1.00 because, for such low-priced NBOs, the Exchange believes it is appropriate to provide Market Makers with the ability to enter quotes at least $1.00 higher than the prevailing NBO.[10] For example, if the NBO were $0.06, when using a 100% filter, the Exchange would be required to reject any bids priced $0.12 or more. In addition, the Exchange proposed that pursuant to proposed Exchange Rule 967.1NY(a)(1)(A), Market Maker offers that arrive when the NBB is priced at or below $1.00 will not be subject to this filter. The Exchange notes that when the NBB is priced at or below $1.00, the price of an offer will be bound by $0.00, and therefore an offer will always be less than $1.00 away from the NBB.[11]

Because there may be market scenarios that require the proposed parameters to be adjusted, for example, during periods of extreme price volatility, the Exchange has further proposed that the Exchange may revise these parameters, provided such revised parameters are announced to ATP Holders via a Trader Update.[12]

The Exchange also proposed that if a Market Maker quote is rejected pursuant to paragraph (a)(1) of the proposed rule, the Exchange will also cancel any resting same-side quote in the affected series from that Market Maker.[13] According to the Exchange, even if the new quote is rejected because it is priced a specified dollar amount or percentage through the contra-side NBBO, in violation of proposed Exchange Rule 967.1NY(a)(1), the Market Maker's implicit instruction to cancel the resting quote remains valid nonetheless.[14]

2. Underlying Stock Price/Strike Price Check

The Exchange also has proposed new Exchange Rule 967.1NY(a)(2) and (3) which will set forth the Exchange's proposed second layer of price protection filters for Market Maker quotes. These price protection mechanisms will be applicable when either there is no NBBO available, for example, during pre-opening or prior to conducting a re-opening after a trading halt, or if the NBBO is so wide as to not to reflect an appropriate price for the respective options series. Proposed Exchange Rule 967.1NY(a)(2) will also provide price protection for Market Maker bids in call options. As proposed, if such bids equal or exceed the price of the underlying security, the Market Maker bid will be rejected.[15]

Under new Exchange Rule 967.1NY(a)(2)(A), before the underlying security is open, the Exchange will use the previous day's closing price to determine the price of the underlying security.[16] Under new Exchange Rule 967.1NY(a)(2)(B), once the underlying security has opened, the Exchange will use the consolidated last sale price to determine the price of the underlying security. Under new Exchange Rule 967.1NY(a)(2)(C), during a trading halt of the underlying security, the Exchange will use the consolidated last sale reported immediately prior to the trading halt to determine the price of the underlying security.[17] New Exchange

[5] Pursuant to Exchange Rule 967NY(b), unless determined otherwise by the Exchange and announced to ATP Holders via Trader Update, the specified percentage is 100% for the contra-side NBB or NBO priced at or below $1.00 and 50% for contra-side NBB or NBO priced above $1.00. *See* Notice, *supra* note 3, at 1979.

[6] *See* Notice, *supra* note 3, at 1979.

[7] The Exchange states that the proposal will assist with the maintenance of fair and orderly markets by averting the risk of Market Maker quotes sweeping through multiple price points resulting in executions at prices that are through the last sale price or National Best Bid or Best Offer (''NBBO''). *See* Notice, *supra* note 3, at 1979.

[8] The Exchange represents that this proposed price protection mechanism is similar to the Exchange's Limit Order Filter. *See* Notice, *supra* note 3, at 1979.

[9] The Exchange states that the proposed percentages are appropriate because they are based on the percentages established for the Limit Order Filter. *See* Notice, *supra* note 3, at 1979.

[10] *See* Notice, *supra* note 3, at 1979.

[11] The Exchange states that such offer prices would likely not be erroneous and therefore the Exchange does not believe it necessary to reject such Market Maker offers. *See* Notice, *supra* note 3, at 1980.

[12] *See* proposed Exchange Rule 967.1NY(a)(1)(A)–(B) (setting forth the specified dollar amount or percentages ''unless determined otherwise by the Exchange and announced to ATP Holders via Trader Update'').

[13] *See* proposed Exchange Rule 967.1NY(b). The Exchange states that it believes it is appropriate to reject any resting same-side quote because when a Market Maker submits a new quote, that Market Maker is implicitly instructing the Exchange to cancel any resting quote in that same series. *See* Notice, *supra* note 3, at 1980.

[14] *See* Notice, *supra* note 3, at 1980 for examples illustrating how proposed Exchange Rule 967.1NY(a) will operate.

[15] *See* proposed Exchange Rule 967.1NY(a)(2). With a call bid, a Market Maker is bidding to buy an option that would be exercised into the right to acquire the underlying security. The Exchange states that it does not believe that a derivative product, which conveys the right to purchase a security underlying the derivative, should ever be priced the same as or higher than the prevailing price of the underlying security itself. Accordingly, the Exchange believes it is appropriate to reject Market Maker bids for call options that are equal to or in excess of the price of the underlying security. *See* Notice, *supra* note 3, at 1980. *See also* Amendment No. 1, *supra* note 4.

[16] According to the Exchange, although the underlying securities may trade in the equities markets outside of 9:30 a.m. ET to 4:00 p.m. ET, the equities market is generally not as liquid during this time and equity market makers generally do not have quoting obligations in after-hours trading. Therefore, the Exchange believes that using the previous day's closing price—based on trading during Core Trading Hours, when the market is most liquid—provides a more accurate benchmark and thus a more precise price protection filter for underlying securities that have not yet opened. *See* Notice, *supra* note 3, at 1980.

[17] The Exchange believes that the consolidated last sale price for an underlying security that has

Rule 967.1NY(a)(3) will provide for price protection for Market Maker bids in put options. In particular, any Market Maker bid for put options will be rejected if the price of the bid is equal to or greater than the strike price of the option.[18]

The Exchange also has proposed that when a Market Maker quote is rejected pursuant to paragraph (a)(2) or (a)(3) of the proposed rule, the Exchange will also cancel all resting quote(s) in the affected class(es) from that Market Maker and will not accept new quote(s) in the affected class(es) until the Market Maker submits a message (which may be automated) to the Exchange to enable the entry of new quotes.[19]

B. Implementation

The Exchange stated that it would announce the implementation date of the proposed rule change in a Trader Update and publish such announcement at least 30 days prior to implementation.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with section 6(b) of the Act.[20] In particular, the Commission finds that the proposed rule change is consistent with sections 6(b)(5) of the Act,[21] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change provides a price protection mechanism for quotes entered by a Market Maker when an NBBO is available that are priced a specified dollar amount or percentage through the last sale or prevailing contra-side market, which the Exchange believes is evidence of error. The Commission believes that the proposed price protection mechanism is reasonably designed to promote just and equitable principles of trade by preventing potential price dislocation that could result from erroneous Market Maker quotes sweeping through multiple price points resulting in executions at prices that are through the last sale price or NBBO.[22]

The Exchange's proposed use of benchmarks to check the reasonability of Market Maker bids for call and put options affords a second layer of price protection to Market Maker quotes. The Commission believes that the additional price reasonability check on Market Maker bids that are priced equal to or greater than the price of the underlying security for call options, and equal to or greater than the strike price for put options, is reasonably designed to operate in manner that would remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest. Further, the Commission notes the Exchange's belief that the additional risk controls that result in the cancellation of a Market Maker's resting same side quote and/or the temporary suspension a Market Maker's quoting activity in the affected option class(es), as applicable, provide market participants with additional protection from anomalous executions.[23]

Accordingly, the Commission believes that the proposed price protection for Market Maker quotes is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEMKT–2014–116), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

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already opened will provide the most accurate benchmark because the market is most liquid during Core Trading Hours. *See* Notice, *supra* note 3, at 1981.

[18] The Exchange states that the value of a put can never exceed the strike price of the option, even if the stock goes to zero. For example, a put with a strike price of $50 gives the holder the right to sell the underlying security for $50 (no more, or no less), therefore the Exchange states that it would be illogical to pay $50 or more for the right to sell that underlying security, no matter what the price of the underlying security. *See* Notice, *supra* note 3, at 1981. *See also* Amendment No. 1, *supra* note 4.

[19] *See* proposed Exchange Rule 967.1NY(b). The Exchange believes that this temporary suspension from quoting in the affected option class(es) would operate as a safety valve that forces Market Makers to re-evaluate their positions before requesting to re-enter the market. *See* Notice, *supra* note 3, at 1981. *See also* Notice, *supra* note 3, at 1981 for examples illustrating how proposed Exchange Rule 967.1NY(a)(2) and (a)(3) would operate.

[20] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Notice, *supra* note 3, at 1981.

[23] *See* Notice, *supra* note 3, at 1982.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Black Sea Metals, Inc., GigaBeam Corp., Safe Technologies International, Inc., and Whitemark Homes, Inc.; Order of Suspension of Trading

March 5, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Black Sea Metals, Inc. because it has not filed any periodic reports since the period ended May 31, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GigaBeam Corp. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Safe Technologies International, Inc. because it has not filed any periodic reports since the period ended December 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Whitemark Homes, Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

The Commission is of the opinion that the public interest and the protection of

investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on March 5, 2015, through 11:59 p.m. EDT on March 18, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary

[FR Doc. 2015–05515 Filed 3–6–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74433; File No. SR–NYSEArca–2015–02]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Amendments to NYSE Arca Equities Rule 8.600 to Adopt Generic Listing Standards for Managed Fund Shares

March 4, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 17, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares. Under the Exchange's current rules, a proposed rule change must be filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') for the listing and trading of each new series of Managed Fund Shares. The Exchange believes that it is appropriate to codify certain rules within Rule 8.600 that would generally eliminate the need for such proposed rule changes, which would create greater efficiency and promote uniform standards in the listing process.

Background

Rule 8.600 sets forth certain rules related to the listing and trading of Managed Fund Shares.[4] Under Rule 8.600(c)(1), the term ''Managed Fund Share'' means a security that:

(a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser (hereafter ''Adviser'') consistent with the Investment Company's investment objectives and policies;

(b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and

(c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value.

Effectively, Managed Fund Shares are securities issued by an actively-managed open-end Investment Company (*i.e.,* an actively-managed exchange-traded fund (''ETF'')). Because Managed Fund Shares are actively-managed, they do not seek to replicate the performance of a specified passive index of securities. Instead, they generally use an active investment strategy to seek to meet their investment objectives. In contrast, an open-end Investment Company that issues Investment Company Units (''Units''), listed and traded on the Exchange pursuant to NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that generally correspond to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

All Managed Fund Shares listed and/or traded pursuant to Rule 8.600 (including pursuant to unlisted trading privileges) are subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.[5]

In addition, Rule 8.600(d) currently provides for the criteria that Managed Fund Shares must satisfy for initial and continued listing on the Exchange, including, for example, that a minimum number of Managed Fund Shares are required to be outstanding at the time of commencement of trading on the Exchange. However, the current process for listing and trading new series of Managed Fund Shares on the Exchange requires that the Exchange submit a proposed rule change with the Commission. In this regard, Commentary .01 to Rule 8.600 specifies that the Exchange will file separate proposals under Section 19(b) of the Act (hereafter, a ''proposed rule change'') before listing and trading of [sic] shares of an issue of Managed Fund Shares.

Proposed Changes to Rule 8.600

The Exchange would amend Commentary .01 to Rule 8.600 to specify that the Exchange may approve Managed Fund Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to SEC Rule 19b–4(e) under the Act, which pertains to derivative securities products (''SEC Rule 19b–4(e)'').[6] SEC Rule 19b–4(e)(1)

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25) (order approving NYSE Arca Equities Rule 8.600 and listing and trading of shares of certain issues of Managed Fund Shares) (the ''Approval Order''). The Approval Order approved the rules permitting the listing and trading of Managed Fund Shares, trading hours and halts, listing fees applicable to Managed Fund Shares, and the listing and trading of several individual series of Managed Fund Shares.

[5] *See* Approval Order, *supra* note 4, at 19547.

[6] 17 CFR 240.19b–4(e). As provided under SEC Rule 19b–4(e), the term ''new derivative securities

provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[7] if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. This is the current method pursuant to which ''passive'' ETFs are listed under NYSE Arca Equities Rule 5.2(j)(3).

The Exchange would also specify within Commentary .01 to Rule 8.600 that components of Managed Fund Shares listed pursuant to SEC Rule 19b–4(e) must satisfy on an initial and continued basis certain specific criteria, which the Exchange would include within Commentary .01, as described in greater detail below. As proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares with components that do not satisfy the additional criteria described below or components other than those specified below. For example, if the components of a Managed Fund Share exceeded one of the applicable thresholds, the Exchange would file a separate proposed rule change before listing and trading such Managed Fund Share. Similarly, if the components of a Managed Fund Share included a security or asset that is not specified below, the Exchange would file a separate proposed rule change.

The Exchange would also add to the ''generic'' criteria of Rule 8.600(d) by specifying that all Managed Fund Shares must have a stated investment objective, which must be adhered to under normal market conditions.[8]

Finally, the Exchange would also amend the continued listing requirement in Rule 8.600(d)(2)(A) by changing the requirement that a Portfolio Indicative Value for Managed Fund Shares be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Exchange to a requirement that a Portfolio Indicative Value be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session (as defined in NYSE Arca Equities Rule 7.34).

Proposed Managed Fund Share Portfolio Standards

The Exchange is proposing standards that would pertain to Managed Fund Shares to qualify for listing and trading pursuant to SEC Rule 19b–4(e). These standards would be grouped according to security or asset type. The Exchange notes that the standards proposed for a Managed Fund Share portfolio that holds domestic equity securities, Derivative Securities Products and Index-Linked Securities are based in large part on the existing equity security standards applicable to Units in Commentary .01 to Rule 5.2(j)(3). The standards proposed for a Managed Fund Share portfolio that holds fixed income securities are based in large part on the existing fixed income security standards applicable to Units in Commentary .02 to Rule 5.2(j)(3). Many of the standards proposed for other types of holdings in a Managed Fund Share portfolio are based on previous proposed rule changes for specific series of Managed Fund Shares.[9]

Proposed Commentary .01(a) would describe the standards for a Managed Fund Share portfolio that holds equity securities, including U.S. Component Stocks,[10] Derivative Securities Products,[11] and Index-Linked Securities [12] listed on a national securities exchange, as follows:

(1) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each must have a minimum market value of at least $75 million; [13]

(2) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each must have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; [14]

(3) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) must not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) must not exceed 65% of the equity weight of the portfolio; [15]

product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

[7] 17 CFR 240.19b–4(c)(1). As provided under SEC Rule 19b–4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

[8] The Exchange would also add a new defined term under Rule 8.600(c)(5) to specify that the term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] *See* Securities Exchange Act Release Nos. 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (the ''PIMCO Total Return Approval'') and 72666 (July 3, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (the ''PIMCO Total Return Use of Derivatives Approval''); 69244 (March 27, 2013), 78 FR 19766 (April 2, 2013) (SR–NYSEArca–2013–08) (the ''SPDR Blackstone/GSO Senior Loan Approval''); 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–139) (the ''First Trust Preferred Securities and Income Approval''); 69591 (May 16, 2013), 78 FR 30372 (May 22, 2013) (SR–NYSEArca–2013–33) (the ''International Bear Approval''); 61697 (March 12, 2010), 75 FR 13616 (March 22, 2010) (SR–NYSEArca–2010–04) (the ''WisdomTree Real Return Approval''); and 67054 (May 24, 2012), 77 FR 32161 (May 31, 2012) (SR–NYSEArca–2012–25) (the ''WisdomTree Brazil Bond Approval''). Certain standards proposed herein for Managed Fund Shares are also based on previous proposed rule changes for specific series of Units for which Commission approval for listing was required due to the Units not satisfying certain standards of Commentary .01 and .02 to Rule 5.2(j)(3). *See* Securities Exchange Act Release Nos. 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (the ''iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series Approval''); 63881(February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120) (the ''SPDR Nuveen S&P High Yield Municipal Bond ETF Approval''); 63176 (October 25, 2010), 75 FR 66815 (October 29, 2010) (SR–NYSEArca–2010–94) (the ''iShares Taxable Municipal Bond Fund Approval''); and 69373 (April 15, 2013), 78 FR 23601 (April 19, 2013) (SR–NYSEArca–2012–108) (the ''NYSE Arca U.S. Equity Synthetic Reverse Convertible Index Fund Approval'').

[10] For the purposes of Commentary .01 and this proposal, the term ''U.S. Component Stocks'' would have the same meaning as defined in NYSE Arca Equities Rule 5.2(j)(3).

[11] For the purposes of Commentary .01 and this proposal, the term ''Derivative Securities Products'' would have the same meaning as defined in NYSE Arca Equities Rule 7.34(a)(4)(A).

[12] Index-Linked Securities are securities listed under NYSE Arca Equities Rule 5.2(j)(6).

[13] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(1) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Index-Linked Securities.

[14] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(2) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Index-Linked Securities.

[15] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(3) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and

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(4) The portfolio must include a minimum of 13 component stocks; provided, however, that there would be no minimum number of component stocks if (a) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; [16]

(5) Equity securities (excluding unsponsored American Depository Receipts (''ADRs'')) in the portfolio must be U.S. Component Stocks listed on a national securities exchange and must be NMS Stocks as defined in Rule 600 of Regulation NMS; [17]

(6) For Derivative Securities Products and Index-Linked Securities, no more than 25% of the equity weight of the portfolio could include leveraged and/or inverse leveraged Derivative Securities Products or Index-Linked Securities; and

(7) ADRs may be sponsored or unsponsored. However no more than 10% of the equity weight of the portfolio shall consist of unsponsored ADRs.

Proposed Commentary .01(b) would describe the standards for a Managed Fund Share portfolio that holds fixed income securities, which are debt securities [18] that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper. The applicable portfolio holdings standards would be as follows:

(1) Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio shall meet the following:

(i) each shall have a minimum original principal amount outstanding of $100 million or more; [19] or

(iii) [sic] if a municipal bond component, such component shall be issued in an offering with an aggregate size, as set forth in the official statement of the offering, of $100 million or more; [20]

(2) No component fixed-income security (excluding Treasury Securities and GSE Securities) could represent more than 30% of the fixed income weight of the portfolio, and the five most heavily weighted component fixed income securities in the portfolio must not in the aggregate account for more than 65% of the fixed income weight of the portfolio; [21]

(3) An underlying portfolio (excluding exempted securities) must include a minimum of 13 non-affiliated issuers; [22]

(4) Component securities that in [sic] aggregate account for at least 90% of the fixed income weight of the portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and

(5) Non-agency mortgage-related and other asset-backed securities components of a portfolio shall not account for more than 20% of the weight of the fixed income portion of the portfolio.

Proposed Commentary .01(c) would describe the standards for a Managed Fund Share portfolio that holds cash and cash equivalents.[23] Specifically, the portfolio may hold short-term instruments with maturities of less than 3 months. There would be no limitation to the percentage of the portfolio invested in such holdings. Short-term instruments would include, without limitation, the following: [24]

(1) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by

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the addition of the reference to Index-Linked Securities.

[16] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(4) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, the addition of the reference to Index-Linked Securities, and the reference to the 100% limit applying to the ''equity portion'' of the portfolio—this last difference included [sic] because these proposed standards in Commentary .01(a) to Rule 8.600 permit the inclusion of non-equity securities, whereas Commentary .01 to Rule 5.2(j)(3) only applies to equity securities.

[17] 17 CFR 240.600. This proposed text is identical to the corresponding text of Commentary .01(a)(A)(5) to Rule 5.2(j)(3), except for the addition of ''equity'' to make clear that the standard applies to ''equity securities'', the exclusion of unsponsored ADRs, and the omission of the reference to ''index,'' which is not applicable.

[18] Debt securities include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities. Debt securities include investment-grade securities, non-investment-grade securities, and unrated securities. Debt securities also include variable and floating rate securities.

[19] This text of proposed Commentary .01(b)(1)(i) to Rule 8.600 is based on the corresponding text of Commentary .02(a)(2) to Rule 5.2(j)(3) .

[20] This proposed text is similar to the amendment to Commentary .02(a)(2) to Rule 5.2(j)(3) as proposed in SR–NYSEArca–2015–01. *See* Securities Exchange Act Release No. 74175 (January 29, 2015), 80 FR 6150 (February 4, 2015) (notice of filing of proposed rule change amending NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 relating to listing of Investment Company Units based on municipal bond indexes). Proposed rule changes for series of Units previously listed and traded on the Exchange pursuant to Rule 5.2(j)(3) similarly included the ability for such Units' holdings to include municipal bond components with individual principal amount outstanding of less than $100 million. *See, e.g.,* iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series Approval, *supra* note 9, at 61807; SPDR Nuveen S&P High Yield Municipal Bond ETF Approval, *supra* note 9, at 9066; and iShares Taxable Municipal Bond Fund Approval, *supra* note 9, at 66815–6. The proposed rule takes into account features of municipal bonds that differ from those of most other Fixed Income Securities. Principally, municipal bonds are issued with either ''serial'' or ''term'' maturities or some combination thereof. The official statement issued in connection with a municipal bond offering describes the terms of the bonds and the issuer and/or obligor on the related bonds, which is comprised of a number of specific maturity sizes. The entire issue (sometimes referred to as the ''deal size'') receives the same credit rating and the various maturities are all subject to the provisions set forth in the official statement. The entire issue is based on a specified project or group of related projects and funded by the same revenue or other funding sources identified in the official statement. The Exchange believes that the proposed rule change is reasonable and appropriate in that pricing and liquidity of such maturity sizes is predominately based on the common characteristics of the aggregate issue of which the municipal bond is part. Thus, consideration of the aggregate issue rather than the individual bond component does not raise concerns regarding pricing or liquidity of the index components or of the Units overlying the applicable municipal bond index.

[21] This proposed text is identical to the corresponding text of Commentary .02(a)(4) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable.

[22] This proposed text is identical to the corresponding text of Commentary .02(a)(5) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the exclusion of the text ''consisting entirely of.''

[23] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include cash and cash equivalents. *See, e.g.,* SPDR Blackstone/GSO Senior Loan Approval, *supra* note 9, at 19768–69 and First Trust Preferred Securities and Income Approval, *supra* note 9, at 76150.

[24] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly specified short-term instruments with respect to their inclusion in Managed Fund Share holdings. *See, e.g.,* First Trust Preferred Securities and Income Approval, *supra* note 9, at 76150–51.

U.S. Government agencies or instrumentalities;

(2) certificates of deposit issued against funds deposited in a bank or savings and loan association;

(3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions;

(4) repurchase agreements and reverse repurchase agreements;

(5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and

(6) commercial paper, which are short-term unsecured promissory notes.

Proposed Commentary .01(d) would describe the standards for a Managed Fund Share portfolio that holds listed and centrally cleared derivatives, including futures, options and cleared swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[25] There would be no limitation to the percentage of the portfolio invested in such holdings; provided, however, that, in the aggregate, at least 90% of the weight of such holdings invested in futures and exchange-traded options shall consist of futures and options whose principal market is a member of the Intermarket Surveillance Group (''ISG'') or is a market with which the Exchange has a comprehensive surveillance sharing agreement (''CSSA'').[26] Additionally, proposed Commentary .01(d)(2) requires certain information to be included on the Web site of each series of Managed Fund Shares holding any listed and centrally cleared derivative.[27] The required information includes the following, to the extent relevant: ticker symbol, CUSIP or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each such derivative held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio.

Proposed Commentary .01(e) would describe the standards for a Managed Fund Share portfolio that holds over the counter (''OTC'') derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[28] There would be no limitation to the percentage of the portfolio invested in such holdings. Additionally, proposed Commentary .01(e)(2) requires certain information to be included on the Web site of each series of Managed Fund Shares holding any OTC derivative.[29] The required information includes the following, to the extent relevant: ticker symbol, CUSIP or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each such derivative held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio.

Proposed Commentary .01(f) would describe the standards for a Managed Fund Share portfolio that holds illiquid assets.[30] The portfolio could hold up to an aggregate amount of 15% of the weight of its portfolio (calculated at the time of investment) in assets deemed illiquid by the Adviser.[31]

The changes proposed herein would not have an impact on the existing rules applicable to the listing and trading of Managed Fund Shares, which address, for example, net asset value, creation and redemption of shares, availability of information, trading halts, surveillance and information bulletins.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Fund Shares. Additionally, the Exchange believes that the proposed portfolio standards for listing and trading Managed Fund Shares, many of which track existing Exchange rules relating to Units, are reasonably designed to promote a fair and orderly market for such Managed Fund Shares.[32] These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

In support of this proposal, the Exchange represents that:[33]

(1) The Managed Fund Shares will continue to conform to the initial and continued listing criteria under Rule 8.600;

(2) the Exchange's surveillance procedures are adequate to continue to properly monitor the trading of the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to

[25] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include listed derivatives. *See, e.g.,* WisdomTree Real Return Approval, *supra* note 9, at 13617 and WisdomTree Brazil Bond Approval, *supra* note 9, at 32163.

[26] ISG is comprised of an international group of exchanges, market centers, and market regulators that perform front-line market surveillance in their respective jurisdictions. *See https://www.isgportal.org/home.html.*

[27] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding. *See, e.g.*. PIMCO Total Return Use of Derivatives Approval, *supra* note 9, at 44227.

[28] A proposed rule change for series of Units previously listed and traded on the Exchange pursuant to Rule 5.2(j)(3) similarly included the ability for such Units' holdings to include OTC derivatives, specifically OTC down-and-in put options, which are not NMS Stocks as defined in Rule 600 of Regulation NMS and therefore do not satisfy the requirements of Commentary .01(a)(A) to Rule 5.2(j)(3). *See, e.g.,* NYSE Arca U.S. Equity Synthetic Reverse Convertible Index Fund Approval, *supra* note 9, at 23602.

[29] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding. *See, e.g.*. PIMCO Total Return Use of Derivatives Approval, *supra* note 9, at 44227.

[30] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Shares to include illiquid assets. *See, e.g.,* International Bear Approval, *supra* note 9, at 30375–76. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance. The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); and Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933). *See also* First Trust Preferred Securities and Income Approval, *supra* note 9, at 76151, n. 16. The Exchange understands that a number of factors are currently considered by investment companies in reaching liquidity decisions. Examples of factors that would be reasonable for a board of directors to take into account with respect to a Rule 144A security (but which would not necessarily be determinative) would include, among others: (1) The frequency of trades and quotes for the security; (2) the number of dealers willing to purchase or sell the security and the number of other potential purchasers; (3) dealer undertakings to make a market in the security; and (4) the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[31] If a Managed Fund Share portfolio holds Rule 144A securities, such securities would be subject to this 15% threshold if deemed to be illiquid by the Adviser. However, if deemed to be liquid by the Adviser, such Rule 144A securities would be subject to the other applicable standards.

[32] *See* Approval Order, *supra* note 4 at 19548.

[33] The Exchange made similar representations in the Approval Order. *See id*. at 19549.

utilize its existing surveillance procedures applicable to derivative products, which will include Managed Fund Shares, to monitor trading in the Managed Fund Shares;

(3) prior to the commencement of trading of a particular series of Managed Fund Shares, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in a Bulletin of the special characteristics and risks associated with trading the Managed Fund Shares, including procedures for purchases and redemptions of Managed Fund Shares, suitability requirements under NYSE Arca Equities Rule 9.2(a), the risks involved in trading the Managed Fund Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated, information regarding the Portfolio Indicative Value, prospectus delivery requirements, and other trading information. In addition, the Bulletin will disclose that the Managed Fund Shares are subject to various fees and expenses, as described in the Registration Statement, and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. Finally, the Bulletin will disclose that the net asset value for the Managed Fund Shares will be calculated after 4 p.m. ET each trading day; and

(4) the issuer of a series of Managed Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Managed Fund Shares, as provided under NYSE Arca Equities Rule 5.3.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that ETP Holders or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[34] in general, and furthers the objectives of Section 6(b)(5) of the Act,[35] in particular, because it is 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, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Managed Fund Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. Specifically, after more than six years under the current process, whereby the Exchange is required to file a proposed rule change with the Commission for the listing and trading of each new series of Managed Fund Shares, the Exchange believes that it is appropriate to codify certain rules within Rule 8.600 that would generally eliminate the need for separate proposed rule changes. The Exchange believes that this would facilitate the listing and trading of additional types of Managed Fund Shares that have investment portfolios that are similar to investment portfolios for Units, which have been approved for listing and trading, thereby creating greater efficiencies in the listing process for the Exchange and the Commission. In this regard, the Exchange notes that the standards proposed for Managed Fund Share portfolios that include domestic equity securities, Derivative Securities Products, and Index-Linked Securities are based in large part on the existing equity security standards applicable to Units in Commentary .01 to Rule 5.2(j)(3) and that the standards proposed for Managed Fund Share portfolios that include fixed income securities are based in large part on the existing fixed income standards applicable to Units in Commentary .02 to Rule 5.2(j)(3). Additionally, many of the standards proposed for other types of holdings of series of Managed Fund Shares are based on previous proposed rule changes for specific series of Managed Fund Shares.[36] With respect to the proposed exclusion of Derivatives Securities Products and Index-Linked Securities from the requirements of proposed Commentary .01(a) of Rule 8.600, the Exchange believes it is appropriate to exclude Index-Linked Securities as well as Derivative Securities Products from certain component stock eligibility criteria for Managed Fund Shares in so far as Derivative Securities Products and Index-Linked Securities are themselves subject to specific quantitative listing and continued listing requirements of a national securities exchange on which such securities are listed. Derivative Securities Products and Index-Linked Securities that are components of a fund's portfolio would have been listed and traded on a national securities exchange pursuant to a proposed rule change approved by the Commission pursuant to Section 19(b)(2) of the Act[37] or submitted by a national securities exchange pursuant to Section 19(b)(3)(A) of the Act[38] or would have been listed by a national securities exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[39] The Exchange also notes that Derivative Securities Products and Index-Linked Securities are derivatively priced, and, therefore, the Exchange believes that it would not be necessary to apply the proposed generic quantitative criteria (*e.g.,* market capitalization, trading volume, or portfolio component weighting) applicable to equity securities other than Derivative Securities Products or Index-Linked Securities (*e.g.,* common stocks) to such products.[40]

With respect to the proposed amendment to the continued listing requirement in Rule 8.600(d)(2)(A) to require dissemination of a Portfolio Indicative Value at least every 15 seconds during the Core Trading Session (as defined in NYSE Arca Equities Rule 7.34), such requirement conforms to the requirement applicable to the dissemination of the Intraday Indicative Value for Investment Company Units in Commentary .01(c) and Commentary .02(c) to NYSE Arca Equities Rule 5.2(j)(3). In addition, such dissemination is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[41]

The proposed rule change is also designed to protect investors and the public interest because Managed Fund Shares listed and traded pursuant to Rule 8.600, including pursuant to the proposed new portfolio standards, would continue to be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.[42]

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

[36] *See supra,* note 9.

[37] 15 U.S.C. 78s(b)(2).

[38] 15 U.S.C. 78s(b)(3)(A).

[39] 17 CFR 240.19b–4(e).

[40] *See* Securities Exchange Act Release Nos. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (SR–NYSEArca–2008–29) (notice of filing of proposed rule change to amend eligibility criteria for components of an index underlying Investment Company Units); 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving proposed rule change to amend eligibility criteria for components of an index underlying Investment Company Units).

[41] *See, e.g.,* Approval Order, *supra* note 4; International Bear Approval, *supra* note 9.

[42] *See* Approval Order, *supra* note 4, at 19547.

Fund Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded. In addition, the Exchange may obtain information regarding trading in Managed Fund Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.

The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by allowing Managed Fund Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares that do not satisfy the additional criteria described above.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[43] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Managed Fund Shares and result in a significantly more efficient process surrounding the listing and trading of Managed Fund Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this would reduce the time frame for bringing Managed Fund Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Managed Fund Shares more competitive by applying uniform listing standards with respect to Managed Fund Shares portfolio holdings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission seeks comments on the following questions:

1. According to the Exchange, many of the requirements of the proposed rule applicable to equity and fixed income securities holdings are identical to the requirements for equity and fixed income index-based ETFs, respectively.[44]

a. Do commenters believe that these requirements for index-based ETFs should equally apply to the listing and trading of Managed Fund Shares? If so, why? If not, why not?

b. Do commenters believe that the requirements for index-based ETFs that the Exchange proposes to apply to Managed Fund Shares are adequate to deter manipulation irrespective of similarities between the two types of products? If so, why? If not, why not?

2. In addition, as noted by the Exchange, some of the requirements of the proposed rule are identical to certain, specifically tailored requirements referenced in other previously approved proposed rule changes pertaining to the listing and trading of specific series of Managed Fund Shares. What are commenters' views on whether these specifically tailored requirements for certain series of Managed Fund Shares ought to equally apply to all Managed Fund Shares by virtue of being incorporated into these proposed generic listing standards?

3. Do commenters believe that the proposed listing requirements are adequate to deter manipulation and other trading abuses of the price of generically listed Managed Fund Shares? If so, why? If not, why not?

4. Under the proposed rule, there would be no limitation to the percentage of the portfolio invested in short-term cash equivalents or derivative instruments. In addition, under the proposed rule, there would be no limitation as to the types of short-term cash equivalents or derivative instruments that could be held in the portfolio. To what extent, if at all, should the proposed generic listing standards restrict the holding of these portfolio components? If so, how and why? If not, why not?

5. Do commenters have views on whether the proposed generic listing requirements for Managed Fund Shares have adequately accounted for all types of assets that a portfolio can hold? Should the proposed rules include additional or fewer restrictions? Are there other measures that the Commission and the Exchange should consider with respect to a portfolio of Managed Fund Shares that are generically listed?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2015–02. 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

[43] 15 U.S.C. 78f(b)(8).

[44] *See* proposed Commentaries .01(a) and (b) to NYSE Arca Equities Rule 8.600.

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–NYSEArca–2015–02 and should be submitted on or before March 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Brent J. Fields,

Secretary.

[FR Doc. 2015–05480 Filed 3–9–15; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2014–0015]

Privacy Act of 1974, as Amended; Computer Matching Program (Social Security Administration (SSA)/ Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA))—Match Number 1008

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on November 10, 2014.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with VA/VBA.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA)

A. Participating Agencies

SSA and VA/VBA

B. Purpose of the Matching Program

The purpose of this matching program is to provide us with information necessary to: (1) Identify certain Supplemental Security Income (SSI) and Special Veterans Benefit (SVB) recipients under Title XVI and Title VIII of the Social Security Act (Act), respectively, who receive VA-administered benefits; (2) determine the eligibility or amount of payment for SSI and SVB recipients; and (3) identify the income of individuals who may be eligible for Medicare cost-sharing assistance through the Medicare Savings Program as part of our Medicare outreach efforts.

C. Authority for Conducting the Matching Program

The legal authority for VA to disclose information under this agreement is 1631(f) of the Act (42 U.S.C. 1383(f)). The legal authorities for us to conduct this computer matching program are 806(b), 1144, and 1631(e)(1)(B) and (f) of the Act (42 U.S.C. 1006(b), 1320b–14, and 1383(e)(1)(B) and (f)).

D. Categories of Records and Persons Covered by the Matching Program

1. Systems of Records

VA will provide us with electronic files containing compensation and pension payment data from its system of records (SOR) entitled the ''Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58VA/21/22/28), republished with updated name at 74 FR 14865 (April 1, 2009) and last amended at 77 FR 42593 (July 19, 2012).

We will match the VA data with SSI/SVB payment information maintained in our SOR entitled ''Supplemental Security Income Record and Special Veterans Benefits'' (SSA/ODSSIS 60–0103), last published at 71 FR 1830 (January 11, 2006).

2. Number of Records

We estimate receiving 60 million records annually from VA.

[45] 17 CFR 200.30–3(a)(12).

3. Specified Data Elements

We will conduct the match using the Social Security number, name, date of birth, and VA claim number on both the VA file and the Supplemental Security Record.

4. Frequency of Matching

VA will furnish us with an electronic file containing VA compensation and pension payment data monthly. The actual match will take place approximately during the first week of every month.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is November 11, 2014 provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2015–05510 Filed 3–9–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9058]

Prepare for the One Hundred and Second Session of the International Maritime Organization's (IMO) Legal Committee; Notice of Public Meeting

The Department of State will conduct an open meeting at 10:00 a.m. on Friday, April 3rd, 2015, in Room 2E16–06, United States Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave SE., Washington, DC 20593–7213. The primary purpose of the meeting is to prepare for the one hundred and second Session of the International Maritime Organization's (IMO) Legal Committee to be held at the IMO Headquarters, United Kingdom, April 14–April 16, 2015.

The agenda items to be considered include:

- Adoption of the agenda and report on delegation credentials
- HNS Protocol, 2010
- Fair treatment of seafarers in the event of a maritime accident
- Piracy
- Technical cooperation activities related to maritime legislation
- Review of the status of conventions and other treaty instruments emanating from the Legal Committee

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, Ms. Bronwyn Douglass, by email at *bronwyn.douglass@uscg.mil,* by phone at 202.372.3793, or in writing at Commandant (CG–094), ATTN: Office of Maritime & International Law, US Coast Guard STOP 7213, 2703 Martin Luther King Jr. Ave SE., Washington DC 20593–7213 not later than March 27, 2015, 7 days prior to the meeting. Requests made after March 27, 2015 most likely will not be accommodated, and same day requests cannot be accommodated due to the building's security process. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited. Additional information regarding security and parking may be found at: *http://www.uscg.mil/baseNCR/documents/visit_instructions.pdf.* Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo.*

Dated: February 26, 2015.

Marc Zlomek,

U.S. Coast Guard Detailee, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2015–05241 Filed 3–9–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Emergency Locator Transmitters (ELTs)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice recommending voluntary change to securing existing ELTs as specified in Technical Standard Order (TSO)-C126b, 406MHz Emergency Locator Transmitter.

SUMMARY: FAA evaluated five separate courses of action with regard to the airworthiness approvals for securing ELTs with hook and loop fasteners. This notice summarizes the inadequacies of hook and loop fasteners as a means for securing ELTs, and avoids placing an undue burden on aircraft owners while acknowledging the voluntary efforts of ELT manufacturers to improve designs.

DATES: Comments must be received on or before April 9, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Charisse R. Green, AIR–131, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024. Telephone (202) 267–8551, fax (202) 267–8589, email to: *Charisse.Green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Investigations of some recent aircraft accidents disclosed that ELTs mounted with hook and loop fasteners became dislodged from their mounting trays on impact. The separation of those ELTs from their mounting trays caused their antenna connection to sever, thus rendering the ELTs to be ineffective and unable to perform their intended function.

The FAA Modernization and Reform Act of 2012 (Pub. L. 112–95), Section 347(b)(1), required the FAA to determine if the ELT mounting requirements and retention tests specified by TSO–C91a and TSO–C126 were adequate to assess retention capabilities in ELT designs. Based on the determination, the Act, in Section 347(b)(2), required the Administrator to make any necessary revisions to the requirements and retention test to ensure ELTs remained properly retained in the event of an aircraft accident.

The FAA evaluated the mounting requirements and retention tests specified in TSO–C91a, TSO–C126, and TSO–C126a. After this evaluation, the FAA determined these standards did not adequately address the use of hook and loop fasteners. Hook and loop fasteners were not an acceptable means of compliance to meet the mounting and retention requirements of the ELT TSOs. While the evaluation of installation approval using hook and loop fasteners may meet the TSO requirements for retention forces in laboratory conditions, accident investigations found these fasteners did not perform their intended function.

FAA Concerns

The agency identified the following concerns after completing its evaluation of the use of hook and loop fasteners:

(1) Hook and loop fasteners fail to retain the ELT when insufficient tension is applied to close the fastener. There is no repeatable method for installation and no method to evaluate the tension of the hook and loop fastener. The allowance for pilots to secure ELTs to the aircraft when changing ELT batteries

further increases the potential for inconsistent and unsatisfactory installations;

(2) Hook and loop fasteners closed with proper tension may stretch or loosen over time due to wear, fluids, vibration, and repeated use, leading to insufficient tension to retain the ELT;

(3) Hook and loop fasteners closed with proper tension do not provide stated retention capability due to debris which can contaminate the hooks and loops of the fastener; and

(4) Hook and loop fasteners closed with proper tension degrade due to environmental factors such as repeated heating and cooling cycles, temperature extremes, and contamination resulting from location in equipment areas.

FAA Actions

After publishing our initial intent to withdraw the TSO Authorizations (TSOA) for TSO–C91a, and TSO–C126/126a (See 135 FR 41,473 (2012)), the FAA considered five courses of action to mitigate safety concerns with the use of hook and loop fasteners to retain ELTs. These actions addressed design, production, and airworthiness approvals for both the TSO and retrofit for existing installations. Below is a summary of the actions and their outcomes:

(1) *Recommendation to revise Installation and Maintenance manuals.* The FAA published a Safety Awareness Information Bulletin (SAIB) HQ–12–32, *Hook and Loop Style Fasteners as a Mounting Mechanism for Emergency Locator Transmitters,* on May 23, 2012. The SAIB outlined actions ELT manufacturers could take to improve their installation and maintenance instructions to mitigate the concerns with hook and loop retention.

(2) *Revised TSO–C126a for 406 MHz ELTs.* The FAA published TSO–C126b, *406 MHz Emergency Locator Transmitters,* on November 26, 2012. The TSO precluded the use of hook and loop fasteners as a primary means of securing an ELT in its mounting tray for future ELT designs. TSO–C91a was previously cancelled, and a revision was not needed.

(3) *Determined need for an Airworthiness Directive to correct ELTs with hook and loop fasteners.* The FAA accomplished a Corrective Action Review Board (CARB) to determine if existing airworthiness approvals and existing Technical Standard Order authorizations required 14 CFR part 39 Airworthiness Directive (AD) action. The CARB determined an AD was not warranted.

(4) *Cease airworthiness approval of ELTs with hook and loop fasteners.* Not necessary. Manufacturers with ELT designs incorporating hook and loop fasteners which failed to perform their intended function in accidents either have revised or are in the process of revising their designs, minimizing the need for policy in this area.

(5) *Withdrawal of ELT TSO Authorizations.* Not pursued. Manufacturers with ELT designs incorporating hook and loop fasteners that failed to perform their intended function have either revised or are revising their designs, minimizing the need for this action.

Conclusion

The FAA issued an SAIB providing ELT installation and maintenance guidance and revised TSO–C126a to eliminate hook and loop fasteners from future TSO designs. The FAA is not issuing an airworthiness directive or a policy disallowing installation approval of ELTs that use hook and loop fasteners. Lastly, the FAA decided not to take the action of withdrawing the TSO authorizations of ELTs utilizing hook and loop fasteners as a mounting mechanism, but ask those aircraft owners/operators with ELTs secured with hook and loop fasteners in their aircraft to voluntarily switch to a metal strap type restraint method. Therefore, the proposed June 30, 2014 date for TSOA withdrawals is no longer applicable.

Issued in Washington, DC, on March 4, 2015.

Susan J.M. Cabler,

Acting Manager, Design, Manufacturing, and Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2015–05500 Filed 3–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Underwater Locating Devices (Acoustic) (Self-Powered)

AGENCY: Federal Aviation Administration, FAA, DOT.

ACTION: Notice to extend the revocation date of Technical Standard Order (TSO) C–121 and C–121a, Underwater Locating Devices (ULD) (Acoustic) (Self-Powered).

SUMMARY: This Notice extends the planned revocation date of Technical Standard Order (TSO) authorization for the production of Underwater Locating Devices (ULD) (Acoustic) (Self-Powered) manufactured to TSO–C121 and TSO C–121a specifications. This action is necessary to facilitate an efficient transition to UDLs with a 90-day minimum battery operating life manufactured to the TSO–C121b specifications.

FOR FURTHER INFORMATION CONTACT: Mr. John Barry, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, SW., Suite 4102, Washington, DC 20024. Telephone 202–267–1665, Fax 202–267–8589, email: *john.barry@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA published a Notice in the Federal Resister, 76 FR 52734, August 23, 2011, announcing the planned revocation of TSO–C121 and TSO–C121a. Notice of that conformation was published in the **Federal Register**, 77 FR 13174, March 5, 2012. Thus far, only two manufacturers currently hold TSO authorizations (TSOAs) under TSO–C121 or TSO–C121a; both are domestic. Both manufacturers are now authorized to produce longer duration TSO–C121b units as envisioned by the March 5, 2012 **Federal Register** notice. One manufacturer received its TSO–C121b authorization in December 2014, the other in February 2015. Although both manufacturers received approval to manufacture devices meeting the current standard, the TSOA by itself does not authorize installation in an aircraft. Recent events have driven additional testing requirements for installation of lithium batteries, which these devices contain. Prior to the FAA's issuing the TSOAs to the two applicants, testing of the lithium batteries produced satisfactory results, such that the newly approved TSO–C121b devices will contain the effects of catastrophic battery failures. The ULD manufacturer's data may be used to support installations of the device on an aircraft, but each installer must analyze their design for safety impacts on their aircraft. A major aircraft manufacturer requested additional time to complete testing and analysis of the TSO–C121b device's installation. They also requested additional time to update their part numbers and drawings in their various Type Certificated (TC) aircraft once the analysis is complete. Granting this additional time will prevent a disruption in aircraft production as the necessary documentation changes are updated to reflect the current production of TSO–C121b devices.

Conclusion

Based on the recent award of TSO–C121b authorizations, additional testing and analysis of lithium battery

installations and the lead time required to update required documentation, the FAA has delayed the revocation of TSO–C121 and TSO–C121a authorizations to December 1, 2015.

Issued in Washington, DC. on March 4, 2015.

Susan J. M. Cabler,

Assistant Manager, Design, Manufacturing and Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2015–05501 Filed 3–9–15; 08:45 am]

BILLING CODE 4910–13–P

FEDERAL REGISTER

Vol. 80 Tuesday,
No. 46 March 10, 2015

Part II

Department of the Interior

Fish and Wildlife

50 CFR Part 16

Injurious Wildlife Species; Listing Three Anaconda Species and One Python Species as Injurious Reptiles; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AV68

[Docket No. FWS–R9–FHC–2008–0015; FXFR13360900000–145–FF09F14000]

Injurious Wildlife Species; Listing Three Anaconda Species and One Python Species as Injurious Reptiles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is amending its regulations under the Lacey Act to add reticulated python (*Python reticulatus*), DeSchauensee's anaconda (*Eunectes deschauenseei*), green anaconda (*Eunectes murinus*), and Beni anaconda (*Eunectes beniensis*) to the list of injurious wildlife. By this action, the importation into the United States and interstate transportation between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any live animal, gamete, viable egg, or hybrid of these four constrictor snakes is prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit conditions) or by Federal agencies without a permit solely for their own use. The best available information indicates that this action is necessary to protect the interests of human beings, agriculture, wildlife, and wildlife resources from the purposeful or accidental introduction and subsequent establishment of these large nonnative constrictor snake populations into ecosystems of the United States. We are also withdrawing our proposal to add the boa constrictor (*Boa constrictor*) to the list of injurious wildlife.

DATES: This rule is effective on April 9, 2015.

ADDRESSES: This final rule and the associated final economic analysis, regulatory flexibility analysis, and environmental assessment are available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015. Comments and materials received, as well as supporting documentation used in preparing this final rule, are available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015; they are also available for public inspection, by appointment, during normal business hours, at the South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559; telephone 772–562–3909 ext. 256; facsimile 772–562–4288.

FOR FURTHER INFORMATION CONTACT: Bob Progulske, Everglades Program Supervisor, South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559; telephone 772–469–4299. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

The U.S. Fish and Wildlife Service (Service) is amending its regulations under the Lacey Act to add the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. The purpose of listing the reticulated python and the three anacondas as injurious wildlife is to prevent the accidental or intentional introduction and subsequent establishment of populations of these snakes in the wild in the United States.

Under the Lacey Act (Act) (18 U.S.C. 42, as amended), the Secretary of the Interior is authorized to list by regulation those wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, reptiles, and the offspring or eggs of any of the foregoing that are injurious to human beings, to the interests of agriculture, horticulture, or forestry, or to the wildlife or wildlife resources of the United States. We have determined that these four species of large constrictor snakes are injurious. This determination was based on an extensive risk and biological assessment by the U.S. Geological Survey (USGS; Reed and Rodda 2009) and on the criteria for injuriousness by the Service. USGS determined that these four species have a risk of invasiveness, and the Service found that the four species are injurious.

On March 12, 2010, we published a proposed rule in the **Federal Register** (75 FR 11808) to list *Python molurus* (which includes Burmese and Indian pythons), reticulated python (*Python reticulatus*), Northern African python (*Python sebae*), Southern African python (*Python natalensis*), boa constrictor (*Boa constrictor*), yellow anaconda (*Eunectes notaeus*), DeSchauensee's anaconda (*Eunectes deschauenseei*), green anaconda (*Eunectes murinus*), and Beni anaconda (*Eunectes beniensis*) as injurious wildlife under the Lacey Act.

On January 23, 2012, we published a final rule in the **Federal Register** (77 FR 3330) to list Burmese (and Indian) pythons, Northern African pythons, Southern African pythons, and yellow anacondas as injurious wildlife under the Lacey Act. The remaining five species (reticulated python, boa constrictor, green anaconda, DeSchauensee's anaconda, and Beni anaconda) were not listed at that time and remained under consideration for listing. With this final rule, we are listing four of those species (reticulated python, green anaconda, DeSchauensee's anaconda, and Beni anaconda) as injurious wildlife under the Lacey Act. We are, however, withdrawing our proposal to list the boa constrictor (*Boa constrictor*) as injurious; we are no longer considering adding that species to the list of injurious wildlife under the Lacey Act. Our rationale for this action is provided under Withdrawal of the Boa Constrictor from Consideration as an Injurious Species in this rule.

By listing the four species, the importation into the United States and transportation between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any live animal, gamete, viable egg, or hybrid is prohibited, except by permit for zoological, education, medical, or scientific purposes (in accordance with permit conditions) or by Federal agencies without a permit solely for their own use.

The final economic analysis (2015) and environmental assessment (2015) considers four alternatives for the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor: Alternative 1 is no action; Alternative 2A would list all five species; Alternative 2B would list four species (not including the boa constrictor); Alternative 3 would list the three species known to be in trade in the United States (boa constrictor, green anaconda, and reticulated python); and Alternative 4 would list the boa constrictor—the only one of the five species with a high organism risk potential (Reed and Rodda 2009). We selected Alternative 2B.

Table ES–1 (from the 2015 final economic analysis) compares the economic output to the constrictor snake industry for listing under the alternatives. The costs for not listing are difficult to quantify, but include the expenditures associated with State and Federal activities that address constrictor snake impacts, amounting to at least $6 million from 2005 to 2014. Other costs for not listing include risk of harm (from predation, competition,

pathogens) to native species, including endangered and threatened species, and the potential for reduced tourism from decreased wildlife viewing opportunities.

TABLE ES–1—ANNUAL DECREASE IN SECONDARY IMPACTS FROM BASELINE CONDITION (ALTERNATIVE 1)

[Dollars in millions]

	Economic output	Jobs	Job income	Tax revenue
Alternative 2A	$26.5–$57.1	236–509	$9.5–$20.5	$3.6–$7.8
Alternative 2B	$5.3–$11.4	49–105	$1.9–$4.1	$0.7–$1.6
Alternative 3	$26.5–$57.1	236–509	$9.5–$20.5	$3.6–$7.8
Alternative 4	$21.1–$45.4	188–405	$7.7–$16.5	$2.9–$6.2

Previous Federal Actions

On June 23, 2006, the Service received a petition from the South Florida Water Management District (District) requesting that Burmese pythons be considered for inclusion in the injurious wildlife regulations under the Lacey Act (18 U.S.C. 42, as amended; the Act). The District was concerned about the number of Burmese pythons (*Python molurus bivittatus*) found in Florida, particularly in Everglades National Park and on the District's widespread property in South Florida.

The Service published a notice of inquiry in the **Federal Register** (73 FR 5784; January 31, 2008) soliciting available biological, economic, and other information and data on the *Python, Boa,* and *Eunectes* genera for possible addition to the list of injurious wildlife under the Act and provided a 90-day public comment period. The Service received 1,528 comments during the public comment period that closed April 30, 2008. We reviewed all comments received for substantive issues and information regarding the injurious nature of species in the *Python, Boa,* and *Eunectes* genera. Of the 1,528 comments, 115 provided economic, ecological, and other data responsive to the 10 specific questions in the notice of inquiry. Most individuals submitting comments responded to the notice of inquiry as though it was a proposed rule to list constrictor snakes in the *Python, Boa,* and *Eunectes* genera as injurious under the Act. As a result, most comments expressed either opposition or support for listing the large constrictor snakes species and did not provide substantive information. We considered all of the information provided, focusing primarily on the 115 applicable comments in the preparation of the draft environmental assessment, draft economic analysis, and the proposed rule.

On March 12, 2010, we published a proposed rule in the **Federal Register** (75 FR 11808) to list Burmese and Indian pythons, reticulated python, Northern African python, Southern African python, boa constrictor, yellow anaconda, DeSchauensee's anaconda, green anaconda, and Beni anaconda as injurious wildlife under the Act. The proposed rule established a 60-day comment period ending on May 11, 2010, and announced the availability of the draft economic analysis and the draft environmental assessment of the proposed rule. At the request of the public, we reopened the comment period for an additional 30 days ending on August 2, 2010 (75 FR 38069; July 1, 2010).

On January 23, 2012, we published a final rule in the **Federal Register** (77 FR 3330) to list Burmese and Indian pythons, Northern African python, Southern African python, and yellow anaconda as injurious wildlife under the Act. The remaining five species (reticulated python, boa constrictor, green anaconda, DeSchauensee's anaconda, and Beni anaconda) were not listed at the time and remained under consideration for listing. With this final rule, we are listing four of those species (reticulated python, green anaconda, DeSchauensee's anaconda, and Beni anaconda). We are also withdrawing our proposal to list the boa constrictor as injurious; we are no longer considering adding that species to the list of injurious wildlife under the Act. Our rationale for this action is provided under Withdrawal of the Boa Constrictor from Consideration as an Injurious Species in this rule.

On June 24, 2014, we reopened the comment period on the 2010 proposed rule for an additional 30 days (79 FR 35719). This comment period was restricted to the five remaining proposed species: The reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor.

For the injurious wildlife evaluation in this final rule, in addition to information used for the proposed rule, we considered: (1) Comments from the three public comment periods for the proposed rule, (2) comments from five peer reviewers, and (3) new information acquired by the Service by the end of the public comment periods (July 24, 2014). From this information, we determined that four more (hereafter, also may be collectively referred to as ''the second four'') of the nine proposed species warrant listing as injurious at this time, bringing the total number of species of large constrictor snakes listed as injurious to eight with this final rule. We present a summary of the peer review comments and the public comments following the Lacey Act Evaluation Criteria section for the second four of the nine proposed species. The explanations in the sections on biology and evaluation of the second four species will make many of the answers to the comments self-evident.

A major source of biological, management, and invasion risk information that we used for the proposed rule and this final rule was derived from the USGS's ''Giant Constrictors: Biological and Management Profiles and an Establishment Risk Assessment for Nine Large Species of Pythons, Anacondas, and the Boa Constrictor'' (hereafter referred to as ''Reed and Rodda 2009).'' This document was prepared at the request of the Service and the National Park Service; a link to the report can be found at the following Internet sites: *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015 and *http://www.fort.usgs.gov/Products/Publications/pub_abstract.asp?PubID=22691.*

The Service is completing actions on the proposed rule with publication of this final rule for the second four species (reticulated python and DeSchauensee's, green, and Beni anacondas). The proposal for one additional species (boa constrictor) is being withdrawn; we are no longer considering it for listing under the Act.

Background

Purpose of Listing as Injurious

The purpose of listing the reticulated python and the three anacondas as injurious wildlife is to prevent the accidental or intentional introduction and subsequent establishment of populations of these snakes in the wild in the United States.

Why the Species Were Selected for Consideration as Injurious Species

The Service has had the authority to list species as injurious under the Act since the 1940s. However, we have been criticized for not listing species before they became a problem (Fowler *et al.* 2007). The Burmese python is one example of a species that may not have become so invasive in Florida if it had been listed before it had become established. Two of the largest snakes in the world (with maximum lengths exceeding 7 meters (m) (23 feet (ft)) are the reticulated python and green anaconda, and both are present in U.S. trade. The reticulated python and the green anaconda have been found in the wild in south Florida. With this final rule, we are attempting to prevent any further introduction and subsequent establishment of the reticulated python and green anaconda into vulnerable areas of the United States.

Furthermore, we have the authority under the Act to list certain species as injurious even if they are not currently in trade or known to exist in the United States. Thus, we can be proactive and not wait until a species is already established. As noted in the National Invasive Species Management Plan (National Invasive Species Council 2008), ''prevention is the first line of defense'' and ''can be the most cost-effective approach because once a species becomes widespread, controlling it may require significant and sustained expenditures.'' This is why we are listing two species (DeSchauensee's and Beni anacondas) that are not yet found in the United States but that have the requisite injurious traits.

None of these four species is native to the United States. The Service is striving to prevent the introduction and establishment of all four species into new areas of the United States, due to concerns about the injurious effects of all four species, consistent with 18 U.S.C. 42.

All four species were evaluated and found to be injurious because: There is a suitable climate match in parts of the United States to support them; they are likely to escape captivity; they are likely to prey on and compete with native species (including endangered and threatened species); preventing, eradicating, or reducing large populations would be difficult; and other factors that are explained in the sections Factors That Contribute to Injuriousness for Reticulated Python and for the other three species.

Withdrawal of the Boa Constrictor From Consideration as an Injurious Species

Under 18 U.S.C. 42(a), the Secretary of the Interior ''may prescribe by regulation'' species to be injurious and thus has discretion on whether to list species as injurious. The proposed rule published on March 12, 2010 (75 FR 11808), determined that the boa constrictor possesses the traits of injuriousness and no substantive information to the contrary has been provided in the public or peer review comments or otherwise obtained by the Service. Nonetheless, concurrent with this final rule, we are withdrawing the proposal to list the boa constrictor as an injurious species and hereby remove the species from further consideration. If we decide in the future to consider the boa constrictor for listing as injurious, we will prepare a new proposed rule for notice and comment in the **Federal Register**.

The Service recognizes the harm that the establishment of boa constrictors could pose to wildlife and wildlife resources. We also recognize that, because our regulatory authority is limited to prohibiting importation and interstate transport, we must rely on the States, Territories, and other governmental entities in the United States, including local jurisdictions (hereafter collectively referred to as the States) to regulate possession, release to the wild, sale, intrastate transport, and other activities that may need to be regulated to effectively manage the risk of a species introduction and spread for species that have already been imported into and are present in the United States.

The regulatory prohibitions of the Lacey Act (limited to importation and interstate transport) are less effective when a species is widely held in captivity in the United States in high numbers (both the number of animals and number of people owning the animals) and when significant domestic breeding of such animals is occurring and would likely continue for intrastate trade or export purposes. Domestic breeding, whether for intrastate trade or export, of widely-owned species increases the probability of escape, survival, and establishment of the listed species in the United States. Under these unique circumstances, the benefit of an injurious wildlife listing is likely to be limited without concurrent State regulatory action, particularly in areas of the country where the risk of establishment is the highest.

Thus, for the boa constrictor, we considered whether listing the species under the Lacey Act would be the most effective means of preventing the establishment and spread of populations in the wild. For this decision, the Service assessed information available on the number of boa constrictors already imported into the United States, the number of boa constrictors held in captivity in the United States, the variety of individuals and entities that own boa constrictors and their use of the species, how broadly in geographic terms the species is located in captivity within the United States, the amount of domestic breeding (for export, intrastate trade, and other purposes), the risk of escape and establishment of the species, if and where individual snakes have been recorded or populations have become established in the wild in the United States, and actions States have taken or could take to effectively manage the risk of snake introduction and establishment.

The number of boa constrictors that have been imported and that are currently held in captivity is a significantly larger portion of the current trade than for any of the other eight constrictor species that were proposed for listing. In fact, these numbers are likely higher for the boa constrictor than for all of the eight other species combined. Of the nine species that were included in the proposed rule, the boa constrictor represented 61.7 percent of the imports and domestically bred snakes from 2008 to 2010, whereas the next highest species was the Burmese python at 24.5 percent (Final Economic Analysis 2012). Of the five species not yet listed, the boa constrictor represents 79.2 percent of the imports and domestically bred snakes from 2011 to 2013, whereas the next highest species is the reticulated python at 18.9 percent. Large zoos and small roadside zoos across the country maintain boas for educational displays and live animal programs. Boa constrictors are sold in many pet stores, including large national chains, and are owned as pets by children and adults in all States that allow possession. Boas can grow to 13 feet in length and live for at least 20 years. The likelihood of pet boas being released or escaping is high, because boa constrictors are adept at escaping enclosures and they often outgrow their owner's ability or outlive their owner's interest to care for them.

Boa constrictors have been found on the loose in at least 46 States (HSUS 2014) and are known to be or assumed to be pets that escaped or were released. Boas are already well established in Florida and Puerto Rico. Therefore, the boa constrictor fits the circumstances where regulatory provisions of the Lacey Act are likely to be less effective.

Thus, of the nine large constrictor snakes evaluated by the Service, risk management measures by States are particularly needed for the boa constrictor, especially where the risk of establishment is high. Risk management measures include State regulations and other restrictions on activities with the species, as well as measures to detect and attempt to control any snakes that are found in the wild. For example, the State of Hawaii does not allow the importation or possession of any snakes, and most of the U.S. Territories have some restrictions on the importation of snakes. In comparison, the State of Florida has not listed the boa constrictor as a conditional reptile or placed other restrictions on this species. According to the State of Florida's regulations (FWC 2015), ''[c]onditional nonnative species are considered to be dangerous to the ecology and/or the health and welfare of the people of Florida. These species are not allowed to be personally possessed, although exceptions are made by permit * * *.'' Without any restrictions on possession, intrastate sale, or intrastate domestic production, the benefit of a Federal injurious wildlife listing for the boa constrictor is substantially less than for a species, such as the Burmese python, that is also held broadly in private ownership but is currently regulated through Florida's Conditional Reptile regulations. The lack of restrictions for boa constrictors in States such as Florida that are at great risk perpetuates an unregulated pathway for escape and possible establishment, and severely reduces the effectiveness of a Federal regulatory approach.

In 2010 (75 FR 11808, March 12, 2010; and 75 FR 38069, July 1, 2010) and again in 2014 (79 FR 35719; June 24, 2014), the Service sought and considered public comments submitted on the proposed rule to list the boa constrictor along with other species of large constrictor snakes. The Service received more than 85,000 public comments. Among the substantive comments we received were comments from the Association of Fish and Wildlife Agencies (AFWA) in 2010. Although AFWA did not submit additional comments in 2014, the Service has received no information indicating that AFWA has changed its position from that expressed in its 2010 comment letter.

AFWA represents North America's State, territorial, and provincial fish and wildlife agencies. In their comment letter, AFWA stated that they had solicited comments from their network of State nongame biologists and herpetologists, as well as members of their Amphibian and Reptile Subcommittee and Invasive Species Committee. AFWA stated its position that the Service should not finalize the rule for any of the large constrictor snakes. Specifically, AFWA stated, among other things, that a national rule may not be warranted; that it is the States' responsibility to manage species that occur within their borders, including minimizing impacts to native species; that States have the right to enact and enforce laws and regulations that are more stringent than Federal laws and regulations, as they see fit; that Federal regulations that create undue burdens on State fish and wildlife agencies should be avoided; and that listing the constrictor snakes as injurious might not achieve the desired result due to unintended consequences, such as people releasing the constrictors into the wild. As an alternative, AFWA promoted State action, such as Florida's ''Reptiles of Concern'' regulations, that, in partnership with stakeholders, AFWA believes would both discourage non-serious snake owners from purchasing new reptile pets as well as better regulate the industry. AFWA stated that Florida's regulations could serve as a model for development of industry-wide standards or enforceable best practices.

The Service recognizes that the States can enact their own, more stringent laws and that a Lacey Act listing does not preclude this, although States may have less ability to regulate importation into their States. However, AFWA's position is that it represents the collective interests of the States on this issue; that the Service could allow the States to take action, including regulatory action; that the Federal government could instead focus on financial support for risk analysis combined with early detection and rapid response programs; and that these actions could be more effective at preventing the establishment of constrictor snakes than Federal listing. Given the unique circumstances of the boa constrictor, we believe that, particularly for States where the risk of establishment is high, State action for the boa constrictor that effectively reduces the risk of escape and establishment, such as regulating possession, sale, intrastate transport, or breeding, could provide sufficient and even stronger protection than Federal listing as injurious under the Lacey Act. State laws that prohibit importation prevent the further spread of boa constrictors into States where they do not currently occur and reduce the chances of establishment by limiting additional importations in States where they do already occur. Laws such as Florida's regulations applicable to Conditional Reptiles (such as for Burmese pythons) restrict personal possession, while Hawaii prohibits both possession and importation. The Service agrees, as AFWA suggests, that State regulations, such as Florida's (for Burmese pythons) or Hawaii's, could serve as models for State laws, industry-wide standards, or enforceable best practices.

The Pet Industry Joint Advisory Council (PIJAC) also submitted comments on the proposed rule in both 2010 and 2014, although its 2014 comments were not related to the issues discussed here. PIJAC states that its mission is to promote responsible pet ownership and animal welfare, foster environmental stewardship, and ensure the availability of pets. PIJAC, through their comments, encouraged the Service to explore other alternatives to the proposed listing of the large constrictors. PIJAC stated that, in communications with the Department of the Interior, the Small Business Administration, and State agencies, they believe that opportunities exist for the Federal Government to work with the States and the industry to develop an alternative approach to large constrictor management and that they are prepared to work on this process. The Service has worked with PIJAC on several national campaigns to promote responsible ownership of nondomesticated animals and thus knows that such campaigns can be effective in promoting responsible use of wildlife that could be harmful if they escaped or are released to the wild.

For all of the reasons explained above, the Service has decided to withdraw its March 12, 2010 (75 FR 11808), proposal to list the boa constrictor in favor of a novel and experimental approach. The boa constrictor has already been imported in large numbers into the United States and is owned by hobbyists, commercial breeders, and pet owners in large numbers throughout the United States, except where prohibited by State law. AFWA, representing the State fish and wildlife agencies, has asserted that instead of listing the constrictor snakes as injurious, the Service could allow States to use their regulatory and management authorities to regulate activities with these species.

As the representative for these State fish and wildlife agencies and communicator of this position, presumably AFWA is prepared to work with its member States to do so. For the boa constrictor, a species that has already been imported into the United States in large numbers and is widely held in large numbers by a broad variety of owners for purposes that include breeding and sale, strong State laws are indeed more likely to be effective at preventing the escape or release and establishment of the species in the wild, given that prohibitions under the Lacey Act are limited to importation and interstate transport. This is especially true when combined with efforts by industry groups such as PIJAC, which has committed to work with the Service and the States on programs that would promote responsible holding and use of boa constrictors.

This action gives additional States, such as Florida, the opportunity to demonstrate the efficacy of coordinated, State-based measures to address the invasive nature of boa constrictors, including promulgating their own laws regarding the species. We are also providing the pet trade industry with the opportunity to act voluntarily within its own industry and in cooperation with the States, the Service, and others to address prevention and containment of the boa constrictor as an alternative to Federal Lacey Act restrictions. PIJAC and other industry groups can work with boa constrictor owners to develop practices to prevent escape or release into the environment and options for finding homes for unwanted animals as an alternative to release to the wild.

The Service recognizes that this is an untested approach and will monitor whether States and industry groups put in place effective measures to prevent the escape or release and establishment of boa constrictors. If States and industry groups in regions where the risk of boa constrictor survival and establishment in the wild is high fail to take appropriate actions, or if these State and industry-based measures prove ineffective, we may again evaluate whether listing the boa constrictor as injurious under the Act is appropriate.

Need for the Final Rule

Under the Lacey Act, the Secretary of the Interior is authorized to prescribe by regulation those wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, reptiles, and the offspring or eggs of any of the foregoing that are injurious to human beings, to the interests of agriculture, horticulture, or forestry, or to the wildlife or wildlife resources of the United States. We have determined that the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda are injurious and should be listed under the Lacey Act.

Reticulated pythons have been found in the wild in Florida and Puerto Rico, as well as several other States. Several green anacondas have also been found in the wild in Florida. These species fit the circumstances where regulatory provisions of the Lacey Act are likely to be effective. The threat posed by the reticulated python and the three anacondas will be explained in detail below under Factors that Contribute to Injuriousness for Reticulated Python and each of the other species.

The USGS risk assessment used a method called ''climate matching'' to estimate those areas of the United States exhibiting climates similar to those experienced by the species in their respective native ranges (Reed and Rodda 2009). Considerable uncertainties exist about the native range limits of many of the giant constrictors, and a myriad of factors other than climate can influence whether a species could establish a population in a particular location. Nonetheless, this method represents the most accurate means to predict and anticipate where a nonnative species may be able to survive and establish populations within the United States (Bomford *et al.* 2009). The authors used the same method to match the climate for all nine species in the proposed rule, because the method is not species-specific and can be used equally as well for pythons, boas, and anacondas.

Some interested parties, including other scientists such as Pyron *et al.* (2008), criticized Reed and Rodda's (2009) climate-matching method. In response, the authors published a clarification of how they used the model (Rodda *et al.* 2011). This paper more clearly explained Reed and Rodda's (2009) method and compared that method to Pyron *et al.*'s (2008) method for analyzing potential invasiveness for the Burmese python. We mention a few of Rodda *et al.*'s (2011) findings here:

- Pyron *et al.* (2008) incorrectly rejected many sites that are suitable for Burmese python invasion because their use of an excessive number of parameters actually ended up acting as filters. Using too many filters means that too many sites that are truly at risk of python establishment get filtered out.
- Additionally, the authors eliminated four data points of blood pythons (*Python brongersmai*) that Pyron *et al.* (2008) used erroneously. This significantly changed the area that Burmese pythons could invade, even using the MaxEnt computer program as Pyron *et al.* (2008) used it.
- Information theory suggests 10 parameters as the appropriate number to use in a study like this; the Pyron *et al.* (2008) model, however, used 60. With this number, the parameters essentially become constraints, skewing the accuracy of the data to the point that the resulting model is not scientifically sound.
- The newer USGS paper highlights the statistical dangers inherent in indiscriminately searching for correlations among a large number of possible parameters.
- Factors other than climate may limit a species' native distribution, including the existence of predators, diseases, and other local factors (such as major terrain barriers), which may not be present when a species is released in a new country. Therefore, the areas at risk of invasion often span a climate range greater than that extracted mechanically from the native range boundaries, as was done by Pyron *et al.* (2008).

Rodda *et al.* (2011) does not change the previous USGS risk assessment, or the Service's interpretation of the USGS risk assessment, that Burmese pythons could find suitable climatic conditions in roughly a third of the United States. The paper also confirms that the climate matches for the four species in this final rule would not change from those described in the March 12, 2010 (75 FR 11808), proposed rule.

While we acknowledge that uncertainty exists, these tools also serve as a useful predictor to identify vulnerable ecosystems at risk from injurious wildlife prior to the species actually becoming established (Lodge *et al.* 2006). Based on climate alone, many species of large constrictors are likely to be limited to the warmest areas of the United States, including parts of Florida, extreme south Texas, Hawaii, and insular territories. For a few species, larger areas of the southern United States appear to have suitable climatic conditions according to Reed and Rodda's (2009) climate-matching method.

The record cold temperatures in south Florida during January of 2010 produced the coldest 12-day period since at least 1940, according to the National Weather Service in Miami (NOAA 2010). A record low was set for 12 consecutive days with the temperature at or below 45 °F (Fahrenheit; 7.2 °C (Celsius)) in West Palm Beach and Naples. Other minimum temperatures for that period were broken in Moorehaven, tied in Fort

Lauderdale, and the coldest in Miami since 1940. Despite the record cold, we know that many pythons survived in Florida. For example, nearly 150 Burmese pythons were removed (captured or found dead) from the population in Everglades National Park and vicinity in 2011; more than 250 were removed in 2012, and more than 200 were removed in 2013 (NPS 2014). The largest Burmese python found in the wild in Florida was found in Everglades National Park in March 2012 (Krysko *et al.* 2012). Large constrictors of several species continue to be present and to breed in south Florida. If thermoregulatory behavior or tolerance to cold is genetically based, we would expect large constrictor snake populations to persist, rebound, and possibly increase their genetic fitness and temperature tolerance as a result of natural selection pressures resulting from cold weather conditions such as those that occurred in south Florida in January 2010 (Dorcas *et al.* 2011).

Two studies by scientists from several research institutions, including the University of Florida, studied the effects of the 2010 winter cold weather on Burmese pythons. These studies are relevant to the four species in this final rule because, like the Burmese python, the four species are poikilothermic (body temperature varies with surrounding temperature, also known as cold-blooded). Snakes typically maintain their body temperatures within thermal tolerance limits (ectothermy) through their behaviors (thermoregulation; Dorcas *et al.* 2011), such as sunning in open areas in cool weather or seeking naturally insulated burrows in cold weather.

Thus, the reptiles seek locations (even small refugia) that can help them maintain a comfortable body temperature. In Mazzotti *et al.* (2010), the authors noted that all populations of large-bodied pythons and boa constrictors inhabiting areas with cool winters, including northern populations of Burmese pythons in their native range, appeared to rely on use of refugia (safe locations) to escape winter temperatures. Pythons and anacondas can seek such refugia as underground burrows, deep water in canals, or similar microhabitats to escape the cold temperatures. Those snakes that survived in Florida were apparently able to maintain body temperatures using microhabitat features of the landscape (Mazzotti *et al.* 2010).

Dorcas *et al.* (2011) reported on the cold tolerance of adult Burmese pythons taken directly from the Everglades and placed in outdoor enclosures in South Carolina just prior to an unseasonably cold winter. Without time to suitably acclimate to a significantly colder climate, all of the snakes in this study died. The artificial refugia may not have been suitable compared to natural refugia (such as gopher tortoise burrows), which were not available in the study. Use of adults, as well as use of individuals that did not come from the colder parts of their native range, may have caused the snakes to not be adaptable to colder temperatures. Dorcas *et al.* (2012) state that their results suggest that Burmese pythons from the population currently established in Florida are capable of withstanding conditions substantially cooler that those typically experienced in southern Florida, but may not be able to survive severe winters in regions as temperate as central South Carolina. They noted that some snakes currently inhabiting Florida could survive typical winters in areas of the southeastern United States more temperate than the region currently inhabited by pythons. The authors also noted that, if thermoregulatory behavior is heritable, selection for appropriate thermoregulatory behavior will be strong as pythons expand their range northward through the Florida peninsula. Consequently, future generations of pythons and anacondas may be better equipped to invade temperate regions than those currently inhabiting southern Florida, particularly given the climate flexibility exhibited by the Burmese python in its native range (as analyzed through USGS' climate-matching predictions in the United States).

A study that used air temperatures to predict that Burmese pythons would not likely expand to or colonize more temperate areas of Florida and adjoining States (Jacobson *et al.* 2012) did not offer any new data, other than summaries of ambient air temperature in Florida and South Carolina. Using the rationale in the study, based on air temperature, we could conclude that even native snakes could not survive in most of the United States, which is not the case. Snakes in the wild use a variety of physiological and behavioral mechanisms, not available to them in the captive studies, to regulate their body temperatures or escape excessive air temperatures.

Another paper that reviewed the effects of cold weather on Burmese pythons does not appear to introduce any new data that can be used to answer questions of temperature tolerances (Engeman *et al.* 2014). Several conclusions drawn are seemingly based on untested hypotheses: (1) Measures of minimum temperature are superior to measures of mean temperature; (2) Indian and Burmese pythons are physiologically and behaviorally different in relation to thermal tolerance; and (3) the incorrect assumption of thermal critical minima structure of the range limits of the snakes that can behaviorally thermoregulate.

The only comparably large native reptile in the southeastern United States, the American alligator (*Alligator mississippiensis*), has been known to survive freezing air temperatures. A study at the Savannah River Ecology Laboratory in South Carolina found that adult alligators could survive freezing temperatures by adjusting their behavior. Adults could break the ice and breathe above the ice, whereas the juveniles could not break the ice and apparently drowned (Brandt and Mazzotti 1990).

The alligator study shows that even individual reptiles of the same species (juveniles compared to adults) may have different abilities to survive. Such reasoning could be applied to large constrictors. In Dorcas *et al.* (2011), 10 wild-captured male Burmese pythons from 2 to 3.5 m (6.5 to 11.5 ft) total length were released into outdoor enclosures in South Carolina. All eventually died ostensibly of cold stress, we surmise that perhaps individuals either larger or smaller could have survived.

Scientists continue to learn more about the adaptability of constrictor snakes. Whereas salinity had been suggested to be a limiting factor in the distribution of reptiles in coastal habitats, such as the Florida Keys (Dunson and Mazzotti 1989), a later study disproved that. Hart *et al.* (2012) found that hatchling Burmese pythons survived in a laboratory setting at full saltwater conditions for at least a month. This further supports our listing of the Burmese python and may be applicable to the species in this final rule because they are closely related.

Another study sought to explain why Burmese pythons became such successful invaders in Florida (Reed *et al.* 2012). With all of the nonnative reptiles that have been introduced into the State, the Burmese python is the only exotic snake (other than the worm-sized Brahminy blindsnake (*Ramphotyphlops braminus*)) to have successfully colonized a large area (greater than 1,000 square kilometers (km^2) (386 square miles (mi^2))) of the United States. Reed *et al.* (2012) concluded that attributes related to body size and generalism (such as general habitat use and general prey) appeared to be particularly applicable to the

Burmese python's ability to spread and impact ecosystems in Florida. The attributes with the greatest scores were high reproductive potential, low vulnerability to predation, large adult body size, large offspring size, and high dietary breadth. All of these attributes are shared with the reticulated python and three anaconda species in this final rule, and all of these attributes contribute to the species' ability to become invasive.

The Service and Everglades National Park asked USGS to assess the risk of invasion of nine species of snakes to assist in the Service's determination of injuriousness. Of the nine large constrictor snakes assessed by Reed and Rodda (2009) (Burmese python (which Reed and Rodda refer to as Indian python), reticulated python, Northern African python, Southern African python, boa constrictor, yellow anaconda, DeSchauensee's anaconda, green anaconda, and Beni anaconda), five were shown to pose a high risk to the health of the ecosystem, including the Burmese python, Northern African python, Southern African python, yellow anaconda, and boa constrictor. The remaining four large constrictors—the reticulated python, green anaconda, Beni anaconda, and DeSchauensee's anaconda—were shown to pose a medium risk. None of the large constrictors that the USGS assessed was classified as low overall risk. A rating of low overall risk is considered as acceptable risk and the organism(s) of little concern (ANSTF 1996). See Lacey Act Evaluation Criteria, below, for an explanation of how USGS assessed risk.

There is a medium risk that the four large constrictors evaluated in this final rule, if they escape or are released into the wild, will establish populations within their respective thermal and precipitation limits due to common life-history traits that make them successful invaders. These traits include being habitat generalists (able to utilize a wide variety of habitats) that are tolerant of urbanization and capacity to hunt and eat a wide range of size-appropriate vertebrates (reptiles, mammals, birds, amphibians, and fish; Reed and Rodda 2009). These large constrictors are highly adaptable to new environments and opportunistic in expanding their geographic range. Furthermore, since they are a novel (new to the system) predator at the top of the food chain, they can threaten the stability of native ecosystems by altering the ecosystem's form, function, and structure.

These four species are cryptically marked and often dwell in trees or submerged in water with only their heads protruding, which makes them difficult to detect in the field, complicating efforts to identify the range of populations or deplete populations through visual searching and removal of individuals. No currently available tools appear adequate for eradication of an established population of giant snakes once they have spread over a large area. Therefore, preventing the introduction into the United States and dispersal to new areas of these invasive species is of critical importance to the health and welfare of native wildlife.

For the purposes of this rule, a hybrid is any progeny from any cross involving parents of one or more species from the four constrictor snakes evaluated in this rule. Such progeny are likely to possess the same biological characteristics of the parent species that, through our analysis, leads us to find that they are injurious to humans and to wildlife and wildlife resources of the United States. Anderson and Stebbins (1954) stated that hybrids may have caused the rapid evolution of plants and animals under domestication, and that, in the presence of new or greatly disturbed habitats, some hybrid derivates would have been at a selective advantage. Facon *et al.* (2005) stated that invasions may bring into contact related taxa that have been isolated for a long time. Facon *et al.* (2005) also stated that hybridization between two invasive taxa has been documented, and that in all these cases, hybrids outcompeted their parental taxa. Ellstrand and Schierenbeck (2000) concluded that dispersal of organisms and habitat disturbance by humans both act to accelerate the process of hybridization and increase the opportunities for hybrid lineages to take hold.

Furthermore, snakes in general have been found to harbor ticks (such as the nonnative African tortoise tick) that cause heartwater disease (from the bacterium *Cowdria ruminantium*). Heartwater disease, although harmless to its reptilian hosts, can be fatal to livestock and related wild hoofed mammals, such as white-tailed deer. According to the U.S. Department of Agriculture (USDA) (March 2000), ''Heartwater disease is an acute, infectious disease of ruminants, including cattle, sheep, goats, white-tailed deer, and antelope. This disease has a 60 percent or greater mortality rate in livestock and a 90 percent or greater mortality rate in white-tailed deer.'' The ticks have been found in Florida. Agricultural agencies are trying to stop the spread of the ticks as a way of stopping the deadly disease. This rule will help to stop the spread into and around the United States of the ticks and other disease vectors that may be carried by these four species of nonnative constrictor snakes.

Listing Process

The regulations contained in 50 CFR part 16 implement the Act. Under the terms of the Act, the Secretary of the Interior is authorized to prescribe by regulation those wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, reptiles, and the offspring or eggs of any of the foregoing that are injurious to human beings, to the interests of agriculture, horticulture, or forestry, or to the wildlife or wildlife resources of the United States. The lists of injurious wildlife species are found at 50 CFR 16.11–16.15.

In this final rule, we evaluated each of the four constrictor snake species individually and determined each to be injurious and appropriate for listing. Therefore, as of the effective date of the listing (see **DATES**, above), their importation into, or transportation between, the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever is prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit regulations at 50 CFR 16.22), or by Federal agencies without a permit solely for their own use, upon filing a written declaration with the District Director of Customs and the U.S. Fish and Wildlife Service Inspector at the port of entry. This rule does not prohibit intrastate (within State boundaries) transport of the listed constrictor snake species. Any regulations pertaining to the transport or use of these species within a particular State will continue to be the responsibility of that State.

We used the Lacey Act Evaluation Criteria as a guide to evaluate whether a species does or does not qualify as injurious under the Act. The analysis developed using the criteria serves as a basis for the Service's regulatory decision regarding injurious wildlife species listings. A species does not have to be established, currently imported, or present in the wild in the United States for the Service to list it as injurious. The objective of such a listing is to prevent that species' importation and likely establishment in the wild, thereby preventing injurious effects consistent with 18 U.S.C. 42.

Introduction Pathways for Large Constrictor Snakes

For the four constrictor snakes analyzed in this final rule, the primary pathway for the entry into the United

States is, or would likely be, the commercial pet trade. In the last few decades, most introductions of large constrictor snakes have been associated with the international trade in reptiles as pets. This trade includes wild-caught snakes, captive-bred, or captive-hatched juveniles from areas within their native countries. In their native ranges, a species may be captured in the wild and directly exported to the United States or other destination country, or wild-caught snakes may be kept in the country of origin to breed for export of subsequent generations. The main ports of entry for constrictor snakes are Miami, Los Angeles, Dallas-Ft. Worth, Baltimore, Detroit, Chicago, San Francisco, and Houston. From there, many of the live snakes are transported to animal dealers, who then transport the snakes to pet retailers. Large constrictor snakes are also bred in the United States and sold within the country.

A typical pathway of a large constrictor snake includes a pet store. Often, a person will purchase a hatchling snake (0.55 m (22 inches (in)) at a pet store or reptile show for as little as $25. The hatchling grows rapidly, even when fed conservatively, so a strong escape-proof enclosure is necessary. All snakes are adept at escaping, and constrictors are especially powerful when it comes to breaking out of cages. In captivity, they are most frequently fed pre-killed mice, rats, rabbits, and chickens. A tub of fresh water is needed for the snake to drink from and soak in. As it outgrows its tub, the snake will need to soak in increasingly larger containers, such as a bathtub. Under captive conditions, pythons and anacondas will grow very fast. After 1 year, a python may be 2 m (7 ft) and after 5 years it could be 7.6 m (25 ft), depending on how often it is fed and other aspects of husbandry. A female reticulated python, for example, can grow to more than 8.7 m (28.5 ft) long, weigh 140 kilograms (kg) (308 pounds (1bs)) or more, live more than 25 years, and must be fed larger prey, such as rabbits. Although the reticulated python is longer, the anaconda is the heaviest snake, with a 4-m (13-ft) green anaconda having bulk comparable to a 7-m (23-ft) reticulated python.

Owning a giant snake is a difficult, long-term, and somewhat expensive responsibility. This is one reason that some snakes are released by their owners into the wild when they can no longer care for them. Other snakes may escape from inadequate enclosures, which is a common pathway for large constrictor snakes to enter the ecosystem (Fujisaki *et al.* 2009). The trade in constrictor snakes is international as well as domestic. From 2004 to 2013, more than 1.2 million live constrictor snakes of 13 species (*Python* spp., *Eunectes* spp., and *Boa* spp.) were imported into the United States (Final Economic Analysis 2015). Besides the species proposed for listing, these included ball python (*Python regius*), a blood python (*P. curtus*), another blood python (*P. brongersmai*), Borneo python (*P. breitensteini*), Timor python (*P. timoriensis*), and Angolan python (*P. anchietae*), none of which has been proposed for listing as injurious. From 2004 to 2013, approximately 26,591 large constrictor snakes of two species listed by this rule were imported into the United States (Final Economic Analysis 2015; two species in this rule were not imported).

Of all the constrictor snake species imported into the United States, the selection of nine constrictor snakes for evaluation as injurious wildlife in the March 12, 2010, proposed rule (75 FR 11808) was based on concern over the giant size of these particular snakes combined with their quantity in international trade or their potential for trade. The world's four largest species of snakes (Burmese python, Northern African python, reticulated python, and green anaconda) were selected, as well as similar and closely related species and the boa constrictor. These large constrictor snakes constitute an elevated risk of injuriousness in relation to those taxa with lower trade volumes; are massive, with maximum lengths exceeding 6 m (20 ft; except for boas up to 4 m (13 ft)); and have a high likelihood of establishment in various habitats of the United States. The DeSchauensee's and Beni anacondas exhibit many of the same biological characteristics associated with a risk of establishment and negative effects in the United States.

The strongest factor influencing the chances of these large constrictors establishing in the wild are the number of release events and the numbers of individuals released (Bomford *et al.* 2009; 2005). A release event occurs when one or more individuals of a nonnative species is either intentionally or unintentionally let loose in the wild. With a sufficient number of either intentional or unintentional release events, these species will likely become established in ecosystems with suitable conditions for survival and reproduction. In most cases, for nonnative species to cause economic or ecological harm, they must first be transported out of their native range and released within a novel locality, establish a self-sustaining population in this new location, and expand their geographical range beyond the point of initial establishment. Releases of large numbers of individuals often enable the incipient (newly forming), nonnative population to withstand the inevitable decreases in survival or reproduction caused by the environment or demographic accidents.

The release of many individuals into one location essentially functions as a source pool of immigrants, thus sustaining an incipient population even if the initial release was of insufficient size (or badly timed) to facilitate long-term establishment. Natural disasters, such as Hurricane Andrew in 1992, may have provided a mechanism for the accidental release of snakes, especially in light of large numbers of juvenile pythons frequently held by breeders and importers prior to sale and distribution (Willson *et al.* 2010).

Large or consistent releases of individuals into one location may enable the incipient population to overcome behavioral limitations or other problems associated with small population sizes. This is likely the case at Everglades National Park, where the core nonnative Burmese python population in Florida is now located.

Because all four snakes in this final rule share traits that foster intentional or unintentional release events, allowing unregulated importation and interstate transport of these nonnative snakes will increase the risk of these species becoming established through increased opportunities for release. The release of large constrictor snakes at different times and locations improves, in turn, the chance of their successful establishment.

As a first step in understanding the ecology of these snakes and their potential impact on the Everglades ecosystem, the National Park Service began tracking Burmese pythons using radio-telemetry in the fall of 2005. The radio-tagged pythons have since demonstrated that female pythons make few long-distance movements throughout the year, while males roam widely in search of females during the breeding season (December–April). These results indicate an ability to move long distances in search of prey and mates. Pythons also have a ''homing'' ability. After being released far from where they were captured, they returned long distances (up to 78 kilometers (km); 48 miles (mi)) in only a few months. These findings suggest that pythons searching for a suitable home range have the potential to colonize areas far from where they were released (Snow 2008; Harvey *et al.* 2008). A related study further supported

that Burmese pythons released in Everglades National Park have navigational senses, which may contribute to the invasion dynamics of Burmese pythons and similar species (Pittman *et al.* 2014). These characteristics of Burmese pythons are likely shared by reticulated pythons and may also be shared by the anaconda species analyzed in this rule.

A second factor that is strongly and consistently associated with a species becoming invasive is a history of the species successfully establishing elsewhere outside its native range. We have no documentation of reticulated pythons or the three anacondas being invasive elsewhere in the world. However, this lack of data could be the result of the lack or low volume of these species being imported into other countries that have similar climatic conditions as the species' native range.

A third factor strongly associated with establishment success is having a good climate or habitat match between where the species naturally occurs and where it is introduced. Exotic (nonnative) reptiles and amphibians have a greater chance of establishing if they are introduced to an area with a climate that closely matches that of their original range. Species that have a large range over several climatic zones are predicted to be strong future invaders. The suitability of a country's climate for the establishment of a species can be quantified on a broad scale by measuring the climate match between that country and the geographic range of a species. Climate matching sets the broad parameters for determining if an area is suitable for a nonnative large constrictor snake to establish.

These three factors have all been consistently demonstrated to increase the chances of establishment by all invasive vertebrate taxa, including the four large constrictor snakes in this final rule (Bomford 2008, 2009). However, as stated above, a species does not have to be established, currently imported, or present in the wild in the United States for the Service to determine that it is injurious. The objective of such a listing is to prevent that species' importation, release into the wild, survival, and likely establishment in the wild, thereby preventing injurious effects consistent with 18 U.S.C. 42.

Species Information

Reticulated Python (Python reticulatus)

Native Range

Although native range boundaries are disputed, reticulated pythons conservatively range across much of Southeast Asia (Reed and Rodda 2009). They are found from sea level up to more than 1,300 m (4,265 ft) and inhabit lowland primary and secondary tropical wet forests, tropical open dry forests, tropical wet montane forests, rocky scrublands, swamps, marshes, plantations and cultivated areas, and suburban and urban areas. Reticulated pythons occur primarily in areas with a wet tropical climate. Although they also occur in areas that are seasonally dry, reticulated pythons do not occur in areas that are continuously dry or very cold at any time (Reed and Rodda 2009).

Biology

Three scientific names are mainly associated with the reticulated python: *Python reticulatus, Broghammerus reticulatus,* and *Malayopython reticulatus.* Please see Reed and Rodda (2009) for a discussion of the taxonomy and nomenclature of the latter two names. Reynolds *et al.* (2014) considers the genus as *Malayopython,* which may have merit. Therefore, we are including this as another synonym, so that if the genus does change, it is clear to which species we are referring.

The reticulated python is most likely the world's longest snake. Adults can grow to a length of more than 8.7 m (28.5 ft) (Reed and Rodda 2009), with a report of one in the Philippines at 10 m (32.8 ft) (Headland and Greene 2011). The maximum reported weight is 150 kg (330 lb) (Reed and Rodda 2009). As with all snakes, pythons can grow throughout their lives (Reed and Rodda 2009).

Like all pythons, the reticulated python is oviparous (lays eggs). The clutch sizes range from 8 to 124, with typical clutches of 20 to 40 eggs. Recently, this species was documented to reproduce by parthenogenesis (egg develops without fertilization by a male) when an 11-year-old female laid a clutch of 61 eggs without a male present for more than 2 years (Booth *et al.* 2014). The reticulated python's life history is fairly representative of large constrictors because juveniles are relatively small when they hatch, but nevertheless are independent from birth, grow rapidly, and mature in a few years. Hatchlings are at least 61 cm (2 ft) in total length (Reed and Rodda 2009). We have no data on life expectancy in the wild, but several captive specimens have lived for nearly 30 years (Reed and Rodda 2009).

Reticulated pythons are extremely capable predators. Like all of the large constrictors, they are cryptically colored. In general, constrictor snakes have especially strong musculature, which enables them to hold onto struggling live prey almost as large as themselves. The giant size of reticulated pythons makes them especially strong, and, combined with their streamlined shape, makes them remarkably adept at climbing, passing through dense brush, and even swimming.

Reticulated pythons are primarily silent hunters that lie in wait along pathways used by their prey and then ambush them; the pythons kill by wrapping their muscular bodies around their victims, squeezing tighter as the prey exhales until the victims suffocate. The methods of predation used by the reticulated python (whether sit-and-wait or actively hunting, or whether diurnal or nocturnal), as well as the other three species of large constrictor snakes in this final rule, work as well in their native ranges as in the United States. The reticulated python is an opportunistic predator capable of preying on a wide range of species, including chickens, rats, monitor lizards, civet cats, bats, an immature cow, various primates, deer, wild boars, goats, cats, dogs, ducks, rabbits, tree shrews, porcupines, frogs, fish, and many species of wild birds (Reed and Rodda 2009). Prey size is roughly correlated with the python's body size, with young or small pythons eating small prey and larger pythons eating larger prey.

Reticulated pythons frequently swim in waterways, where they hunt for aquatic prey. Waterways also facilitate the pythons' dispersal to new areas. Smaller pythons can also climb trees to prey on arboreal animals, avoid predators, and thermoregulate.

A host of internal and external parasites plague wild reticulated pythons (Auliya 2006). The pythons in general are hosts to various protozoans, nematodes, ticks, and lung arthropods (Reed and Rodda 2009). Captive reticulated pythons can carry ticks of agricultural significance (potential threat to domestic livestock) (Burridge *et al.* 2000, 2006; Clark and Doten 1995). Several studies (Burridge *et al.* 2000, Kenny *et al.* 2004, Reeves *et al.* 2006) have shown disease agents in the ticks that travel internationally on reptiles, which may serve in the introduction of disease agents that could impact the health of local wildlife, domestic animals, and humans (Corn *et al.* 2011).

The reticulated python can be an aggressive and dangerous species. Reed and Rodda (2009) cite numerous sources of people being bitten, attacked, and even killed by reticulated pythons in their native range. However, the only occurrences of human fatalities in the United States from reticulated pythons were caused by captive specimens. Outside of the United States, such as in the Philippines, reticulated pythons have been reported to kill and even

consume humans in remote hunter-gatherer cultures (Headland and Greene 2011). In that study, 11 of 19 Filipinos died from attacks by reticulated pythons; no attacks were by captive snakes. Of reticulated pythons that attacked people in the Philippines, the longest was 10 m (32.8 ft) (Headland and Greene 2011).

DeSchauensee's Anaconda (Eunectes deschauenseei)

Native Range

DeSchauensee's anaconda is known from a small number of specimens and has a limited range in northeast South America. As currently understood, the ''yellow anacondas'' comprise two species with entirely disjunct distributions (Reed and Rodda 2009). The northern form, DeSchauensee's anaconda (*Eunectes deschauenseei*), is known from a small number of specimens and has a limited range in northeast South America. The southern form, the yellow anaconda (*Eunectes notaeus*) has a larger distribution in subtropical and temperate areas of South America, and has received more scientific attention. We published a final rule to list the yellow anaconda as injurious on January 23, 2012 (77 FR 3330).

The DeSchauensee's anaconda is largely confined to the Brazilian island of Marajó, nearby areas around the mouth of the Amazon River, and several drainages in French Guiana. Although not well studied, DeSchauensee's anaconda apparently prefers swampy habitats that may be seasonally flooded. DeSchauensee's anaconda is known from only a few localities in northeast South America, and its known climate range is accordingly very small. While the occupied range exhibits moderate variation in precipitation across the year, annual temperatures tend to range between 25 °C (77 °F) and 30 °C (86 °F). We do not know whether the species could tolerate greater climatic variation.

Biology

DeSchauensee's anaconda appears to be the smallest of the anacondas, although the small number of available specimens does not allow unequivocal determination of maximal body sizes. Dirksen and Henderson (2002) record a maximum total length of available specimens as 1.92 m (6.3 (ft)) in males and 3.0 m (9.8 (ft)) in females.

In captivity, a DeSchauensee's anaconda was reported to live for 17 years, 11 months (Snider and Bowler 1992). The DeSchauensee's anaconda is live-bearing. Clutch sizes of DeSchauensee's anacondas ranged from 3 to 27 (mean 10.6 ± 9.6) in a sample of five museum specimens (Pizzatto and Marques 2007), a range far greater than reported in some general works (for example, three to seven offspring; Walls 1998).

DeSchauensee's anaconda is reported to consume mammals, fish, and birds, and its overall diet is assumed to be similar to that of the yellow anaconda (Reed and Rodda 2009). DeSchauensee's anacondas frequently swim in waterways, where they hunt for aquatic prey. Anacondas appear to use rivers to disperse (McCartney-Melstad 2012). Smaller anacondas can also climb trees to prey on arboreal animals, avoid predators, and thermoregulate.

Green Anaconda (Eunectes murinus)

Native Range

The native range of green anaconda includes aquatic habitats in much of South America below 850 m (2,789 ft) elevation plus the insular population on Trinidad, encompassing the Amazon and Orinoco Basins; major Guianan rivers; the San Francisco, Parana, and Paraguay Rivers in Brazil; and extending south as far as the Tropic of Capricorn in northeast Paraguay. The range of green anaconda is largely defined by availability of aquatic habitats. Depending on location within the wide distribution of the species, these appear to include deep, shallow, turbid, and clear waters, and both lacustrine and riverine habitats (Reed and Rodda 2009).

Biology

Reed and Rodda (2009) describe the green anaconda as truly a giant snake, having a very stout body and fairly reliable records of lengths over 7 m (23 ft). The females typically outweigh the males. Very large anacondas are almost certainly the heaviest snakes in the world, ranging up to 200 kg (441 lb) (Bisplinghof and Bellosa 2007), even though reticulated pythons, for example, may attain greater lengths (Reed and Rodda 2009).

The green anaconda bears live young. The maximum recorded litter size is 82, removed from a Brazilian specimen, but the typical range is 28 to 42 young. Neonates (newly born young) are around 70 to 80 centimeters (cm) (27.5 to 31.5 inches (in)) long and receive no parental care. As with all the large constrictor snakes, hatchlings can fall prey to other animals. If they survive, they grow rapidly until they reach sexual maturity in their first few years (Reed and Rodda 2009). While reproduction is typically sexual, Reed and Rodda (2009) report that a female green anaconda that was kept in captivity for 26 years with no access to males gave birth to 23 females. This raises the possibility that green anacondas are facultatively parthenogenetic, and that, theoretically, a single female green anaconda could establish a population.

The green anaconda is considered a top predator in South American ecosystems. Small anacondas appear to primarily consume birds, and as they grow larger, they shift to eating larger mammals and reptiles. The regular inclusion of fish in the diet of all anacondas increases their dietary niche breadth in relation to the other large constrictors, which rarely consume fish. Green anacondas consume a wide variety of endotherms (so-called warm-blooded animals) and ectotherms from higher taxa, including such large prey as deer and crocodilians (alligators are a type of crocodilian). The regular inclusion of fish, turtles, and other aquatic organisms in their diet increases their range of prey even beyond that of reticulated or Burmese pythons. Vertebrate animals that regularly inhabit aquatic habitats are likely to be most commonly consumed by green anacondas (Reed and Rodda 2009). Green anacondas would have a ready food supply anywhere that the climate and habitat matched their native range. Since green anacondas are known to prey upon crocodilians, they could potentially prey on alligators, which are common in the southeastern United States.

Green anacondas frequently swim in waterways, where they hunt for aquatic prey. Anacondas appear to use rivers to disperse (McCartney-Melstad 2012). Smaller anacondas can also climb trees to prey on arboreal animals, avoid predators, and thermoregulate.

Beni Anaconda (Eunectes beniensis)

Native Range

The Beni anaconda is a recently described and poorly known anaconda closely related to the green anaconda (Reed and Rodda 2009). The native range of the Beni anaconda is the Itenez–Guapore River in Bolivia along the border with Brazil, as well as the Baures River drainage in Bolivia. The green and Beni anacondas are similar in size, and the range of the Beni anaconda is within the range of the green anaconda (Bolivia).

Biology

Eunectes beniensis is a recently described species from northern Bolivia, previously considered to be contained within *E. murinus. Eunectes beniensis*

was discovered in the Beni Province of Bolivia—thus the common name of Beni anaconda and another alias of Bolivian anaconda. To an experienced herpetologist, *E. beniensis* is easily recognizable by its brown to olive-brownish ground color in combination with five head stripes and fewer than 100 large, dark, solid dorsal blotches that always lack lighter centers. To a novice, *E. beniensis* and *E. murinus* are similar in appearance. *E. beniensis* is primarily aquatic and eats a wide variety of prey, including fish, birds, mammals, and other reptiles.

Beni anacondas frequently swim in waterways, where they hunt for aquatic prey. Anacondas appear to use rivers to disperse (McCartney-Melstad 2012). Smaller anacondas can also climb trees to prey on arboreal animals, avoid predators, and thermoregulate.

Presence of the Four Constrictor Snakes in the United States

Of the four constrictor snake species that we are listing as injurious in this final rule, two have been reported in the wild in the United States, but none have been confirmed as reproducing in the wild in the United States (see *Current Nonnative Occurrences,* below); two of the four have been imported commercially into the United States during the period 2004 to 2013 (Final Economic Analysis 2015). Species ''reported in the wild'' are ones that have been found in the wild but without proof to date that they have reproduced in the wild. The greatest opportunity for preventing a species from becoming injurious is to stop a species from entering the wild; the second greatest opportunity is before a species becomes established in the wild (reported but not reproducing); and the smallest opportunity is when a species has become established (reproducing in the wild).

TABLE 1—FOUR SPECIES OF LARGE CONSTRICTOR SNAKES AND WHETHER THEY HAVE BEEN REPORTED IN THE WILD IN THE UNITED STATES, ARE KNOWN TO BE REPRODUCING IN THE WILD IN THE UNITED STATES, OR HAVE BEEN IMPORTED FOR TRADE (2004 TO 2013)

Species	Reported in the wild in U.S.?	Reproducing in the wild in U.S.?	Imported into U.S. for trade? *
Reticulated python.	Yes ...	No	Yes.

TABLE 1—FOUR SPECIES OF LARGE CONSTRICTOR SNAKES AND WHETHER THEY HAVE BEEN REPORTED IN THE WILD IN THE UNITED STATES, ARE KNOWN TO BE REPRODUCING IN THE WILD IN THE UNITED STATES, OR HAVE BEEN IMPORTED FOR TRADE (2004 TO 2013)—Continued

Species	Reported in the wild in U.S.?	Reproducing in the wild in U.S.?	Imported into U.S. for trade? *
DeSchauensee's anaconda.	No	No	No.**
Green anaconda	Yes ...	No	Yes.
Beni anaconda ...	No	No	No.**

* Data from Law Enforcement Management Information System (LEMIS; USFWS 2014)

** It is possible that this species has been imported into the United States incorrectly identified as one of the other species listed by this rule or the January 23, 2012, final rule (77 FR 3330); however, none has been reported.

Lacey Act Evaluation Criteria

We use the criteria below to evaluate whether a species does or does not qualify as injurious under the Lacey Act, 18 U.S.C. 42. The analysis that is developed using these criteria serves as a general basis for the Service's decision regarding injuriousness (not just for the four snake species we are listing in this final rule). Biologists within the Service who are knowledgeable about a species being evaluated assess both the factors that contribute to and the factors that reduce the likelihood of injuriousness.

(1) Factors that contribute to being considered injurious:

- The likelihood of release or escape;
- Potential to survive, become established, and spread;
- Impacts on wildlife resources or ecosystems through hybridization and competition for food and habitats, habitat degradation and destruction, predation, and pathogen transfer;
- Impact to endangered and threatened species and their habitats;
- Impacts to human beings, forestry, horticulture, and agriculture; and
- Wildlife or habitat damages that may occur from control measures.

(2) Factors that reduce the likelihood of the species being considered as injurious:

- Ability to prevent escape and establishment;
- Potential to eradicate or manage established populations (for example, making organisms sterile);
- Ability to rehabilitate disturbed ecosystems;
- Ability to prevent or control the spread of pathogens or parasites; and
- Any potential ecological benefits to introduction.

To obtain some of the information for the above criteria, we referred to Reed and Rodda (2009). Reed and Rodda (2009) developed the Organism Risk Potential scores for each species using a widely utilized risk assessment procedure that was published by the Aquatic Nuisance Species Task Force (ANSTF), called ''Generic nonindigenous aquatic organisms risk analysis review process (for estimating risk associated with the introduction of nonindigenous aquatic organisms and how to manage that risk)'' (ANSTF 1996). The ANSTF was created under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 *et seq.*) to provide a way for government agencies to develop a national program to reduce the risk of unintentional introductions, ensure prompt detection and response, and control established species.

The ANSTF (1996) procedure incorporates four factors associated with probability of establishment and three factors associated with consequences of establishment, with the combination of these factors resulting in an overall Organism Risk Potential (ORP) for each species. For the four constrictor snakes in this final rule, the overall potential risk of establishment was medium.

Certainties were highly variable within each of the seven elements or factors of the risk assessment mentioned above, varying from very uncertain to very certain. In general, the highest certainties are associated with species unequivocally established in new ranges because of enhanced ecological information on these species from studies in both their native range and in Florida. The way in which these subscores are obtained and combined is set forth in an algorithm created by the ANSTF (Table 2).

TABLE 2—THE ALGORITHM THAT THE ANSTF (1996) DEFINED FOR COMBINING THE TWO PRIMARY SUBSCORES (REED AND RODDA 2009)

Probability of establishment	Consequences of establishment	Organism Risk Potential (ORP)
High	High	High.
Medium	High	High.
Low	High	Medium.
High	Medium	High.
Medium	Medium	Medium.
Low	Medium	Medium.
High	Low	Medium.
Medium	Low	Medium.
Low	Low	Low.

Similar algorithms are used for deriving the primary subscores from the secondary subscores. However, the scores are fundamentally qualitative, in the sense that there is no unequivocal threshold that is given in advance to determine when a given risk passes from being low to medium, and so forth. Therefore, we viewed the process as one of providing relative ranks for each species. Thus, a high ORP score indicates that such a species would likely entail greater consequences or greater probability of establishment than would a species whose ORP was medium or low (that is, high > medium > low). Medium-risk species include the four species being designated as injurious by this rulemaking: Reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda. Medium-risk species, if established in this country, would put portions of the U.S. mainland, Hawaii, and insular territories at risk and constitute a great potential ecological threat. As stated above, we use this information in our evaluation to determine if a species meets the criteria of being injurious, but it is not the only information we use. The following sections on ''Factors That Contribute to Injuriousness * * *'' and ''Factors That Reduce or Remove Injuriousness * * *'' explain how we arrived at our determinations of injuriousness for each species.

Factors That Contribute to Injuriousness for Reticulated Python

Current Nonnative Occurrences

In Florida, reticulated pythons have been observed or removed from Bradenton, Clearwater, Miami, Sebastian, and Vero Beach. For example, a 5.5-m (18-ft) reticulated python was struck by a person mowing grass along a canal in Vero Beach in 2007, and a reticulated python was removed along Roseland Road in Sebastian (B. Dangerfield, pers. comm. 2010). In the Commonwealth of Puerto Rico, reticulated pythons have been collected in the western region of the island (Aguadilla and Mayaguez), and the southern region of the island (Guayama), including a 5.5-m (18-ft) long specimen (J. Saliva, pers. comm. 2009).

Media accounts from 1980 to 2014 report that reticulated pythons have escaped captivity or were spotted in the wild in the following States: California, Florida, Illinois, Kansas, Maine, New Jersey, Ohio, Pennsylvania, Washington, and West Virginia (HSUS 2014). This illustrates that the potential for release or escape is not confined to Florida and Puerto Rico but could occur in many States. The States listed were merely the ones for which we have reports. Other occurrences may not have been reported or the species not identified. See *Introduction Pathways for Large Constrictor Snakes,* above, for the explanation of how release events are relevant to the potential establishment of reticulated pythons.

Potential Introduction and Spread

The likelihood that a reticulated python will be released or will escape from captivity is high as evidenced by a number of reports as discussed above in *Current Nonnative Occurrences* and because they possess the physical traits that contribute to release or enable escape. Relatively few private pet owners can maintain such a large species properly throughout its lifetime, leading to intentional release or escape. Once out of captivity, reticulated pythons are highly likely to survive in natural ecosystems (primarily extreme southern habitats) of the United States. Reticulated pythons have a somewhat tropical native distribution, so the area of the mainland United States showing a climate match is exclusively subtropical, and limited to southern Florida and extreme southern Texas. Low- and mid-elevation sites in the United States' tropical territories (Guam, Northern Mariana Islands, American Samoa, Virgin Islands, Puerto Rico) and Hawaii also appear to be climate-matched to the requirements of reticulated pythons. If they escape or are intentionally released, they are likely to survive and become established within their respective thermal and precipitation limits. Reticulated pythons were recently documented to be able to reproduce parthenogenetically, meaning that females do not need males to lay viable eggs (Booth *et al.* 2014). Thus, even just one female python could potentially create a population. Reticulated pythons are highly likely to spread and become established in the wild due to common traits shared by all the large constrictors we are listing as injurious in this rule, including: Rapid growth to a large size with production of many offspring; ability to survive under a range of habitat types and conditions (habitat generalist); ability to adapt to live in urban and suburban areas; ability to disperse long distances; and ability to conceal themselves and ambush a wide variety of prey.

Potential Impacts to Native Species (Including Endangered and Threatened Species)

Reticulated pythons are highly likely to prey on U.S. native species, including endangered and threatened species where present. Their natural diet includes mammals, birds, reptiles, and fish. An adverse effect of reticulated python on endangered and threatened species is likely to be moderate to high.

Native fauna have no experience defending against such a novel, giant predator as the reticulated python. As discussed above under *Biology,* the reticulated python can grow to a length greater than 8.7 m (28.5 ft) and the maximum reported weight is 150 kg (330 lb). This is longer than any native terrestrial predator (including bears) in the United States and its territories, and heavier than most native predators (including black bears and many alligators). In comparison with the reticulated python, the longest snake native to the United States is much smaller. The longest native snake is the indigo snake (*Drymarchon corais*), attaining a maximum length of about 2.5 m (8 ft) (Monroe and Monroe 1968). A subspecies of the indigo snake is the eastern indigo snake (*D. corais couperi*), which grows to the same length as *D. corais.* The eastern indigo snake inhabits Georgia and Florida, and is listed as federally threatened by the Service. The native, endangered Puerto Rican boa's (*Epicrates inornatus*) maximum size is approximately 2 m (6.5 ft) (U.S. Fish and Wildlife Service 1986).

Unlike prey species in the reticulated python's native range, none of our native species has evolved defenses to avoid predation by such a large snake. Thus, native wildlife in the United States where reticulated pythons exist would be very likely to fall prey to the pythons (or any of the other three constrictor snakes we are listing in this rule). At all life stages, reticulated pythons can and will compete for food with native species; in other words, baby pythons will eat small prey, and the size of their prey will increase as the pythons grow. Once reticulated pythons are introduced and established, they may outcompete native predators (such as the federally protected Florida panther, eastern indigo snake, native boas, and hawks), feeding on the same prey and thereby reducing the supply of prey for the native predators.

Reticulated pythons are generalist predators that consume a wide variety of mammal and bird species, as well as reptiles, amphibians, and occasionally fish. This constrictor can easily adapt to prey on novel wildlife (species that they are not familiar with), and they need no special adaptations to hunt, capture, and consume them.

The United States, particularly the Southeast, has a diverse faunal

community that is potentially vulnerable to predation by the reticulated python. Juveniles of these large constrictors will climb trees and rocks to remove prey from bird nests and capture perching or sleeping birds. The southernmost part of the United States has suitable climate and habitat for reticulated pythons. The greatest biological impact of an introduced predator, such as the reticulated python, is the additional stress placed on imperiled native species, which may preclude their recovery. Based on the food habits and habitat preferences of the reticulated python in its native range, the species is likely to invade the habitat, prey on, and further threaten many of the federally endangered or threatened fauna in climate-suitable areas of the United States (Reed and Rodda 2009).

Reticulated pythons are also likely to decrease the populations of numerous potential candidate animals for Federal protection by hunting and eating them. Candidate species are plants and animals for which the Service has sufficient information on their biological status and threats to propose them as endangered or threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), but for which development of a proposed listing regulation is precluded by other higher priority listing activities.

The final environmental assessment for the four species in this final rule (Final Environmental Assessment 2015) includes lists of species that are federally or State endangered or threatened in some climate-suitable States and territories: Florida, Hawaii, Guam, Puerto Rico, and the Virgin Islands. Other States have federally or State endangered or threatened species that would be suitable prey for large, nonnative constrictor snakes, including the reticulated python. These lists include only the species of the sizes and types that would be expected to be directly affected by predation by reticulated pythons and the other large, nonnative constrictors. For example, plants and marine species are excluded. In Florida, 13 bird species, 15 mammals, and 2 reptiles that are federally endangered or threatened could be preyed upon by reticulated pythons or be outcompeted by them for prey. Hawaii has 34 bird species and 1 mammal that are federally endangered or threatened that would be at risk of predation. Puerto Rico has 9 bird species and 10 reptile species that are federally endangered or threatened that would be at risk of predation or competition for prey. The Virgin Islands has one bird species and three reptiles that are federally endangered or threatened that would be at risk of predation or competition for prey. Guam has seven bird species and two mammals that are federally endangered or threatened that would be at risk of predation.

According to the climate suitability maps (Reed and Rodda 2009), endangered and threatened species from parts of Florida, southern Texas, Hawaii, and Puerto Rico would be at risk from the establishment of reticulated pythons. In addition, Guam, the U.S. Virgin Islands, and other territories would have suitable habitat and climate to support reticulated pythons, and these also have federally endangered and threatened species that would be at risk if reticulated pythons became established.

Potential Impacts to Humans

Like all pythons, reticulated pythons are nonvenomous. The reticulated python can be an aggressive and dangerous species of giant constrictor to humans. Reed and Rodda (2009) cite numerous sources of people being bitten, attacked, and killed by reticulated pythons in their native range. Headland and Greene (2011) determined that 26 percent of a segment of hunter-gatherer Filipinos had been attacked by reticulated pythons, some fatally. The only human deaths in the United States from reticulated pythons that we are aware of were from captive snakes (in Indiana, Iowa, Kentucky, Louisiana, Nevada, Texas, and Virginia; HSUS 2014). An established population of reticulated pythons would be expected to create the greatest public safety risk of all large constrictor snakes evaluated.

Captive reticulated pythons can carry ticks of agricultural significance (potential threat to domestic livestock) in Florida (Burridge *et al.* 2000, 2006; Clark and Doten 1995), and likely to livestock outside of Florida. African tick species that use pythons as hosts may be vectors of heartwater, and these ticks have been observed to transfer to other hosts, including other giant constrictors, other reptiles, and dogs. Because multiple python species are typically held captive in close proximately to each other in the commercial trade, such proximity provides tick transfer opportunities to occur prior to retail sales (Reed and Rodda 2009).

The introduction or establishment of reticulated pythons would likely have negative impacts on humans primarily from the loss of native wildlife biodiversity and as carriers of livestock diseases, as discussed above. These losses would affect the aesthetic, recreational, and economic values currently provided by native wildlife and healthy ecosystems. Educational values would also be diminished through the loss of biodiversity and ecosystem health.

Factors That Reduce or Remove Injuriousness for Reticulated Python

Control

Eradication, management, or control of the spread of reticulated python will be highly unlikely once the species is established. No effective tools are currently available to detect and remove large, nonnative constrictor populations. Traps with drift fences or barriers are the best option, but their use on a large scale is prohibitively expensive. Additionally, some areas cannot be effectively trapped due to the expanse of the area and type of terrain, the distribution of the target species, and the effects on any nontarget species (that is, trapping native wildlife). While the Department of the Interior, USDA Animal and Plant Health Inspection Service (APHIS), and State of Florida entities have conducted some research on control tools, no currently available tools are adequate for eradication of an established population of large, nonnative constrictor snakes, such as the reticulated python, once they have spread over a large area.

Efforts to eradicate large, nonnative constrictor snakes in Florida have intensified to keep the expansion to a minimum as species are reported in new locations across the State. Natural resource management agencies are expending scarce resources to devise methods to capture or otherwise control any large, nonnative constrictor snake species. These agencies recognize that control of large constrictor snakes (as major predators) on lands that they manage is necessary to prevent the likely adverse impacts to the ecosystems occupied by the invasive snakes.

The final economic analysis was prepared for the four constrictor snakes that are the subjects of this final rule (USFWS 2015) and provides the following information about the expenditures for research and eradication in Florida, primarily for Burmese pythons, which provides some indication of the efforts to date. Control methods used for Burmese pythons may also be applied to other large constrictor snakes. The Service spent more than $600,000 over a 3-year period (2007–2009) on python trap design, deployment, and education in the Florida Keys to prevent the potential extinction of the endangered Key Largo woodrat (*Neotoma floridana smalli*) at

Crocodile Lake National Wildlife Refuge. More recently, the Service and USGS have spent up to $20,000 over the 2012–2013 period on planning efforts to address constrictor snake infestations and expect to spend between $25,000 and $50,000 from 2014 to 2018 (U.S. Fish and Wildlife Service, Rebekah Gibble, personal communication 2014). The South Florida Water Management District spent $334,000 between 2005 and 2009, and anticipates spending an additional $156,600 on research, salaries, and vehicles in the next several years. An additional $300,000 will go for the assistance of USDA Wildlife Services (part of USDA Animal and Plant Health Inspection Service). The USDA Wildlife Research Center (Gainesville (FL) Field Station) spent $15,800 in 2008–2009 on salaries, travel, and supplies. The USGS, in conjunction with the University of Florida, has spent over $1.5 million on research, radio telemetry, and the development, testing, and implementation of constrictor snake traps. Miami-Dade County Parks and Recreation Department, Natural Areas Management and Department of Environmental Resources Management have spent $60,875 annually on constrictor snake issues. The National Park Service has spent an average of $380,000 annually from 2004 to 2014, on various programs related to constrictor snake issues in the Everglades National Park (National Park Service, Carol Mitchell, personal communication 2014). All these expenditures total $6.5 million from 2004 to 2014 (estimated for 2014), or roughly an average of $586,000 per year. Despite this investment, all of these efforts have failed to provide a method for eradicating large, nonnative constrictor snakes in Florida.

Kraus (2009) exhaustively reviewed the literature on invasive herpetofauna. While he found a few examples of local populations of amphibians that had been successfully eradicated, he found no such examples for reptiles. He also states that, ''Should an invasive [nonnative] species be allowed to spread widely, it is usually impossible—or at best very expensive—to eradicate it.'' The reticulated python is unlikely to be one of those species that could be eradicated. Witmer and Fuller (2011) also found no reports of eradications of introduced reptiles in the United States.

Eradication will almost certainly be unachievable for a species that is hard to detect and remove at low densities, which is the case with all of the four large constrictor snakes that are the subjects of this final rule. They are well-camouflaged and stealthy, and, therefore, nearly impossible to see in the wild. Most of the protective measures available to prevent the escape of reticulated pythons are currently (and expected to remain) cost-prohibitive and labor-intensive. Even with protective measures in place, the risks of accidental escape are not likely to be eliminated. Since effective measures to prevent the establishment or eradicate, manage, or control the spread of established populations of the reticulated python are not currently available, the ability to rehabilitate or recover ecosystems disturbed by the species is low.

Potential Ecological Benefits for Introduction

While the introduction of reticulated pythons could potentially provide a food source for some native carnivores, species native to the United States are unlikely to possess the hunting ability for such large, camouflaged snakes and would not likely turn to reticulated pythons as a food source. However, juvenile snakes could fall prey to native wildlife such as alligators, raccoons, coyotes, and birds of prey. In addition, a large constrictor snake could prey on other nonnative species such as green iguanas, feral hogs, and black rats. The risks to native wildlife greatly outweigh these unlikely benefits. There are no other potential ecological benefits from the introduction into the United States or establishment in the United States of reticulated pythons.

Conclusion

The reticulated python can grow to a length of more than 8.7 m (28.5 ft); this is longer than any native, terrestrial animal in the United States and at least as long as any snake species in the world. Native fauna have no experience defending against this type of novel, giant predator. Several captive reticulated pythons have lived for nearly 30 years. The reticulated python can be an aggressive and dangerous species to humans. An established population of reticulated pythons would be expected to create the greatest public safety risk from all large constrictor snakes evaluated. Reticulated pythons can carry ticks of agricultural significance (potential threat to domestic livestock).

Because reticulated pythons are likely to escape from captivity or be released into the wild if imported; are likely to survive, become established, and spread if they escape captivity or are released into areas of the United States that have suitable climate and habitat; are likely to prey on and compete with native species for food and habitat (including endangered and threatened species); are likely to be disease vectors for livestock or native wildlife; cannot be easily eradicated, prevented from establishing, or reduced from large populations or new locations; and are likely to disturb ecosystems beyond the point of recoverability, the Service finds the reticulated python to be injurious to humans, agricultural interests, and wildlife and wildlife resources of the United States.

Factors That Contribute to Injuriousness for DeSchauensee's Anaconda

Current Nonnative Occurrences

We do not know of any occurrences of the DeSchauensee's anaconda in the United States.

Potential Introduction and Spread

DeSchauensee's anacondas share similar traits with the other three species of constrictor snakes, although they are smaller. A smaller-sized constrictor may be more desirable to some potential pet owners who want a constrictor snake but do not want to handle the larger species, and thus DeSchauensee's anacondas may eventually be imported into the United States as an alternative species. Because DeSchauensee's anacondas possess the same traits as other large constrictor snakes, such as powerful musculature, streamlined body, and fast growth rate, this species is likely to escape or be released into the wild if imported into the United States. DeSchauensee's anacondas are highly likely to spread and become established in the wild due to common traits shared by many large constrictors, including: Rapid growth to a large size with production of many offspring; ability to survive under a range of habitat types and conditions (habitat generalist); ability to disperse long distances; and ability to conceal themselves and ambush prey.

Reed and Rodda's (2009) map identified no areas of the continental United States or Hawaii that appear to have precipitation and temperature profiles similar to those observed in the species' native range, although the southern margin of Puerto Rico and its out-islands (for example, Vieques and Culebra) appear suitable. However, we do not know whether the species' native distribution is limited by factors other than climate. Reed and Rodda (2009) extended the climate match globally, meaning they used the climate data from the native range and found that they matched other parts of the Amazon Basin and tropical areas of the world. This leads to the conclusion that climate

is not the limiting factor but instead could be biogeography, competition, or other factors. If the small, native range is attributable to ecological (for example, competition with green anacondas), or anthropogenic (for example, habitat loss) factors, then Reed and Rodda's (2009) qualitative estimate of the climatically suitable areas of the United States would represent an underprediction.

Potential Impacts to Native Species (Including Endangered and Threatened Species)

The DeSchauensee's anaconda would likely have a similar impact as the yellow anaconda, which we listed as injurious in 2012. DeSchauensee's anacondas eat mammals, fish, and birds in their native range and will prey on native species, including select endangered and threatened species if they become established in the United States. Anacondas employ both ''ambush predation'' and ''wide-foraging'' strategies (Reed and Rodda 2009). Endangered and threatened wildlife occupying the DeSchauensee's anaconda's preferred habitats would be at risk.

The DeSchauensee's anaconda is larger (reported to 3 m (9.8 ft)) than the largest snake native to the continental United States. See *Potential Impacts to Native Species (Including Endangered and Threatened Species)* for the reticulated python for comparison to native predators.

Please also see *Potential Impacts to Native Species (Including Endangered and Threatened Species)* under Factors that Contribute to Injuriousness for Reticulated Python for a description of the impacts that DeSchauensee's anacondas would have on native species. These impacts are applicable to DeSchauensee's anacondas by comparing their prey type with the suitable climate areas and the listed species found in those areas.

According to the climate suitability maps (Reed and Rodda 2009; Final Environmental Assessment 2015), endangered and threatened species from part of Puerto Rico would be at risk from the establishment of DeSchauensee's anacondas. In addition, the global climate match produced by Reed and Rodda (2009) showed a broader tropical range than that of the native range, and that other tropical areas of the world appear to be climatically similar. Because Guam, the U.S. Virgin Islands, and other U.S. territories are tropical, the climate may be suitable. Puerto Rico has 9 bird species and 10 reptile species that are federally endangered or threatened species that would be at risk if DeSchauensee's anacondas became established. Guam has seven bird species and two mammal species that are endangered or threatened that could be at risk of predation. The Virgin Islands has one bird species and three reptile species that are endangered or threatened that could be at risk of predation.

Potential Impacts to Humans

The introduction or establishment of DeSchauensee's anacondas would likely have negative impacts on humans primarily from the loss of native wildlife biodiversity, as discussed above in the discussion for the reticulated python. These losses would affect the aesthetic, recreational, and economic values currently provided by native wildlife and healthy ecosystems. Educational values would also be diminished through the loss of biodiversity and ecosystem health. Agricultural interests may be negatively affected by imported anacondas carrying ticks that transfer harmful pathogens to livestock.

Factors That Reduce or Remove Injuriousness for DeSchauensee's Anaconda

Control

Prevention, eradication, management, or control of the spread of DeSchauensee's anacondas will be highly unlikely. Please see the ''*Control*'' section for the reticulated python for reasons why DeSchauensee's anacondas would be difficult to control, all of which apply to this large constrictor.

Potential Ecological Benefits for Introduction

While the introduction of DeSchauensee's anacondas could potentially provide a food source for some native carnivores, species native to the United States are unlikely to possess the hunting ability for such large, camouflaged snakes and would not likely turn to DeSchauensee's anacondas as a food source. However, juvenile snakes could fall prey to native wildlife such as alligators, raccoons, coyotes, and birds of prey. In addition, a large constrictor snake could prey on other nonnative species such as green iguanas, feral hogs, and black rats. The risks to native wildlife greatly outweigh this unlikely benefit. There are no other potential ecological benefits from the introduction into the United States or establishment in the United States of DeSchauensee's anacondas.

Conclusion

DeSchauensee's anacondas are likely to establish and spread to suitable permanent surface-water areas because of their large size, high reproductive potential, early maturation, rapid growth, longevity, and generalist surprise-attack predation. DeSchauensee's anacondas are highly likely to survive in natural ecosystems of a small but vulnerable region of the United States, including the southern margin of Puerto Rico and its out-islands, U.S. Virgin Islands, Guam, and other U.S. islands.

Because DeSchauensee's anacondas are likely to escape captivity or be released into the wild if imported into the United States; are likely to survive, become established, and spread if they escape captivity or are released; are likely to prey on and compete with native species for food and habitat (including endangered and threatened species); cannot be easily eradicated, prevented from establishing, or reduced from large populations or new locations; and are likely to disturb ecosystems beyond the point of recoverability, the Service finds the DeSchauensee's anaconda to be injurious to humans and to the wildlife and wildlife resources of the United States.

Factors That Contribute to Injuriousness for Green Anaconda

Current Nonnative Occurrences

An individual green anaconda (approximately 2.5 m (8.2 ft) total length) was found dead on U.S. 41 in the vicinity of Fakahatchee Strand Preserve State Park in Florida in December 2004 (Reed and Rodda 2009). Two medium-sized adults and a juvenile green anaconda were observed but not collected in this general area. A 3.65-m (12-ft) green anaconda was removed from East Lake Fish Camp in northern Osceola County, Florida, on January 13, 2010. This was the first live green anaconda to be caught in the wild in Florida (Florida Fish and Wildlife Conservation Commission 2010).

Potential Introduction and Spread

Green anacondas have escaped captivity or been released into the wild in Florida. They are likely to escape or be released because they can grow in captivity to enormous sizes (which makes them exceedingly powerful) and they must be fed a diet that could be prohibitively expensive. Green anacondas are likely to survive in the appropriate natural ecosystems of the United States. Much of peninsular Florida (roughly south of Gainesville) and extreme south Texas exhibit

climatic conditions similar to those experienced by green anacondas in their large South American native range, but the rest of the continent appears to be too cool or arid. Lower elevations in Hawaii and all of Puerto Rico have apparently suitable climates. Within the climate-matched area, anacondas are likely to establish in sites containing surface water. The primarily nocturnal anaconda species tends to spend most of its life in or around water. Green anacondas are highly likely to spread and become established in the wild due to their propensity for rapid growth to a large size and high reproductive rate; are capable of surviving under a range of habitat types and conditions (habitat generalist); have behaviors that allow them to escape freezing temperatures; can live in urban and suburban areas; can disperse long distances; and are well-concealed ambush predators. There is evidence that green anacondas are facultatively parthenogenetic and could therefore reproduce even if a single female is released or escapes.

Potential Impacts to Native Species (Including Endangered and Threatened Species)

Green anacondas will prey on native species, including endangered and threatened species, if they become established in the United States. They are primarily aquatic and eat a wide variety of prey, including fish, birds, mammals, and other reptiles. The size of the prey also varies, depending on the age of the snake, with baby anacondas able to eat small prey, and large anacondas able to eat larger prey, such as tapirs, peccaries, deer, sheep, and caimans (Reed and Rodda 2009).

The green anaconda is generally considered the heaviest snake in the world (reported to 200 kg (441 lb)), with lengths over 7 m (23 ft) (Reed and Rodda 2009), much larger than the largest snake native to the continental United States. See *Potential Impacts to Native Species (Including Endangered and Threatened Species)* for the reticulated python for comparison to native predators and anticipated effects on native wildlife from green anacondas. Moreover, the green anaconda is a novel predator against which native species would not have evolved defenses.

According to the climate suitability maps (Reed and Rodda 2009; Final Environmental Assessment 2015), endangered and threatened species from parts of Florida, Hawaii, and most of Puerto Rico would be at risk from the establishment of green anacondas. Florida has 13 bird species, 15 mammals, and 2 reptiles that are federally endangered or threatened that could be preyed upon by green anacondas or be outcompeted by them for prey. Hawaii has 34 bird species and 1 mammal that are endangered or threatened that would be at risk of predation. Puerto Rico has 9 bird species and 10 reptiles that are federally endangered or threatened that would be at risk if green anacondas became established. Because Guam, the U.S. Virgin Islands, and other U.S. territories are tropical, the climate there also may be suitable. Guam has seven bird species and two mammal species that are endangered or threatened that would be at risk of predation. The Virgin Islands has one bird species and three reptile species that are endangered or threatened that would be at risk of predation.

Potential Impacts to Humans

The introduction or establishment of green anacondas would likely have negative impacts on humans primarily from the loss of native wildlife biodiversity, as discussed above in the discussion for the reticulated python. These losses would affect the aesthetic, recreational, and economic values currently provided by native wildlife and healthy ecosystems. Educational values would also be diminished through the loss of biodiversity and ecosystem health. Agricultural interests may be negatively affected by imported anacondas carrying ticks that transfer harmful pathogens to livestock.

Factors That Reduce or Remove Injuriousness for Green Anaconda

Control

Prevention, eradication, management, or control of the spread of green anacondas once established in the United States will be highly unlikely. Please see the ''*Control*'' section for the reticulated python for reasons why green anacondas will be difficult to control, all of which apply to this large constrictor.

Potential Ecological Benefits for Introduction

While the introduction of green anacondas could potentially provide a food source for some native carnivores, species native to the United States are unlikely to possess the hunting ability for such large, camouflaged snakes and would not likely turn to green anacondas as a food source. However, juvenile snakes could fall prey to native wildlife such as alligators, raccoons, coyotes, and birds of prey. In addition, a large green anaconda could prey on other nonnative species, such as green iguanas, feral hogs, and black rats. The risks to native wildlife greatly outweigh these unlikely benefits. There are no other potential ecological benefits from the introduction into the United States or establishment in the United States of green anacondas.

Conclusion

The green anaconda is the world's heaviest snake. Large adults are heavier than almost all native, terrestrial predators in the United States, even many bears, and longer than all native wildlife. Native fauna have no experience defending themselves against this type of novel, giant predator. The range of the green anaconda is largely defined by the availability of aquatic habitats. These include deep and shallow, turbid and clear, and lacustrine and riverine systems. Most of these habitats are found in Florida, including the Everglades, which is suitable climate for the species, as well at Texas, Hawaii, and Puerto Rico. Green anacondas are top predators in South America, consuming birds, mammals, fish, and reptiles; prey size includes deer and crocodilians. This diet is even broader than the diet of Burmese and reticulated pythons. Evidence exists that female green anacondas may be facultatively parthenogenetic and could therefore reproduce even if a single female is released or escapes into the wild.

Because green anacondas are likely to escape or be released into the wild if imported into the United States (note that the green anaconda has already been found in the wild in Florida); are likely to survive, become established, and spread if they escape captivity or are released; are likely to prey on and compete with native species for food and habitat (including endangered and threatened species); cannot be easily eradicated, prevented from establishing, or reduced from large populations or new locations; and are likely to disturb ecosystems beyond the point of recoverability, the Service finds the green anaconda to be injurious to humans and to wildlife and wildlife resources of the United States.

Factors That Contribute to Injuriousness for Beni Anaconda

Current Nonnative Occurrences

We do not know of any occurrences of the Beni anaconda in the United States.

Potential Introduction and Spread

Beni anacondas are closely related to green anacondas. Because Beni anacondas share similar traits with

other constrictor snakes, individuals are likely to escape because of their large size, powerful musculature, and streamlined shape. Pet anacondas are also likely to be released into the wild, in part because of their growth to a large size (which pet owners may not able to deal with) and because of the difficulty in finding suitable food. Because Beni anacondas are difficult for a novice to distinguish from green anacondas, Beni anacondas may appear in the pet trade in place of green anacondas. Beni anacondas are highly likely to survive in the appropriate natural ecosystems of the United States.

The Beni anaconda is known from few specimens in a small part of Bolivia, and Reed and Rodda (2009) judged the number of available localities to be insufficient for an attempt to delineate its climate space or extrapolate this space to the United States. Beni anacondas are known from sites with low seasonality (mean monthly temperatures in a narrow range of approximately 22.5 to 27.5 °C (72 to 77 °F), and mean monthly precipitation about 5 to 30 cm (2 to 12 in). Whether the species' native distribution is limited by factors other than climate is unknown as well as whether the small native range is attributable to ecological (for example, competition with green anacondas), or anthropogenic (for example, habitat loss) factors. If the native distribution is not limited by climate, then Reed and Rodda's (2009) qualitative estimate of the climatically suitable areas of the United States would represent an underprediction. As a component of the risk assessment, the Beni anaconda's colonization potential is described by Reed and Rodda (2009) as capable of survival in small portions of the mainland or on the United States' tropical islands (Hawaii, Puerto Rico, American Samoa, Guam, Northern Mariana Islands, Virgin Islands).

The Beni anaconda is highly likely to spread and become established in the wild due to its rapid growth to a large size, early maturation and high reproductive potential, a sit-and-wait style of predation, ability to survive under a range of habitat types and conditions (habitat generalist), behavior that allows it to escape freezing temperatures, adaptability to living in urban and suburban areas, ability to disperse long distances, and cryptic concealment.

Potential Impacts to Native Species (Including Endangered and Threatened Species)

Beni anacondas will prey on native species, including endangered and threatened species if they become established in the United States. They are primarily aquatic and eat a wide variety of prey, including fish, birds, mammals, and other reptiles. The size of the prey also varies, depending on the age of the snake, with baby anacondas able to eat small prey, and large anacondas able to eat very large prey. Anacondas employ both ''ambush predation'' and ''wide-foraging'' strategies (Reed and Rodda 2009). Endangered and threatened wildlife occupying the Beni anaconda's preferred habitats would be at risk.

The Beni anaconda is similar in size to the green anaconda, which is generally considered the heaviest snake in the world (Reed and Rodda 2009), much larger than the largest snake native to the continental United States. See *Potential Impacts to Native Species (Including Endangered and Threatened Species)* for the reticulated python for comparison to native predators and anticipated effects on native wildlife from Beni anacondas. Moreover, the Beni anaconda is a novel predator against which native species would not have evolved defenses.

Florida has 13 bird species, 15 mammals, and 2 reptiles that are federally endangered or threatened that could be preyed upon by Beni anacondas or be outcompeted by them for prey; many of those protected species live in the warmest part of the State. Hawaii has 34 bird species, and 1 mammal that are endangered or threatened that would be at risk of predation. Puerto Rico has 9 bird species and 10 reptile species that are federally endangered or threatened species that would be at risk if Beni anacondas became established. Guam has seven bird species and two mammal species that are endangered or threatened that would be at risk of predation. The Virgin Islands has one bird species and three reptile species that are endangered or threatened that would be at risk of predation.

Potential Impacts to Humans

The introduction or establishment of Beni anacondas would likely have negative impacts on humans primarily from the loss of native wildlife biodiversity, as discussed above in the discussion for the reticulated python. These losses would affect the aesthetic, recreational, and economic values currently provided by native wildlife and healthy ecosystems. Educational values would also be diminished through the loss of biodiversity and ecosystem health. Agricultural interests may be negatively affected by imported anacondas carrying ticks that transfer harmful pathogens to livestock.

Factors That Reduce or Remove Injuriousness for Beni Anaconda

Control

Prevention, eradication, management, or control of the spread of Beni anacondas once established in the United States will be highly unlikely. Please see the ''*Control*'' section for the reticulated python for reasons why Beni anacondas would be difficult to control, all of which apply to this large constrictor.

Potential Ecological Benefits for Introduction

While the introduction of Beni anacondas could potentially provide a food source for some native carnivores, species native to the United States are unlikely to possess the hunting ability for such large, camouflaged snakes and would not likely turn to Beni anacondas as a food source. However, juvenile snakes could fall prey to native wildlife such as alligators, raccoons, coyotes, and birds of prey. In addition, Beni anacondas could prey on other nonnative species such as green iguanas, feral hogs, and black rats. The risks to native wildlife greatly outweigh these unlikely benefits. There are no other potential ecological benefits from the introduction into the United States or establishment in the United States of Beni anacondas.

Conclusion

Large Beni anaconda adults are heavier than almost all native, terrestrial predators in the United States, even many bears. Native fauna have no experience defending themselves against this type of novel, giant predator. The range of the Beni anaconda is largely defined by the availability of aquatic habitats. Beni anacondas are top predators in South America, consuming birds, mammals, fish, and reptiles; prey size includes deer and crocodilians. This diet is even broader than the diet of Burmese and reticulated pythons.

Because Beni anaconda specimens are likely to escape captivity or be released into the wild if the species is imported into the United States; are likely to survive, become established, and spread if they escape captivity or are released; are likely to prey on and compete with native species for food and habitat (including endangered and threatened species); cannot be easily eradicated, prevented from establishing, or reduced from large populations or new locations; and are likely to disturb ecosystems beyond the point of recoverability, the Service finds the Beni anaconda to be

injurious to humans and to wildlife and wildlife resources of the United States.

Summary of Injurious Evaluations

Based on the Service's evaluation of the criteria for injuriousness, substantive information we received during the public comment periods and from the peer reviewers, along with other information regarding the large constrictor snakes (in Florida, Puerto Rico, and elsewhere), the Service concludes that the four constrictor species should be added to the list of injurious reptiles under the Lacey Act.

Comments Received on the Proposed Rule

During the two public comment periods for the proposed rule for the nine species (75 FR 11808, March 12, 2010; and 75 FR 38069, July 1, 2010) and one comment period for the five species (79 FR 35719, June 24, 2014), we received more than 85,000 comments, including form letters, petitions, and postcards. We received comments from Federal agencies, State agencies, local governments, commercial and trade organizations, conservation organizations, nongovernmental organizations, and private citizens; all were in English with the exception of a few in Dutch, French, German, and Italian. The comments provided a range of views on the proposed listings as follows: (1) Unequivocal support for the listings with no additional information included; (2) unequivocal support for the listings with additional information provided; (3) equivocal support for the listings with or without additional information included; (4) unequivocal opposition to the listings with no additional information included; and (5) unequivocal opposition to the listings with additional information included.

To accurately review and incorporate the publicly provided comments in our final determination, we worked with researchers in the Qualitative Data Analysis Program at the University of Massachusetts Amherst and the University of Pittsburgh—developers of the *Public Comment Analysis Toolkit* (*PCAT*) and the successor DiscoverText analytical platform. The PCAT and DiscoverText enhanced our ability to review large numbers of comments, including large numbers of similar comments on our proposed listings, allowing us to identify similar comments as well as individual ideas, data, recommendations, or suggestions on the proposed listings. We are also responding to some comments that are out of the purview of this rule in a concerted effort to explain our rationale to the public.

Peer Review of the Proposed Rule

In accordance with peer review guidance of the Office of Management and Budget ''Final Information Quality Bulletin for Peer Review,'' released December 16, 2004, and Service guidance, we solicited expert opinion on information contained in the March 12, 2010, proposed rule (for nine species) from five knowledgeable individuals selected from specialists in the relevant taxonomic group and ecologists with scientific expertise that includes familiarity with alien herpetological introductions and invasions, predictive tools for risk assessment, and invasion biology. In 2010, we posted our peer review plan on the Service's Region 4 Web site (*http://www.fws.gov/southeast/informationquality*), explaining the peer review process and providing the public with an opportunity to comment on the peer review plan. No comments were received regarding the peer review plan. The Service solicited independent scientific reviewers who submitted individual comments in written form. We avoided using individuals who had already expressed strong support for or opposition to the petition and individuals who were likely to experience personal gain or loss (financial, prestige, etc.) as a result of the Service's decision. Department of the Interior employees were not used as peer reviewers.

We received responses from five peer reviewers. Two peer reviewers found that, in general, the proposed rule represented a comprehensive and up-to-date compilation of the best scientific information known about the nine constrictor snake species and that conclusions drawn from both published and unpublished sources were scientifically robust, and justified the proposed rule. Two peer reviewers expressed concern with the climate-matching methods and assumptions.

In addition, all peer reviewers stated that the background material on the biology, invasive potential, and potential tools for control of each snake species represented a solid compilation of available information. They further stated that the information as presented justified the conclusion that the snake species should be listed as injurious. All five peer reviewers concluded that the data and analyses we used in the proposed rule were appropriate and the conclusions we drew were logical and reasonable. Several peer reviewers provided additional insights to clarify points in the proposed rule, or references to recently published studies that update material in the rule.

Peer Review Comments

We reviewed all comments we received from peer reviewers for substantive issues and new information regarding the proposed rule. We consolidate the comments and responses into key issues in this section. We refer to them as PR (Peer Reviewer) 1 through 5. We revised the final rule to reflect peer reviewer comments, where appropriate, and the most current scientific information, including the results of the newer USGS climate match publication (Rodda *et al.* 2011), plus a number of new peer-reviewed journal articles. We have taken our best effort to identify the limitations and uncertainties of the climate-matching models and their projections used in the March 12, 2010, proposed rule. We have also taken our best effort to correct any grammatical or biological errors and clarify certain ambiguous statements. Because some of the comments referred only to those constrictor snake species we listed on January 23, 2012 (77 FR 3330), we omit those comments from this final rule; we summarize and respond to them in the January 23, 2012, final rule to list the Burmese python and three other species.

Comment PR1: In regard to the USGS publication ''Giant Constrictors: Biological and Management Profiles and an Establishment Risk Assessment for Nine Large Species of Pythons, Anacondas, and the Boa Constrictor,'' which includes management profiles discussing colonization potentials with climate-matching maps, very few details or data are presented that would allow an independent test of the model, predictions, or assumptions. At a minimum, the threshold values that were used in the climate space model should be explicitly stated for each species. This would allow reviewers to evaluate the data and the assumptions used in the construction of the model.

Response PR1: This general critique is incorrect; all of the species-specific information used to assess risks is presented in the document mentioned. That this procedure cannot be reduced to mathematical certainty is the reason a risk assessment (rather than a calculation) was conducted. This specific critique is also incorrect. The requested threshold values are provided graphically for each of the species in Reed and Rodda (2009). For example, the *Python reticulatus* values are in Figure 5.3 (page 84) (heavy and dashed black lines), the *Eunectes murinus* and *Eunectes beniensis* values are in Figure 9.3 (page 224) (heavy black lines), and so forth.

For readers who want to duplicate the climate match results, the USGS has published a data series report with data used for modeling and the equations corresponding to these lines (*http://pubs.usgs.gov/ds/579/*) (Jarnevich *et al.* 2011), but the graphical representations in Reed and Rodda (2009) provide the same information with the precision that is appropriate for the use of these values. Use of these values with greater precision would not be appropriate given the conceptual and scientific uncertainties that attend state-of-the-art implementation of climate matching.

Comment PR2: The data used for the risk assessment seems fair. This reviewer, however, was not convinced that the assignment of low, medium, and high establishment and consequence scores was sufficiently objective or transparent. The process appears to involve high levels of uncertainty (pp. 253, 259: Reed and Rodda 2009). Though there is not really an alternative with the amount of data available, the approach would be more acceptable if it was transparent (what constitutes each level of certainty and how one decides on high, medium, or low for each contributing factor).

Response PR2: The risk assessment process allows for analyzing, identifying, and estimating the dimension, characteristics, and type of risk. By applying analytical methods while acknowledging the assumptions and uncertainties involved, the process allows the assessors to utilize qualitative and quantitative data in a systematic and consistent fashion. The assessment strives for theoretical accuracy while remaining comprehensible and manageable, and the scientific and other data compiled for each snake species in the bio-profiles is organized and recorded in a formal and systematic manner. The assessment provides a reasonable estimation of the overall risk. The authors were careful to ensure that the process clearly explained the uncertainties inherent in the process and to avoid design and implementation of a process that reflected a predetermined result. Quantitative and qualitative risk assessments should always be buffered with careful professional judgment. If every statement was certain, we would not need a risk assessment. The need to balance risks with uncertainty can lead assessors to concentrate more on the uncertainty than on known facts that may affect impact potential. Risks identified for nonnative, invasive, large constrictor species (and other nonnative, invasive species besides large constrictors) in other regions often provide the justification in applying management measures to reduce risks in regions where the species have not yet been introduced. Thus, risk assessments should concentrate on evaluating potential risk.

Uncertainty, as it relates to the individual risk assessment, can be divided into three distinct types: (a) Uncertainty of the process (method); (b) uncertainty of the assessor(s) (human error); and (c) uncertainty about the organism (biological and environmental unknowns). All three types of uncertainty will continue to exist regardless of future developments. The inferential estimation of organism risk can be rated using high, medium, or low. The biological and other information assembled under each element will drive the process, forcing the assessor to use the biological information as the basis for his or her decision. Thus, the process remains transparent for peer review. The high, medium, and low ratings of the individual elements contributing to the probability of organism establishment (such as organism with pathway, entry potential, colonization potential, and spread potential) cannot be defined or measured: The assessor has to use professional judgment because the values of the elements contained under ''Probability of Establishment'' are not independent of the rating of the ''Consequences of Establishment.''

Specific traits or biological characteristics were assessed for each snake species to arrive at each high, medium, or low rating. The strength of the analysis is not in the element-rating but in the detailed biological and other relevant information that supports the rating. Reed and Rodda (2009) followed the ANSTF 1996 (see Lacey Act Evaluation Criteria section, above, for explanation of this method) guidelines for combining scores and noting that certainty levels for each component of the process were followed by the risk assessors. The logic that was applied to develop every step of the risk assessment analysis can be found in Chapter Ten of Reed and Rodda (2009).

Comment PR3: [Refers to previously listed species; see 77 FR 3330, January 23, 2012]

Comment PR4: [Refers to previously listed species; see 77 FR 3330, January 23, 2012]

Comment PR5: The term ''zoological'' is ambiguous and could lead to a potential loophole for those activities for which permitted importation could be allowed; hence, any activity pertaining to these snakes could be claimed to be ''zoological.''

Response PR5: This rulemaking addresses whether the identified species of large constrictor snakes qualify as injurious and, therefore, should be added to the list of injurious reptiles. The rule does not address under what circumstances a person may qualify for exception to the importation or interstate transportation prohibitions under the zoological purposes provisions. Therefore, this comment is outside of the scope of this rulemaking.

Public Comments

We reviewed all comments we received from the public, particularly for substantive issues and new information regarding the March 12, 2010, proposed rule to list the nine large constrictor snakes. Therefore, the public comments generally refer to the nine species in the proposed rule, unless otherwise stated, and we respond for all nine species, unless otherwise stated. Because some of the comments referred only to those constrictor snake species we listed on January 23, 2012 (77 FR 3330), we omit those comments from this final rule; we summarize and respond to them in the January 23, 2012, final rule to list the Burmese python and three other species. We consolidated the following comments and our responses into key issues that are not in any particular order.

Health and Welfare of Human Beings

(1) *Comment:* Some people have been killed and more have been injured in the United States by nonnative large constrictor snakes that were kept as pets.

Our Response: The Humane Society of the United States submitted a list of 577 reports that included accounts of human injuries and fatalities from nonnative constrictor snakes, nonnative constrictor snakes that escaped or were spotted in the wild, and nonnative constrictor snakes kept in inhumane conditions that were reported in the media that occurred in the United States between 1978 and mid-2014. The accounts included reports of Burmese pythons, African (rock) pythons, reticulated pythons, boa constrictors, green anacondas, and yellow anacondas, and unidentified large constrictor snakes. The list contains accounts from 46 States, including Alaska and Hawaii. The reports included dozens of attacks on people, 14 of which resulted in human fatalities. Burmese python attacks reportedly resulted in five deaths. African (rock) pythons (not distinguished by species) reportedly attacked one person fatally. Reticulated python attacks reportedly resulted in the deaths of seven people. A 25-pound red-tailed boa constrictor killed a 34-year-old man.

USARK's Web site posts this statement under their ''Best Management Practices'' Web page (USARK 2014): ''We understand that there are occupational hazards involved in the captive husbandry of the largest examples of five large snake species, and venomous reptiles. It is the position of USARK that only experienced and serious keepers should work with these animals.''

We acknowledge reports of deaths and injury due to encounters with nonnative large constrictor snakes, but the accounts identified by the commenter involved snakes held in captivity. Human fatalities from nonvenomous snakes in the wild are rare (Reed and Rodda 2009). An indirect risk is that large snakes may stretch across roads to obtain heat from the pavement on cool days, posing a hazard to motorists who swerve to avoid hitting them (Snow *et al.* 2007; Harvey *et al.* 2008). Please see ''*Potential Impacts to Humans''* in the ''Factors That Contribute to Injuriousness * * *'' section for each species, above, for further information.

(2) *Comment:* The actual physical danger that large constrictors pose to humans and public safety has been grossly overstated, and only 12 human fatalities have been attributed to these snakes since 1980, an average of 0.4 deaths per year. Those fatalities are usually a direct result of either improper care and handling of the animal, or feeding-related errors on the part of the keeper or pet owner. Another commenter stated 10 human fatalities occurred from 1990 to 2012, or 0.43 per year, by captive constrictors.

Our Response: We agree that, while 13 human deaths that we know of have occurred since 1980, this number is small relative to other causes of death. We agree that the preeminent issue is not one of public safety, because we know of few large constrictor snake attacks in the United States from free-ranging snakes. A study in Everglades National Park (Reed and Snow 2014) summarized occurrences of apparently unprovoked strikes to humans by large constrictors and the circumstances surrounding each of the five reported incidents, which occurred between 2006 and 2012. All strikes were from Burmese pythons and directed toward biologists moving through flooded wetlands; two strikes resulted in minor injury and three in no injury. No strikes are known to have been directed at park visitors. The study concludes that, while risks to humans should not be completely discounted, the relative risk of a human being killed by a python in Everglades National Park appears to be extremely low. We also note that, in their native ranges, reports of large constrictor snake attacks on humans in the wild are rare, although they have occurred (Reed and Rodda 2009). However, the remoteness of the native ranges of any of the species may preclude deaths from being reported. A study of a small tribe of hunter-gathers (the Agta) in the Philippines summarized attacks by reticulated pythons (Headland and Greene 2011). Of 19 rural men and women attacked, 11 died. While Reed and Rodda (2009) also state that virtually all known human fatalities are associated with pet manipulation, Snow *et al.* (2007) and Harvey *et al.* (2008) noted that large constrictors crossing roads could cause traffic accidents. In general, we agree that the risk to human safety is not in itself a substantial factor in listing any of these species as injurious. See also our response to Comment 1.

(3) *Comment:* Boa constrictors should be removed from the rule. These snakes have never killed their keepers, nor have they killed anyone else. There has never been a documented human death by a boa constrictor.

Our Response: For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

Large Constrictor Snakes as Pets and Hobby

(4) *Comment:* Most people in the reptile hobby who choose to own these larger species are very responsible and do well in keeping their pets and investments healthy and safe, and this includes preventing their escape. It does not stand to reason that the actions of this very limited amount of negligent owners should affect millions of responsible pet owners.

Our Response: While we do not dispute that most constrictor snake owners try to be responsible, the volume of imports and domestically bred snakes is large enough (averaging 29,520 annually (for 2011 to 2013) for the four species that are being listed in this final rule and the boa constrictor; of that, 6,135 for the four species that are being listed this final rule; Final Economic Analysis 2015, Table 8) that accidents do happen, resulting in snakes escaping or snakes being intentionally released. Shipping containers may be damaged—and live snakes able to escape—anywhere between the port of import and the destination of the pet owner's home. In that case, the problem could arise before the pet owners acquire the animals.

Another consideration is the risk involved with transporting large, powerful snakes. While keeping a snake in a sedentary home cage may not in itself be a difficult task, the situation may change when a 20-ft (6-m) snake weighing 200 pounds (91 kg) is transported in a car to a veterinarian. Unless the snake is transported in an escape-proof cage from the house to the automobile to the veterinarian, snakes may find more opportunities for escape. Conversely, small snakes may escape more easily than large ones because they are more likely to be transported casually, such as carried for show. For example, a boa constrictor that was transported around on its owner's neck on a Boston subway escaped and survived for a month on the heated train in January 2011 before being captured (Associated Press 2011).

We have based our determination on our evaluation of injuriousness to wildlife and wildlife resources and the likelihood that any of the four large constrictor snakes could escape, become established, and cause harm.

(5) *Comment:* These snakes are not injurious wild animals. They are domesticated pets.

Our Response: We recognize that many snakes are kept in captivity with no negative incidences and that they seem tame. However, the fact that various species of wildlife may be kept as pets does not remove these species from the scope of U.S. wildlife laws. Under the injurious wildlife provisions of the Lacey Act (18 U.S.C. 42), all four of these species are wild. Therefore, we have the authority to list all of the four species of constrictor snakes once we determine that they are injurious. We base our determination as injurious on their effect on any one of the following: the interests of human beings, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States.

(6) *Comment:* I have kept more of these animals than anyone you will ever meet, and I can assure you, they are not injurious in any way.

Our Response: We recognize that there are various meanings of ''injurious.'' However, under the Service's authority, the Lacey Act (18 U.S.C. 42), and for the purpose of this rule, injurious wildlife are wild mammals, wild birds, amphibians, reptiles, fish, crustaceans, mollusks, and their offspring or gametes that are injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States. A wildlife species

does not need to be injurious to all of the above interests to be listed. If a species is injurious to wildlife or wildlife resources of the United States (including its territories and insular possessions), we have the authority to list that species.

(7) *Comment:* We agree that ownership of certain animals should be restricted; however, we feel that banning the species *Boa constrictor* fails to address current concerns, is unnecessarily restrictive, and counterproductive. This species also represents the largest portion of the nine species proposed for listing as injurious.

Our Response: For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(8) *Comment:* This rule will destroy the ability of animal hobbyists, who are our future biologists and conservationists, to explore and learn about these specific animals, thus limiting exposure to the natural world at large.

Our Response: The commenters did not explain how the rule will destroy the ability of animal hobbyists to learn about these animals. Hobbyists will still be allowed to keep their snakes and offspring, and to acquire additional ones within their State (and consistent with their State's own laws). The long lives of these species improve the chances that the hobbyists will have their pets for one or more decades, generally much longer than amphibian and tropical fish hobbyists. Hobbyists still have many other species of snakes and other reptiles to choose from that are not listed as injurious. We hope that, with this rule, future biologists and conservationists will learn about the ecological role of these species in their native lands and in lands where they become invasive.

(9) *Comment:* A number of commenters in active duty in the military and who live off base stated that their snakes help them to cope with stress from traumatic events. If they get transferred, they will not be able to bring their pet snakes.

Our Response: The commenters are correct that, if they are transferred, they could not transport their pet snakes, unless the transfer is to a location in the same State.

Unprecedented Regulation

(10a) *Comment:* A ban placed by the government on a group of animals that is so prevalent in the pet industry and kept by so many hobbyists would be unprecedented.

(10b) *Comment:* Other widely held pets have been banned by the Federal Government. For example, in 1975, the Food and Drug Administration (FDA) banned the sale or distribution of turtles with shells that measure less than 4 inches in length in response to findings that pet turtles were responsible for a substantial number of *Salmonella* infections nationwide. These were primarily the baby red-eared sliders (*Trachemys scripta*) that were commonly sold in pet stores in the 1950s, '60s, and '70s, and even given away for free.

Our Response: The Lacey Act does not preclude listing a species that is prevalent in the pet industry, provided that the species meets the criteria for injuriousness. In addition, this regulation is not a ban on possessing or selling any of the species. Other animals in the pet trade have been banned by the Federal Government. For example, with the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 *et seq.*), Congress banned imports of many exotic bird species that were common in the pet trade to ensure that their native populations are not harmed by international trade. Another example is the Food and Drug Administration banning small turtles common in the pet trade (see Comment 10b). States may also have their own restrictions, and these restrictions may be more stringent than this Federal rule. For example, individual States may ban possession of any of these snake species. This final rule only establishes a prohibition against importation and interstate transportation of listed species without a permit. Furthermore, only one of the species that we are listing (reticulated python) is regularly in the reptile trade, although infrequently; the other three constrictor species are rarely or not traded. Lastly, the establishment of the Burmese python (listed as injurious in a final rule we published on January 23, 2012, at 77 FR 3330) in South Florida is unprecedented anywhere in the United States for a large predator from the pet trade and demonstrates what could happen if other large constrictors have the opportunity to establish. Oftentimes, such new situations call for more stringent solutions than previously adopted.

Other Animals More Injurious

(11) *Comment:* A better argument based on safety and health statistics could be made to ban horses or dogs, as the average American is more likely to be injured or killed by either of those animals than any reptile. Certainly there are other species, such as feral cats, dogs, rats, pigeons, starlings, and pigs, that each cause more damage to the environment of South Florida.

Our Response: As the commenter correctly points out, many species of feral domesticated animals are considered invasive and have caused harm to humans and natural resources in south Florida and other parts of the United States. However, under the Lacey Act, the Service has the authority only to list ''wild'' birds and ''wild'' mammals as injurious wildlife; under 18 U.S.C. 42(a)(2), the term ''wild'' is specific to any animals that, whether or not raised in captivity, are normally found in a wild state. Dogs, cats, and horses are considered domesticated animals under our regulations at 50 CFR 14.4 and, therefore, cannot be listed as injurious wildlife.

Based on the best available information, we have found that the four species covered by this final rule are injurious to human beings, to the interests of agriculture, or to the wildlife or wildlife resources of the United States. This does not mean that we believe these snakes to be the most injurious of all wild animals.

Effort To Ban Pets

(12) *Comment:* This snake ban opens the door to many other animals being banned. If this rule is passed, then next it will be foreign reptiles all together, followed closely by a different ban, followed by an eventual ban on reptiles, period. Next it will be cats, dogs, fish, and birds.

Our Response: This rule does not ban possession of any species. As stated above in the **SUMMARY** and elsewhere in this rule, this rule prohibits only the importation into the United States and interstate transportation of reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda. Prohibiting importation and interstate transportation is the only authority provided to the Secretary of the Interior by Congress under the injurious wildlife provisions of the Lacey Act (18 U.S.C. 42). Two of the four species of large constrictor snakes in this final rule are already in captivity in the United States and are available for acquisition within each State (unless otherwise regulated by your State's laws). In addition, any species under consideration for listing as injurious is evaluated on a case-by-case basis, using all available information relevant to whether it is or is not injurious. Therefore, this rule does not set up a trend to regulate any particular species or groups of species. Second, the Lacey Act does not provide the authority to list domesticated

mammals and birds as injurious; see our response to Comment 11 for more information. However, any reptile can be considered for injurious wildlife listing if it meets the listing criteria (see Lacey Act Evaluation Criteria, above, for explanation).

Effect of Rule on Welfare of Large Constrictor Snakes

(13) *Comment:* This rule change basically represents a death sentence for millions of reptiles in the United States. Many of these snakes will be abandoned and set free where they will surely suffer and die.

Our Response: We disagree that this rulemaking will result in the death of millions of reptiles currently being held in captivity. We have been clear that all owners of any of the snakes listed as injurious will be allowed to keep them under this rule. For animals already in the United States, this rule only restricts transport between States. We emphasize that it will be lawful for pet owners to keep their pets (if allowed by State law). Therefore, we have no reason to believe that responsible, caring owners will kill or release them into the wild. Breeders may still be able to export through a port in their own State (see response to Comment 68 for exporting explanation). For breeders who can no longer export, they may find buyers in their own State. For information on how to find a home for a snake that a person can no longer keep, we posted some suggestions on *http://www.regulations.gov* at the time the proposed rule was published on March 12, 2010 (separate file ''Questions and Answers''). We explained:

''If you are in a position where you must give up your pet [large constrictor snake], and zoos and humane societies have declined your efforts to donate the animal, you should contact either your State fish and wildlife agency or your local U.S. Fish and Wildlife Service office. These two government agencies are the legal authorities that co-manage fish and wildlife in this country, and they can help you to resolve this issue. The U.S. Fish and Wildlife Service is working with States around the country and the pet and aquarium industry through a campaign called Habitattitude™ to help pet owners adopt environmentally responsible actions for surrendering their pets, such as:

- Contacting the retailer for proper handling advice or for possible return;
- Giving or trading with another pet owner;
- Donating to a zoo, humane society, nature center, school, or pet retailer; and
- Contacting a veterinarian or pet retailer for guidance on humane disposal of animals.''

For those pet owners who move to another State, we also suggest contacting a local herpetology club or a national reptile organization with local members to find someone to adopt those constrictor snakes. And finally, if you live in Florida, ''Anyone who possesses a conditional snake or lizard but cannot keep it can surrender the animal to a licensed recipient (adopter) at any time with no penalties'' (FWC 2014).

(14) *Comment:* What would happen to the businesses operated by thousands of families in the industry with this rule? It is doubtful that those animals would be humanely euthanized (due to finances and ethical objections), so those animals would either be subjected to inhumane practices or become liabilities to those persons who have them. It would be a cruel irony that the animal rights agenda of eliminating these animals from the pet trade would result in the destruction of millions of animals that have proven to be nondangerous.

Our Response: Family businesses will still be able to operate, provided they either sell within their State or have a port of export directly from their State (see response to Comment 68 for exporting explanation). Businesses may switch to other species of snakes that are not listed. Please see our response to Comment 13 on alternatives for disposing of animals that you can no longer keep. Owners are encouraged to find legal alternatives, such as trading species with someone in their own State who has a species that is not listed and who is able to keep a listed species in that State. We emphasize that it will be lawful for pet owners to keep their pets (if allowed by State law) but unlawful to transport them across State lines. With the removal of the boa constrictor from consideration for listing, the effect to businesses is greatly reduced.

Regarding the statement that these snakes are nondangerous, we emphasize that we distinguish between ''nondangerous,'' which we assume the commenter means ''does not harm people,'' and ''injurious,'' which has a different meaning under the Lacey Act. We agree that these four species of snakes pose only a small risk of harm to people; however, we are listing them for their injuriousness.

(15) *Comment:* Thousands of snakes' lives will be spared because the majority of reptiles die during capture from the wild or subsequent transport or within the first year of captivity. Banning the importation of these species will ensure that many snakes will not fall victim to the harsh conditions of being shipped overseas. Snakes are often marketed as low-maintenance pets, and the families who take them home can become overwhelmed at the level of care required.

Our Response: From the Service's Law Enforcement Management Information System (LEMIS) data, we estimate that approximately 26,591 snakes of the four species we are listing in this rule were imported from 2004 to 2013. Some were probably captured from the wild. Imported snakes are then usually sent to animal dealers before being shipped to pet retailers. Finally, the snakes are typically acquired at a pet retailer and transported to a home or other location. Large constrictor snakes may become ill, injured, or die during transport. Since this listing will place prohibitions on importation and interstate movement of the four species, it is reasonable to assume that fewer animals will therefore die from importation and interstate transport. Although animal welfare is regulated by the Federal Government for some taxa (that is, primarily warm-blooded species) under such laws as the Animal Welfare Act (7 U.S.C. 2131 *et seq.*), this was not a factor considered in our injurious wildlife evaluation and did not influence our final determination.

Benefits of Having Large Constrictor Snakes in the United States

(16) *Comment:* While Burmese pythons do consume native species such as wading birds, waterfowl, muskrats, rabbits, opossum, raccoons, and even bobcats and white-tailed deer, they are probably just as likely to prey upon the more common exotic species, such as feral cats and dogs, nonnative rats and mice, starlings, pigeons, collared doves, spiny-tailed iguanas, green iguanas, cattle egrets, and muscovy ducks.

Our Response: We agree that large constrictor snakes can potentially prey on other nonnative species, and that this could be beneficial to native wildlife. Snow *et al.* (2007) reported that domestic cats, Old World rats, domestic chickens, and domestic geese have been found in Burmese python digestive systems in Florida. However, of greater conservation and management concern are the effects that invasive species pose to native populations of wildlife and wildlife resources—in particular, those that are endangered or threatened or otherwise at risk of extinction (Clavero and Garcia-Berthou 2005). Reed and Rodda (2009) listed a total of 64 State-listed endangered or threatened species at risk from pythons or other large constrictors in Florida alone. This

includes the highly endangered Key Largo wood rat, which has been found in the stomachs of Burmese pythons, and whose population may number only in the hundreds. As demonstrated in our injurious wildlife evaluation, we believe that the risks posed by large constrictor snakes to native wildlife and wildlife resources far outweigh the possible benefits they may have as predators of nonnative wildlife in the United States. We do not have information on what the other feral constrictor snakes have eaten, but we assume there would be similar effects from these four species due to the traits they share with the Burmese python. The negative effect of predation on rare native species is greater than the effect on exotic species because any decrease in populations of rare species makes it less likely for those populations to rebound.

(17) *Comment:* Some commenters own boa constrictors from regions of Brazil that no longer have boa constrictors due to deforestation. Many of the reptiles present in captive collections are representative of vanishing bloodlines of wild populations of these species. They are conserving wild species.

Our Response: Listing the four species in this final rule as injurious will not impact legitimate conservation efforts that U.S. breeders can carry out for species that may be negatively impacted by natural and manmade events within their native range. In general, the Service supports ex-situ conservation efforts, such as captive breeding, when done in a scientific manner for the conservation of a species within its native range. The Act also still allows export of listed species that could be used in reintroduction activities or other in-situ conservation efforts. The Act allows for the issuance of permits authorizing interstate movement or imports for scientific or zoological purposes, including conservation breeding operations. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(18) *Comment:* Many keepers I know are concerned about the worldwide decline of species, and a distributed network of determined keepers may prove the only hope for the survival of several of the species addressed. For example, the natural population of the Burmese python has been on a steady decline due to habitat loss.

Our Response: The Service strongly supports ex-situ conservation programs that are scientifically designed to provide conservation benefits to species in their native range. The listing of these species as injurious will not prevent conservation breeding programs run by dedicated herpetologists and hobbyists from providing a conservation benefit to any of these species (see our response to Comment 17).

State Issue (Not Federal Government)

(19) *Comment:* The constrictor snakes should be listed by individual States, not by the Federal Government.

Our Response: Many commenters suggested that we should not list any of these species and we should allow the States to regulate these species as they see fit. The Service is responsible for implementing and enforcing laws such as the Lacey Act, under which authority we are listing these species. We believe implementation of the injurious wildlife provisions reflects the shared State-Federal governance of invasive species challenges facing the United States as originally intended by Congress. Since these snakes have been found to be injurious to human beings and to wildlife and wildlife resources, we believe federally regulating movements of these four species of constrictors into the United States and between States and territories is an important step in limiting their effects. The States and other jurisdictions within the United States retain the ability to regulate these species as they determine appropriate within their boundaries. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are giving the States and other areas under U.S. jurisdiction the opportunity to demonstrate the efficacy of State-based measures to address the potential invasive nature of boa constrictors, including, if appropriate, promulgating their own regulations regarding the boa constrictor.

(20) *Comment:* Mere presence of a species does not equate the threat of harm, especially when individuals are sighted in environments in which they cannot establish. If this is solid justification for listing a species as injurious, the Service will need to list every organism that has ever—and is ever—spotted outside of captivity in the United States.

Our Response: The Service undergoes a rigorous evaluation before determining that any species is injurious. Mere presence does not qualify a species as injurious. The Service evaluates each species based on numerous criteria (see Lacey Act Evaluation Criteria, above). We also consider the potential to survive, become established, and spread; likelihood of release or escape; impact to endangered and threatened species and their habitats; and so on. We have determined that the four species of large constrictor snakes that are the subjects of this rule are injurious and should be listed.

Rule Will Not Be Effective

(21) *Comment:* This regulation change will not make the established population of Burmese pythons in Florida disappear.

Our Response: [Refers to previously listed species; see 77 FR 3330, January 23, 2012]

(22) *Comment:* Such a rule change disallowing the interstate trade of these species is counterintuitive and a non sequitur to ban trade between every other State in the Union.

Our Response: From our evaluation of each species (under the section ''Factors That Contribute to Injuriousness * * *'' for each species), we find that prohibiting the interstate trade of these species, along with prohibiting importation of them, will reduce the risk of these species becoming more widespread to new areas of the United States, including the territories and insular possessions. Please also see Need for the Final Rule, above.

(23) *Comment:* The Lacey Act has never stopped the introduction or eradicated the feral populations of any invasive species, which makes it wholly ineffective in this case.

Our Response: The commenter is correct that no eradication of established feral populations has been accomplished merely by the listing of a species as injurious, but we did not expect that result. Merely preventing introductions of new individuals will not result in the eradication of existing populations. The most likely way for the injurious listing provisions to be successful is if they are applied before a species is present in the United States or in vulnerable parts of the United States. The Beni and DeSchauensee's anacondas that we are listing as injurious in this final rule may be prevented from becoming established in Florida, as well as other vulnerable areas of the country. Furthermore, the purpose of listing the reticulated python and green anaconda in all areas of the country is to prevent any areas of the country that do not currently have those species (see *Potential Introduction and Spread* sections for each species, above) from becoming invaded. Fowler *et al.* (2007) discuss the effectiveness of the Lacey Act listings by looking at all of the species that are currently listed as injurious. They state that, ''None (0%) of the 7 species that were absent from

the country at the time of listing have subsequently established populations, and two of the taxa that were present only in captivity (raccoon dog and brushtail possum) did not establish wild populations. [T]wo taxa that were established outside captivity at the time of the listing (European rabbit and Java sparrow) have not spread between [S]tates since listing.'' In general, if the rule can prevent introductions to vulnerable parts of the country, it will be effective.

Educational and Zoological Use Curtailed

(24) *Comment:* The rule will impact educational outreach at zoos. Educators travel to neighboring States. Burmese pythons are a flagship species for these outreach education activities. The Act as currently written requires strict and uninterrupted double containment for injurious species. The inclusion of these four taxa of snakes on the list of injurious wildlife will make the use of any of these species in interstate education programs virtually impossible.

Our Response: Zoos around the country commonly use live animals for education at the zoo and offsite. The listing of species as injurious will not prevent the continued use of these species, such as reticulated pythons, for education, although some restrictions or permitting may be required. Provided the animal has never been permitted under the Act (either the species was not listed under the Act and, therefore, authorization was previously not required for the animal to move in interstate transport, or the species was listed under the Act after the animal arrived in the State and never left), there would be no restrictions for using the animal for educational programs within the State where the zoo is located. The restrictions under the Act, such as double escape-proof containment, only apply once an animal has been ''permitted.'' If the zoo never takes the animal out of the State, no permits or authorization is required. However, if zoo personnel want to travel across State lines with one of the listed species, the Act would come into effect. The Act requires that the zoo obtain a permit to carry out any interstate movement of a listed species and the specimens being moved would need to be in double-escape-proof containment. Permit applications to carry out interstate movement of listed species for educational purposes can be submitted to the Service. This is a similar procedure used by zoological and educational institutions to obtain permits for endangered and threatened species, so the institutions may already be familiar with the process. As of this final rule, the Service has already issued such permits for the four previously listed constrictor snakes (77 FR 3330, January 23, 2012).

The commenter is correct that the double-escape-proof containment is a requirement for listed specimens that have been permitted. Moreover, as stated above, this requirement applies not only when the snake is being transported outside the zoo, but applies within the zoo as well. However, we have found that most zoos already contain their reptiles in double-escape-proof containment (such as a display case within a building). As such, they are already meeting this requirement or could meet it with a minimal extra cost over the standard housing requirements for the species. However, the containment of any injurious species is consistent with the preventative measures of the injurious wildlife provisions of the Lacey Act.

(25) *Comment:* The cost of specimen replacement to zoos will increase dramatically.

Our Response: The Service has no reason to believe that the cost of replacement would significantly increase beyond the cost of applying for any required permits or authorization, nor did the commenter provide any evidence of costs increasing. One of the species we are listing (reticulated python) is currently available from breeders in many States and can be obtained within a State without a permit once the listing goes into effect. Two others (DeSchauensee's and Beni anacondas) have not been imported into the United States, and one (green anaconda) is not readily available due to limited captive breeding. If importation is required to acquire new animals, zoos would need to apply for an importation permit. The cost of a permit is $100 for importation or to acquire the species for the first time from outside the State where the zoo is located, which covers the whole shipment, even for multiple species and individuals. The cost is $25 for a permit to transport or move animals from one exhibit to another within a permitted institution or between institutions that are already permitted to maintain the same injurious species. The commenter did not explain how often zoos replace specimens, so we do not know how much the cost will increase. Since most of these species have lifespans in captivity of 20 to 30 years (see *Biology* section for each species), we expect this need will not be frequent. As for the cost of the snakes, the commenter provided no information that this cost will increase, nor do we know whether the price of these species on the market will increase, decrease, or remain unchanged. Furthermore, zoos may become a primary beneficiary of constrictor snakes from owners who decide to give up their pets because they are moving out-of-State or for another reason.

(26) *Comment:* The rule will impact our non-outreach collection; the permit preparation time, administrative costs, permit fees, and time delays will be a major hindrance to continuing the management of these species as part of the broader zoo network within the Association of Zoos and Aquariums (AZA). Replacing specimens in a timely fashion will be extremely difficult for our zoo and others. Ultimately, these species may have to be eliminated from our collections.

Our Response: As stated earlier, the rule does not affect intrastate movement of these species nor does it restrict ownership or even captive breeding. It is anticipated that most zoos that already have these species have the capacity either to breed animals already held at the zoo or obtain additional specimens within their State. Zoos may become a primary beneficiary of constrictor snakes from owners who decide to give up their pets because they are moving out-of-State or for other reasons. If this is not sufficient, the Act does have provisions for obtaining specimens from other States or even from foreign sources. The Service recognizes that the permitting process imposes some increased administrative costs and is committed to exercising available flexibilities under its Lacey Act permitting authority to minimize permit application preparation and processing times and to reduce administrative costs. As the AZA pointed out in their comment (''We commend FWS for working with AZA staff * * *''), we are issuing permits that authorize multiple interstate movements for educational purposes over extended periods. The Service is committed to finding ways to minimize the time it takes for facilities to obtain authorization for interstate transport or importation so that zoos can continue their active management of these species. We do not believe that this listing or the January 23, 2012, listing will result in any zoo having to eliminate these species from their collections.

(27) *Comment:* With my collection, I do school and library visits to give kids who generally do not get the chance to see these animals up close the experience to see them. In my mind this is one step needed in educating people

on wildlife conservation as well as responsible pet keeping. I take large snakes and lizards from all over the world to kids who would normally never be able to see them. If you ban these reptiles, my life dream will be ruined, and I will not be able to continue my life mission to show people these amazing creatures up close.

Our Response: We recognize that many people present large and small live animal programs in communities all over the country. We agree that such programs are important to teach conservation and the value of wildlife. However, this new rule will not prevent these programs from occurring. Providing no State lines are crossed, you can continue your educational programs without the need for a permit from the Service. Furthermore, educators may apply to the Service for a permit to transport these species across State lines for educational purposes, and we have already issued such permits for the four previously listed constrictor snakes (see 77 FR 3330, January 23, 2012). Lastly, educators can also teach conservation principles by using snake skins, photos, and other tools to teach people about the problems of releasing nonnative species in the United States. We believe conservation can be taught without the exact live specimens of every animal being discussed.

(28) *Comment:* This rule will eliminate a reptile culture for sharing by future generations.

Our Response: The commenter did not explain how the reptile culture would be eliminated. This rule will not result in the elimination of reptile ownership or interest in reptiles. The listing does not prohibit ownership of these species or any other reptile species. While the listing will probably result in fewer specimens of these species being available commercially because the listing may reduce the economic incentive for some current breeders from continuing to breed the species, we do not believe that all captive breeding would stop. An unfortunate aspect of the need to protect our native wildlife and ecosystems by listing these species as injurious is that some people or organizations that currently possess these species will be affected.

(29) *Comment:* If the additional species under consideration are listed, there will be no alternative giant snakes, and all institutions wishing to exhibit or breed large constrictors will have to undertake the regulatory burden that comes with the listing.

Our Response: The commenter is correct that, with the listing of these four species, the number of alternative ''giant'' snakes that could be imported or moved across State lines would be reduced. However, there are more than 25 other species of constrictor snakes in the pet trade that are not regulated as injurious wildlife and would not require a Federal permit. For example, the amethystine python (*Morelia amethistina*) and scrub python (*Morelia kinghorni*) are giant constrictors and are not listed as injurious. While some of the species in trade may not be considered giant, they are nevertheless very large. Furthermore, zoological institutions that wish to display the listed species may continue to display ones currently in their possession or obtained within the State without obtaining a permit or they could request a permit to obtain snakes from outside their State. To date, the Service has not denied any applications submitted by a zoological institution that meets the issuance criteria under the Act.

Violations and Penalties

(30) *Comment:* If enacted, this rulemaking would have the unprecedented effect of putting as many as a million American citizens in possession of injurious wildlife and subject to potential felony prosecution under the Lacey Act. It could effectively create a new class of criminal out of law-abiding American citizens. This regulation would turn hobbyists' current activities into a Federal crime.

Our Response: These listings under the Lacey Act will have no effect on the majority of owners of these four species (two of which are likely not in U.S. trade or ownership). Pet owners who keep their snakes within their own State will not be affected. Examples of owners who will be affected are: (a) People who wish to take their pets to a veterinarian in another State; (b) people who wish to transport their pets across a State line for another reason, such as if the owners are moving; and (c) people who keep large constrictor snakes as a business and sell to other States. However, many States have laws against possessing wild animals, and these snakes may not be allowed into those States by State law anyway. Examples are Hawaii (all snakes), Florida (for reticulated python, green anaconda, and other species), Iowa (reticulated and other pythons and all *Eunectes* spp.), Louisiana (reticulated and other pythons and all *Eunectes* spp.), New York (reticulated and other pythons and green anaconda), and Texas (reticulated and other pythons and green anaconda) (see our Final Environmental Assessment 2015). State laws may be more stringent than Federal laws and should not be confused with Federal laws. Our response to (a) above is that pet owners are free to locate a veterinarian in their own State, and veterinarians may make house calls in another State if licensed in that State. The pet industry and veterinary organizations could work together to help the owners of the listed species to locate willing veterinarians within a reasonable driving distance. Our response to (b) above is that people who are moving should seek alternatives such as those suggested in our response to Comment 13.

The subject of violations under the Lacey Act has frequently been misunderstood and caused undue consternation among animal owners. We will explain here how the Lacey Act will address the new injurious listings. A person would violate the injurious wildlife provisions of the Lacey Act (18 U.S.C. 42, also known as title 18) if he or she did one of the following with any one of the constrictor species listed as injurious: (a) Transported between the States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever; or (b) imported into the United States from another country. In either case, notwithstanding there may be other laws being broken by the action that we are not considering here, these violations are considered misdemeanors and carry penalties of up to 6 months in prison and a $5,000 fine for an individual or a $10,000 fine for an organization under 18 U.S.C. 42. If, however, another law was also broken, the violation could become a felony under 16 U.S.C. 3372 (also known as title 16, which is the wildlife trafficking provisions of the Lacey Act), which carries higher penalties. For example, if the owner of a reticulated python in Florida did not have a permit as required by Florida State law, and that person transported the snake to another State, then the fact that the State law was broken and the snake was transported across State lines makes that action a title 16 violation. Therefore, while the listing of the species as injurious may put ''as many as a million American citizens'' in possession of injurious wildlife, no one will be in violation of the Lacey Act automatically, because possession is not prohibited. Furthermore, unless these people break laws under title 16, they would not be subject to potential felony prosecution under the Lacey Act. Hobbyists' current activities would not become crimes provided their snakes stayed in-State or were exported directly out of the

country from a designated port within their State's borders.

(31) *Comment:* The illegal snake industry thrives in Hawaii. The proposed ban will not stop the pet industry in utilizing smuggling as a means of selling illegal species. However, Lacey Act violations are serious and can result in steep penalties for offenders. Eliminating the legal source of snake imports and increasing the risks to black marketers will certainly lower the odds that a male and female of any particular species would escape together to initiate a naturalized invasive population.

Our Response: We agree that the injurious wildlife provisions of the Lacey Act serve an important role in invasive species management, and we hope that the rule reduces the risk of smuggling and the opportunity for these four invasive snake species to establish in the wild.

Unintended Consequences

(32) *Comment:* Pet owners will release their snakes and the problem will be worse. The Lacey Act will do nothing to help the problem; if anything, it would have an adverse effect on the environment. Snake breeders who had been fully responsible beforehand may release their now worthless investments into the wild in retaliation of the rule change. Caring snake owners that cannot move across State lines with their beloved pets may instead release them as a means of avoiding forced euthanasia. The trust of responsible snake owners would be debilitated, and a large portion of snake owners deliberately becoming irresponsible poses a much larger risk than a few isolated irresponsible owners.

Our Response: Many commenters stated that responsible owners would release or euthanize their snakes if this rule is finalized. We do not believe that this would be the case since pet owners will still be allowed to keep their snakes and sell or give them away within their State. Many States, including Florida (FWC 2014), have laws making it illegal to release nonnative animals into the wild. We posted some suggestions on *http://www.regulations.gov* at the time the proposed rule was published on March 12, 2010 (see separate file ''Questions and Answers''), for how to find a home for a snake that a person can no longer keep; see our response to Comment 13, where they are repeated.

With social networking so available on the Internet, a person moving to another State could possibly find a reptile enthusiast in their current State to adopt the pet. When the person moved to the new State, the person could contact reptile enthusiasts in the new State to see if any snakes were available for adopting. While that is not the same as keeping the same snake, it does present a responsible alternative.

We believe that most people will choose to keep their snakes and also, of those owners who cannot because they are moving to another State or similar situation, they have options as presented above in this response and our response to Comment 13. While some misinformed pet owners or breeders might release their snakes, we do not believe that this activity will be widespread. The Service believes that the potential illegal conduct of a few irresponsible pet owners should not cause us to refrain from listing species that we have determined to be injurious.

(33*) Comment:* This rule will create a lucrative black market in the trade of these nine species that will cost billions in tax dollars to enforce. Ultimately, the animals will suffer. There will always be unscrupulous dealers who will take advantage of prohibition.

Our Response: The commenter provides no supporting evidence that a black market will be created for any of the nine species in the March 12, 2010, proposed rule. Therefore, we assume that the commenter is basing the statement on historical events with other species. We do not know if a black market will be created, although we acknowledge that some unscrupulous dealers may take advantage of people. However, we believe that the pet owners prefer to be law-abiding citizens and would find legal ways of dealing with new situations.

(34) *Comment:* This rule will cause airlines to embargo snakes. They will refuse to transport them.

Our Response: We hope that this rule does not influence airlines to implement an unnecessary embargo on transporting snakes within the injurious wildlife provisions of the Lacey Act (that is, intrastate or with a permit). It is our understanding that, unrelated to this rule or any injurious wildlife listing, some carriers have declined to transport live animals or specific dangerous animals. Shippers with the appropriate Federal permits, specifying how the animals should be transported in escape-proof containers, should be able to find a carrier.

Environmental Threat

(35) *Comment:* The peer-reviewed research (''Giant Constrictors: Biological and Management Profiles and an Establishment Risk Assessment for Nine Large Species of Pythons, Anacondas, and the Boa Constrictor'') quantified the ecological risk that nine species of large constrictor snakes pose to the United States, looking at both the probability that the snakes would become established and the resulting consequences. Burmese pythons will eat a wide variety of reptiles, birds, and mammals of all sizes, and can deplete vulnerable species.

Our Response: We agree that there is an environmental threat to native species in the United States, similar to that posed by the Burmese python, from the four species we are listing in this rule. We have explained this threat in our Environmental Assessment and in the sections ''*Potential Impacts to Native Species (Including Endangered and Threatened Species*'') for each species above. We concur that this threat is part of the justification for listing the four species as injurious.

(36) *Comment:* The Burmese python invasion is an ecological calamity in progress. It is directly undermining the multibillion-dollar, nationally supported Everglades restoration project because the monitoring and success of that project are tied to measures of native wildlife ''indicator'' populations, which are now being consumed and reduced by these human-introduced predators. Had the Service considered the risk of the Burmese python under its Lacey Act listing authority 20 years ago, the agency might have prevented this invasion.

Our Response: The South Florida Water Management District petitioned us to list the Burmese python in 2006, because the species was undermining their Everglades restoration effort, and we finalized the listing of that species as injurious on January 23, 2012 (77 FR 3330). The four species we are listing in this rule share many of the traits of the Burmese python that create the risk of injuriousness. We agree that, if we had listed the species 20 years ago, the current problem might have been averted. This evidence gives further support for our listing of the four species of large constrictor snakes in this final rule before this situation happens with these species.

(37) *Comment:* One recent paper linked declines up to 99 percent of small- and medium-sized mammals in Everglades National Park with the increased occurrence of Burmese pythons.

Our Response: The study referred to correlated a decline of raccoons (99.3 percent), opossums (98.9 percent), rabbits (possibly 100 percent), foxes (possibly 100 percent), and bobcats (87.5 percent) with the timing and geographic spread of the presence of Burmese pythons (Dorcas *et al.* 2012). Although the study is based on Burmese

pythons in Everglades National Park, we believe that the constrictor species in this final rule could have a similar devastating effect on small- and medium-sized mammals wherever the snakes are found because all species in this final rule prey on similar animal types.

(38) *Comment:* Another paper describes the establishment of boa constrictors in Puerto Rico that could severely impact native species, especially endangered and threatened species.

Our Response: The commenter refers to Reynolds et al. (2012), which documents an established population of boa constrictors in Puerto Rico. We recognize that there is an established population of boas in Puerto Rico. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(39) *Comment:* A study published in 2012 in *Wildlife Research* found that the danger of establishment of reptiles after introduction is actually much higher than previously thought—above 40 percent. Reptile establishment success was 43 percent in North America, with an astounding 72 percent for islands. The report concluded, ''[t]his suggests that we should focus management on reducing the number of herptile species introduced because both reptiles and amphibians have a high likelihood of establishing.'' Compounding the dire results of this study is the fact that once established, not a single invasive reptile species has ever been eradicated through management efforts.'' Thus, it is imperative that the Service take aggressive action to curtail the importation and interstate trade in injurious species.

Our Response: Conventional perception has been that, of all the animals introduced into an area, only a small percent (around 10 percent) survive, and of those survivors, only a small percent (around 10 percent) reproduce and establish populations. The study referred to by the commenter (Ferreira *et al.* 2012) found that this small percentage of establishment underestimated reptiles. As the comment states, reptile establishment was 43 percent on the North American continent and 72 percent on islands. These results underscore how important it is to keep reptiles from being introduced into new areas.

(40) *Comment:* ''Boa constrictors are an injurious species and must be listed under the Lacey Act. Of the nine snake species originally proposed to be banned, the boa constrictor * * * has * * * established more introduced populations than any other boa or python species, clearly posing a threat to public safety and ''the interests of agriculture, horticulture, forestry, [and] wildlife'' * * *. Boa constrictors are already established in Florida and Puerto Rico, continue to threaten other areas such as Hawaii, where loose boa constrictors are being found with greater frequency; and are established and have negatively affected the native species in Cozumel and Aruba, providing a frightening predictor of the damaging impact they will have on U.S. States and Territories if they remain in the pet trade and import of such species is not prohibited.

Our Response: For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(41) *Comment:* The Florida Fish and Wildlife Conservation Commission (FWC) is committed to preventing the introduction of high-risk nonnative species, while assessing and managing the risks of species in trade, including large constrictors. Appropriate regulatory measures, along with outreach and education, are a key part of preventing the establishment of invasive exotic wildlife. FWC supports the efforts of the Service to reduce the potential of large constrictor snakes becoming established invasive species. FWC looks forward to partnering with the Service to prevent future invasions of high-risk nonnative species.

Our Response: The Service appreciates the support by FWC. FWC sponsors Pet Amnesty Days, and FWS assists with those, so potential for release of snakes should be minimal. Because the listing as injurious does not prohibit ownership and because pet owners have alternatives to releasing their snakes, we believe there will be few cases where people would feel the need to release their snakes and that these few cases do not justify not listing them. We applaud FWC for being committed to preventing introduction of high-risk nonnative species.

Comments From Organizations, Political Leaders, and Academia From Hawaii

(42) *Comment:* Several endemic species that evolved on the islands are declining, already extinct, or at a high risk of extinction due to other introduced invasive species. On Guam, six endemic bird species were either extirpated or went extinct due to the brown tree snake (*Boiga irregularis*) invasion (Smithsonian National Zoological Park). On Kauai, all the remaining endemic forest birds that have not gone extinct are endangered. They would not likely survive treetop predators such as boas.

Our Response: We understand Hawaii's and the other islands' sensitive position. In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(43) *Comment:* The pet industry disregards the real danger posed by importing exotic animals around the globe, but the proof of the trade's risk is all around us. On Kauai, this includes a growing population of rose-billed parakeets threatening agriculture and spreading invasive seeds long distances throughout the forest. These were released pets. On the Big Island, escaped Jackson Chameleons established breeding populations and are consuming native insects and snails.

Our Response: We understand Hawaii's and the other islands' ecologically sensitive positions. In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(44) *Comment:* In a letter to Secretary Jewell in March 2014, the Governor of Hawaii explained the importance of biosecurity to Hawaii and that this importance is recognized by The Republic of Palau, Federated States of Micronesia, and Republic of the Marshall Islands. The letter lists four resolutions that the State adopted to coordinate the State's position on Federal invasive issues. One resolution (13–3) supports amendments to adding reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor to the list of injurious wildlife under the Lacey Act.

Our Response: We understand Hawaii's and the other islands' ecologically sensitive positions. In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list

of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(45) *Comment:* One of the greatest tourist attractions of Hawaii is that it is a snake-free tropical ecosystem. If the perception that Hawaii is a safe place to hike in the jungle is lost, it will cost the State significant economic activity. In 2013, tourism represented 21 percent of the GPD (gross domestic product) and was the largest single contributor to the State's economy.

Our Response: We understand Hawaii's and the other islands' ecologically sensitive positions. In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(46) *Comment:* A group coordinating Hawaii's alien pest control efforts supports adding reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor to the list of injurious wildlife. The comment notes how many snakes are still being reported on the islands despite a State prohibition on possession of snakes. The comment explains that any snake can threaten unique island species. The comment adds, ''Some may view Hawaii as relatively unimportant to the continental [United States], but invasion by snakes is a serious threat to military operations, the visitor industry, and the trans-Pacific trade routes.''

Our Response: In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(47) *Comment:* The commenter supports adding reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor to the list of injurious wildlife. The comment refers to the brown tree snake (*Boiga irregularis*) and the economic potential toll it could take ($593 million to $2.14 billion annually) if the brown tree snake got into the Hawaiian Islands. The comment compares boas to brown tree snakes, because both are arboreal, produce the same number of offspring, and feed on the same prey.

Our Response: In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

Political Pressure

(48) *Comment:* Politics are running the process. This entire movement is driven by animal rights extremists with deep pockets and a political agenda, and not science and reason. It is designed to end the trade in nonnative wildlife.

Our Response: We received a petition from the South Florida Water Management District in 2006 to list the Burmese python. They were concerned about the ecological danger posed by Burmese pythons to the health of the Everglades. In our effort to address this petition, we realized that other species of large constrictors were becoming increasingly commonly found in Florida, and, therefore, we expanded our evaluation to include other species. The Service has been criticized in the past for being too late in listing species as injurious. We took a proactive approach to prevent future problems.

The regulatory process to list the four species that are the subjects of this final rule was guided by biologists. We received peer-reviewed scientific documentation (the risk assessment) from a separate bureau (see our responses to Comments 49 and 99 on the USGS risk assessment). We also received comments from five independent peer reviewers on the proposed rule and supporting documents. This rule is an action to regulate the importation and interstate transport of four species of large constrictor snakes that have been found to be injurious. Much of the trade in these species of snakes can continue legally (except where States have their own prohibiting laws). We received tens of thousands of comments from both animal rights supporters and pet trade supporters. We considered the comments of all submitters equally.

(49) *Comment:* It is not hard to understand why the USGS and biologists would be strongly interested in seeing more species added to the Injurious Wildlife List. They have decades of experience getting funding for injurious snake research; they are expert at it. Because of this history and the fiscal incentives involved, a tangible potential exists for bias, impropriety, and a lack of impartiality. Due to the obvious possibility of conflict of interest and bias, the USGS should have recused itself from the contract and funding to create this report. So far, the USGS ''report'' provides the only scientific evidence (if one can actually call it scientific) that would justify any Federal regulatory action regarding these nine tropical snake species.

Our Response: The Service, the National Park Service, and the USGS carefully segregated their roles in this rulemaking process so that policy objectives did not bias scientific results. USGS does not undertake any regulatory efforts associated with injurious wildlife so that it may concentrate specifically on the science of the issues. The Service and the National Park Service contracted with USGS to prepare the report on risk assessment because of USGS's extensive expertise on the subject. Part of this expertise comes from their similar work on brown tree snakes, which were added to the list of injurious reptiles in 1990 (55 FR 17439, April 25, 1990). The risk assessment on the constrictor snakes provided an extensive review of the literature of the species, and while this information was used by the risk assessment's authors to provide measures of risk on each species, the extensive literature review was also used separately by the Service biologists who wrote this rule. Therefore, this rule and the risk assessment were developed from independent scientific papers from authors all around the world.

In addition, the peer reviewers of the March 12, 2010, proposed rule (75 FR 11808) and supporting documents state that the listing of all nine large constrictor snakes is scientifically justified and an appropriate step to protect native wildlife in the United States from the risks posed by the nine species. The 2011 USGS document entitled ''Challenges in Identifying Sites Climatically Matched to the Native Ranges of Animal Invaders'' also underwent peer review before it was published. Please see also our response to Comment 99 for more information on the USGS peer review process.

(50) *Comment:* The rule was steered by the USGS.

Our Response: The USGS's role was to prepare one of the supporting documents (''Giant Constrictors: Biological and Management Profiles and an Establishment Risk Assessment for Nine Large Species of Pythons, Anacondas, and the Boa Constrictor'').

This rule was written by the Service, using the risk assessment document for its excellent summaries of the biology of the four species, as well as for its assessment of the risks. However, the Service has used the criteria set forth by the Aquatic Nuisance Species Task Force (ANSTF 1996) to determine risks and its own injurious wildlife evaluation criteria to determine which species should be listed. The Service thoroughly considered each species, using biological information compiled by the USGS risk assessment authors and other available information. Because the risk assessment authors did such a thorough job of comprehensively compiling literature (more than 600 references) on the nine species that were the subjects of the March 12, 2010 proposed rule (75 FR 11808), we were able to utilize the report extensively for our own injurious wildlife evaluation of the four species that are the subjects of this rule. This compilation of references in one location greatly facilitated our evaluations, but it should not be construed that USGS directed our determinations.

Misinterpretation of the Rule

(51) *Comment:* The government does not have the right to ban animals that are so widely kept as pets. It is unconstitutional. It is my constitutional right to be able to express myself and I do that through reptiles.

Our Response: Many commenters believe that the rule will ban possession of the four species of constrictor snakes we are listing as injurious in the rule. This is not true. An injurious wildlife designation prohibits importation into the United States and transport across State lines (including the District of Columbia and U.S. Territories and possessions). Pet owners will be allowed to keep their pets, sell them, or give them away within their own State, if allowed by State law. There is no Constitutional right to unregulated importation and interstate transportation of wildlife found to be injurious.

Confusion With S 373 (Senate Bill 373) and HR 996 (House of Representatives Bill 996)

(52) *Comment:* S 373 or HR 996 should (or should not) be enacted.

Our Response: Many commenters cited S 373 as the action on which they were commenting. We assume the commenters were referring to Senate Bill 373, which was introduced in February 2009. The bill was not passed into law. The bill was a separate but parallel action to the Service's rule to list the constrictor snakes. Similarly, HR 996, introduced in 2013, addresses a broader suite of invasive wildlife issues by Congress. We can only address comments regarding our specific rule. To ensure their comments on any Congressional bill are heard, the public should submit those comments to their members of Congress.

More Burdens on Service

(53) *Comment:* This proposal will most likely create more burdens on the already taxed Office [Division] of Management Authority and enforcement sections of the Service.

Our Response: Both the Division of Management Authority and the Office of Law Enforcement are fully prepared to handle any increase in work that may result from this rule. We anticipate that the rule will not generate a significantly large increase in permit applications being submitted or increase in inspections at the ports. The Division of Management Authority receives more than 7,000 applications and issues more than 20,000 permits annually. Based on other listing activities involving species that are traded more frequently than the listed constrictors, the Division of Management Authority anticipates an increase of no more than 1 or 2 percent annually.

While the listing of species as injurious that are already widely kept and sold as pets will present unique law enforcement challenges with respect to interstate transport, the interception of injurious wildlife to prevent both entry into the United States and spread of such species once they are in the country constitutes an investigative priority for Service Law Enforcement when such transport represents a threat to U.S. wildlife resources and habitat. The fact that the listing of these constrictor snakes will create additional work for enforcement officers does not outweigh the ecological importance of addressing the problems created by the import and interstate transport of these snakes.

(54) *Comment:* Will the Department of the Interior properly fund this rule change when more pressing and immediate crises to the environment are happening?

Our Response: This comment is outside of the scope of the rule. The funding to support this rule change after it takes effect will be in the form of law enforcement (such as port inspections) and permit processing as needed to administer the regulation. Please see our response to Comment 53, which addresses those subjects.

(55) *Comment:* At our zoological institutions, we are concerned that the permit process will be affected because of a backlog of permit applications.

Our Response: While processing time for any application can vary due to completeness of the application or current workload being handled by the Division of Management Authority, the Division is committed to processing any injurious wildlife application in the most timely and efficient manner possible. Based on the number of applications that we received since 2012, when the first four constrictors were listed, we anticipate receiving fewer than 25 applications requesting authorization to conduct activities with all listed constrictors, and applications will typically be completed within 30 days. Since any permit issued for interstate transport of a listed species is valid for 1 year or more and covers a specific geographic range where activities could occur, we do not anticipate that a 30-day processing time will result in any significant impacts to a zoo's ability to carry out educational work outside their State of operation.

Predecisional Proposed Rule

(56) *Comment:* The proposed rule is predecisional. It is prejudicially constructed and telegraphs a predetermined end.

Our Response: By the nature of a proposed rule (in general for all agencies), the agency publishes what it is proposing to be the regulation, including any findings that support the proposal. Therefore, all proposed rules indicate the agency's position on a particular situation. A final rule may differ from what an agency proposes, but it may be exactly the same as the proposed rule. The purpose of a proposed rule is to obtain additional information, give the public notice of the proposal, and give the public the opportunity for comment. We review all the comments for new information and evaluation of our proposal, as we did for this rule. We clearly stated in our proposed rule that ''We are evaluating each of the nine species of constrictor snakes individually and will list only those species that we determine to be injurious.'' Thus, we made it clear that we left it open for us to list fewer than nine species, or none at all, if none was determined to be injurious based on new information. In fact, we listed four species in 2012 (77 FR 3330, January 23, 2012), we are listing four more in this final rule, and we are withdrawing our proposal to list one other species (boa constrictor).

If an agency feels that it could benefit from additional information before proposing a rule, it may publish an advance notice of proposed rulemaking

(or a notice of inquiry; NOI) to gather more information. The new information is used to develop a proposed rule. We published such a notice on January 31, 2008 (73 FR 5784), from which we received more information to apply to the proposed rule.

(57) *Comment:* The Service failed to make a good faith effort to gather new information.

Our Response: The Service provided ample notice and opportunity to comment on the proposed action. Here are examples of the opportunities provided by the Service to the public and stakeholders:

- The Service published a notice of inquiry in the **Federal Register** on January 31, 2008 (73 FR 5784), as an advance notice of proposed rulemaking. It explained why we were considering listing the genera *Python, Boa,* and *Eunectes* (which included more species than the four that we are listing in this final rule), what information we needed, and how the public could submit information to us. We provided a 90-day period to submit relevant information (ending April 30, 2008), which is a standard length of time.
- On February 29, 2008, we participated in a panel discussion arranged by the pet industry. Representatives of the Pet Industry Joint Advisory Council (PIJAC) were present. Our representative opened the discussion by stating: ''This notice of inquiry is an information gathering process. I really want to stress that this is not a proposed rule or action. As part of processing the petition we received to list Burmese pythons as injurious, we opened up this comment period to gather information on especially which species, particularly snakes such as the Burmese python, within these three genera might be a threat to native wildlife and wildlife resources. If there is a snake that has not yet been imported into the United States that might pose a threat to native wildlife, this information would be very useful. By the way, we worked with PIJAC in addressing some of the concerns, and we answered a short set of Q&As [questions and answers] with Reptiles Magazine.''
- We participated in several chatrooms with stakeholders on *http://www.pethobbyist.com* in February or March 2008.
- The Service was interviewed by PIJAC about the NOI, and the interview was posted by ReptileChannel.com in 2008. The Service explained why we were considering action, what information we were seeking, and how the public could provide their information. When we were asked why we were also requesting economic information, we answered, ''We currently have little information about the value of domestic trade in these species, and it is our responsibility as part of this process to gather a range of information on the species of interest. This includes economic data.''
- The Service was interviewed for a story on the constrictor snake NOI, and the story published in REPTILES magazine (Vol. 16, No. 5; May 2008).
- On March 12, 2010, we published in the **Federal Register** (75 FR 11808) the proposed rule to list nine species of large constrictor snakes, all of which were included in the genera from the NOI, and for which we asked for new information. We provided a 60-day comment period for the public (ending on May 11, 2010), also a standard length of time. We provided the proposed rule, draft economic analysis, draft environmental assessment, and risk assessment to the public on *http://www.regulations.gov*.
- The Service met with the Small Business Administration (SBA) on April 20, 2010, to discuss what information the SBA needed and what we needed. This meeting was within the public comment period for the proposed rule.
- The Service met with SBA on April 21, 2010, for a roundtable meeting with pet industry, zoo, and medical research representatives. This meeting was within the public comment period for the proposed rule.
- Because of several requests for an extension of the comment period, we added another 30-day public comment period from July 1 to August 2, 2010 (75 FR 38069; July 1, 2010).
- We met with the SBA again on January 13, 2011, to discuss issues raised by SBA during the public comment periods.
- We opened another 30-day public comment period on the 2010 proposed rule on June 24, 2014 (79 FR 35719). Please note that this occurred after we listed four of the constrictor snakes (Burmese (and Indian) python, Northern African python, Southern African python, and yellow anaconda) on January 23, 2012 (77 FR 3330).

In summary, the public has known since January of 2008 that we were considering listing these three genera, or species from them, as injurious. We provided a total of 210 days for receiving public information and comments, and we participated in several meetings with stakeholders. We believe that we have made a good faith effort to gather information from the public.

Inconsistent Use of Injurious Wildlife Listings

(58) *Comment:* The manner in which the Service has handled invasive species has been inconsistent. For example, in Western Colorado, feral ''wild'' horses and ring-necked pheasants are afforded wildlife protection status. Both are nonindigenous, introduced, or invasive species that compete with endemic species.

Our Response: It is correct that some nonnative species, such as feral (wild) horses and ring-necked pheasants may receive protection under other laws. The protection for wild horses comes from the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. 1331 *et seq.*). Congress gave responsibility to the Secretary of the Interior under this public law to manage and protect wild horses on lands managed by the Bureau of Land Management and the Secretary of Agriculture for Forest Service lands. As for the pheasants, we agree that pheasants may compete with native species. However, it is not correct that the Service affords them protection. In fact, the ring-necked pheasant is specifically not protected under the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) and is also exempt from the Wild Bird Conservation Act (16 U.S.C. 4901 *et seq.*). Individual States, however, such as Colorado, may provide their own protections under State laws.

Regional Listing

(59) *Comment:* The regulation of these animals cannot be addressed at a State level only. Without restriction on importation, these animals will continue to be imported into other U.S. States, including those States that are directly adjacent to States that are vulnerable.

Our Response: We agree that in most situations it is important to prohibit importation into the United States and interstate transportation of injurious species. There may be unique situations, however, where another course of action may be more effective in preventing the spread of an injurious species that has already been imported into the United States and, among other things, is widely located in many States. See the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species. We would expect such situations to be rare.

(60) *Comment:* The alternative of cherry picking only those States with suitable habitat, but then applying the listing to all States, is legally suspect, particularly because the Service has never initiated public notice and

comment rulemaking on the Lacey Act Evaluation Criteria.

Our Response: The listing is based on many factors, but habitat suitability is only one of them. The factors that we used were explained in the proposed rule (75 FR 11808; March 12, 2010), which was open to public comment.

(61) *Comment:* No potential risk of establishment in or ecological harm to areas within Hawaii, Puerto Rico, or the insular territories can be used to justify listing these snake species. Each of these jurisdictions already prohibits importation and possession of these animals. Their laws are enforceable through other provisions of the Lacey Act, which carry far greater criminal and civil penalties.

Our Response: Hawaii and Puerto Rico prohibit the importation of these snakes, but the import regulations for the insular territories vary. The other provisions of the Lacey Act that we assume the commenter refers to is title 16 (16 U.S.C. 3371–3378), which pertains to trafficking of wildlife and plants. However, the comment is not correct that those jurisdictions' laws are simply enforceable under title 16. For a title 16 violation to occur, two acts must occur, both of which must be included in the required elements of the law. An example of a violation would be transport of wildlife in interstate commerce that is possessed in violation of a State law. By the Service listing the reticulated python and the three other species in this rule, title 16 becomes applicable but it will not address every violation of State law.

(62) *Comment:* By its plain terms, the Lacey Act's prohibitions extend to importation and ''shipment'' *between* the continental States as a single entity and other listed jurisdictions, such as Hawaii and Puerto Rico. The Service lacks the authority to restrict interstate transportation and commerce of a listed species between and among continental States.

Our Response: The Service interprets the Lacey Act as giving us the authority to restrict transportation between any of the States, territories, and other jurisdictions (the District of Columbia) of the United States. We believe that this interpretation is consistent with the language and intent of the statute.

(63) *Comment:* The proposal to list the remaining five species is arbitrary and capricious because it is based on improper speculation about the impacts of the species. The most notable omission is vehicular mortality, which reduces population size and fragments habitat and which occurs more frequently in the United States than in the native range of the five constrictor species because of higher road densities here. The Service has not properly accounted for other threats in urban areas, including persecution from humans, pollution, and paucity of natural refugia and other biophysical features needed for snakes to survive and reproduce. Instead, the Service relies almost exclusively on a climate envelope match that vastly overestimates the amount of suitable habitat for constrictors.

Our Response: We believe that other considerations in and around developed areas may act in favor of constrictor survival, such as the lack of natural controls, the abundance of small prey (such as rats, pigeons, pets, farm animals), and refugia (such as houses, barns, and other buildings). The estimate of the potential range of the constrictor species uses climate match as a guide. As we state above in Need for the Final Rule, factors other than climate may limit the native range of a species beyond its historic range. Other factors, such as microhabitats, may provide small but significant areas that can support tropical species. For example, the State of Idaho supported our listing of pythons and anacondas in 2012, because Idaho has an abundance of geothermal waters that could support feral populations of the large, semi-aquatic snakes (Idaho 2012).

(64) *Comment:* A nationwide listing is arbitrary and capricious and flawed policy, and less drastic alternatives should be seriously analyzed and adopted.

Our Response: We interpret the intent of Congress under the Lacey Act's injurious provisions to be national in scope. For example, some of the species listed by Congress, such as the fruit bats (*Pteropus* spp.), inhabit only the tropics and subtropics.

(65) *Comment:* If the Service insists on applying an injurious listing nationwide, then the risk analysis for invasiveness must also be nationwide. That is, the ANSTF algorithm for organism risk potential must consider the ''probability of establishment'' and ''consequences of establishment'' for a species throughout the entire United States, not only in the areas that Reed and Rodda (2009) identify as having suitable habitat.

Our Response: The Service has considered the risks and consequences of establishment nationwide, because the risk assessment, including the climate matching, looked at the entire United States, as did the ANSTF organism risk potential. The justification for listing is found above in Factors That Contribute to Injuriousness for Reticulated Python and the corresponding sections for the three other species.

Permitting

(66) *Comment:* The Service should support a law for reptiles modeled after the Wild Bird Conservation Act of 1992. Such a law would limit the importation of wild reptiles into the United States while allowing captive breeding of species currently in the United States, and allowing the interstate and international transportation of captive-bred animals.

Our Response: The comment is referring to the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916) (WBCA), which allows for obtaining a permit for personal pets. The WBCA was enacted on October 23, 1992, to ensure that native populations of exotic bird species are not negatively impacted by international trade to the United States. Under the WBCA, the Service may issue permits to allow import of listed birds for scientific research, zoological breeding or display, cooperative breeding programs, or personal pet purposes when the applicant meets certain criteria (such as a personally owned pet of an individual who is returning to the United States after being continuously out of the country for a minimum of 1 year, except that an individual may not import more than two exotic birds under this regulation in any year). The Service was not given the authority by Congress to issue permits for all the same purposes under the Lacey Act (18 U.S.C. 42). If, by the words ''support a law,'' the commenter is asking us to write a final rule that includes a permit process for pets, we cannot do that under our current authority. By statute, we can grant permits only for zoological, educational, medical, or scientific purposes.

(67) *Comment:* If the permitting process is not made considerably more efficient and flexible, individuals and institutions engaging in these purposes are likely to be negatively impacted.

Our Response: We agree that the permitting process must be an efficient and effective process to ensure that activities that are allowable under the Act are authorized in a timely manner. The Division of Management Authority, which is responsible for the permitting process under the Act, has recently undergone a significant restructuring and reorganization. We do not anticipate that the number of permit applications that will be generated due to this listing will be significant. However, we believe that the restructuring of the Division will allow for a more efficient and effective

permitting process for all permit applications received by the Division.

Economic Effect

(68) *Comment:* Families dependent on reptile breeding businesses will lose their businesses.

Our Response: Most commenters who asserted an expected loss of business did not explain why this would occur, but some did explain that they sell one or more of the nine species that were the subjects of the March 12, 2010, proposed rule mainly or entirely out-of-State or out of the country. Some stated which species they sell, and some did not specify. We agree that breeders who specialize in breeding only the species we are listing in this rule as injurious and who sell mainly or entirely out-of-State or out of the country will be greatly affected. However, those breeders who live in the States with designated ports (Alaska, California, Florida, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, Oregon, Tennessee, Texas, and Washington) may continue to export from the United States through the designated port in their State (if allowed under State law), although they may not continue to ship to other States. For those breeders of other reptiles, this rule will not affect them. Those breeders who supply skins of the listed species for the designer clothing industry, such as for boots and belts, will still be able to ship skins across State lines, export them, and import them, consistent with other applicable laws.

(69) *Comment:* The rule will ruin a $3 billion industry.

Our Response: This comment was based on the proposed rule, and nine species were included in the economic calculations. The commenters did not explain how they arrived at the $3 billion figure. While the Service is not sure of the basis of this dollar amount, this figure was used by the United States Association of Reptile Keepers in a report to the Office of Management and Budget on March 1, 2010: ''The trade in high quality captive-bred reptiles is a $3 billion dollar [*sic*] annual industry. The animals potentially addressed by rule change make up approximately 1/3 of the total dollar value trade annually.'' Another significant dollar figure was identified in an article in ''The Economist'' (February 11, 2010): ''Revenue from the sale of boas and pythons amounts to around $1.6 billion–1.8 billion each year.''

We point out that the category of the ''sale of boas and pythons'' did not specify what species were included, but most likely would include ball pythons, which make up by far the largest segment of three genera of constrictor snakes that are imported into the United States (78.6 percent from 2008 to 2010, and 88.1 percent from 2011 to 2013) and that we analyzed in our economic analysis (see Final Economic Analysis 2012, 2015); ball pythons are a large segment of the domestic reptile trade. However, the same article in ''The Economist'' states, ''The recession, however, has hurt what used to be a lucrative hobby. Fewer people want to splurge on snakes that cost thousands, if not tens of thousands, of dollars. According to Brian Barczyk, a snake-breeder, demand for ''pet-grade'' snakes, which cost under $50, has sunk even more than demand for ''investment-grade'' ones, because the average person is hesitant to buy a new pet.'' We also note that part of the snake breeding industry is for the sale of snake skins, and this part of the industry should not be affected (dead snakes or parts thereof are not listed as injurious).

In addition, the Georgetown Economic Services report (GES; Collis and Fenili 2011) states that 18 percent of households (846,000) that own a reptile own a snake. Although the report does not say which species are the most commonly owned, based on observations, kingsnakes, corn snakes, garter snakes, and ball pythons are more commonly owned than any of the species in our March 12, 2010, proposed rule (75 FR 11808). Ball pythons comprised 64 percent of imports and domestic breeding of the three genera we reported on before our first final rule took effect on March 23, 2012 (Final Economic Analysis 2012; the nine species comprised 32 percent). Therefore, only a small percentage of households would be expected to own any of the species in this rule or the January 23, 2012, final rule (77 FR 3330).

We agree that our rule will negatively affect some aspects of the reptile industry, but we have no evidence to suggest that the prohibition on importation and interstate transportation of four species of snakes will cause the ruin of a $3 billion industry or even to the extent of $1.6 billion. On the contrary, our final economic analysis shows the estimated potential annual retail value losses associated with all four species we are listing in this final rule is $1.9 to 4.1 million (Final Economic Analysis 2015), plus $3.7 to 7.6 million for the four species listed in 2012 (Final Economic Analysis 2012), and a total annual decrease in economic output is $10.7 to 21.8 million and $5.3 to 11.4 million for 2012 and 2014, respectively. While this is not insignificant, it is a small fraction of the $3 billion quoted above.

In addition, we note that the importation of constrictor snakes of the genera *Python, Boa,* and *Eunectes* declined from the peak in 2002 (the three genera = 233,705 snakes; Final Economic Analysis 2012) to 2013 (the three genera =110,070 snakes; Final Economic Analysis 2015). The decline in imports started well before we received the petition in 2006 that initiated our regulatory process. The ball python declined from 154,505 in 2002, to 95,225 in 2013 (Final Economic Analysis 2012, 2015). The reduced imports were not likely due to our impending rule. The decline in imports could be due to decreased availability of captive-bred or wild-caught snakes in the export countries, the decreased demand in the United States, or the availability of domestically bred species. Furthermore, Collis and Fenili (2011) showed that lizard importation declined from 764,431 in 2006, to 231,241 in 2010, a 70 percent drop. Another study showed that imports of all reptiles and amphibians decreased from 7.57 million in 2001, to 3.55 million in 2009 (Herrel and van der Meijden 2014). Thus, the existing decline in constrictor snake importation seems to be unrelated to our regulatory process, and future declines should not necessarily be attributed to the listing of the four species in this final rule or to the 2012 listing of the other four species (77 FR 3330).

(70) *Comment:* It is arbitrary and capricious to exclude boa constrictors from the injurious listing simply because of the reptile industry's wildly exaggerated claims of economic hardship.

Our Response: We are withdrawing our proposal to list the boa constrictor for the reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species.

(71) *Comment:* As a matter of law and policy, listing species that have long been extant throughout the United States and subject to pet ownership and interstate commerce for several decades, as have the boa constrictor and reticulated python, comes with a higher burden to show injury to the interests the Lacey Act protects.

Our Response: The Lacey Act does not make a distinction that the Service has a higher burden to show injury for species that have long been extant in the United States and subject to pet ownership.

(72) *Comment:* Listing of constrictor snakes also inhibits efforts to eradicate

remnants of the species proposed for listing as injurious from the Everglades National Park and other locations in south Florida where they have been found. The Burmese python example shows that many of the most knowledgeable and effective herpetological experts will either limit or cease this activity if required to euthanize the captured snakes or forbidden from bringing the animals to a more suitable location out of State.

Our Response: The commenter did not provide documentation that this situation has occurred for the Burmese python. The Service has no reason to believe that listing the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda will inhibit efforts to eradicate them, especially because two of these species are not yet found in the country and none is established in any State.

(73) *Comment:* State-level laws and regulations calibrated to the perceived threat and State and Federal partnerships in ''early detection and response'' programs are more effective means of addressing the issue. Federal regulations place a burden on State conservation resources and are unneeded and unnecessary in 47 States.

Our Response: The Service greatly values early detection and rapid response programs, and the regulations promulgated in this rule should not place any burdens on them. The Service recognizes that there may be certain limited situations where State laws and related control measures may be as or more effective than listing under the Lacey Act. See our reasons for not listing the boa constrictor under the Lacey Act in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species. But, in the case of the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda, the Service has concluded that listing is necessary to protect the interests of human beings, agriculture, wildlife, and wildlife resources from the purposeful or accidental introduction and subsequent establishment of these snakes into ecosystems of the United States.

(74) *Comment:* Economic, cost-benefit considerations cannot lawfully determine the Secretary's decisions under the Lacey Act criteria in 18 U.S.C. 42(a).

Our Response: The Service does not use cost-benefit considerations when making listing decisions under the Lacey Act. The Service applies the standards and procedures under the Lacey Act and the Administrative Procedure Act (5 U.S.C. 500 *et. seq*) in promulgating its rules, but must also comply with the various other Acts and Executive Orders that govern Federal agency rulemaking, including, but not limited to, Executive Orders 12866, 12988, 12603, 13211, and 13132, and the Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and National Environmental Policy Act. We completed the analysis and findings required under these statutes and Executive Orders; please see the Required Determinations section of this rule.

(75) *Comment:* The ''Broken Screens'' report published by the Defenders of Wildlife (2007) documented that, from 2000 to 2004, at least 710 different fully-identified species of reptiles and at least 47 additional reptile species without full species identification were imported into the United States. In sum, at least 757 reptile species were in trade at the time of publication. Adding the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor to the four species that were listed as injurious on January 23, 2012, represents a mere 1.2 percent of the types of imported reptiles.

Our Response: The comment accurately reflects the Defenders' ''Broken Screens'' data summary. The 1.2 percent derived from a comparison to the data apparently includes three species not yet in trade, so the six species in trade from 2000 to 2004 would represent less than 0.8 percent of the taxa of imported reptiles.

Economic Analysis

(76) *Comment:* The rule will have a detrimental economic impact on breeders and hobbyists, food producers, and caging and accessories producers.

Our Response: The Service recognizes that the rule will curtail imports and interstate trade in the two snake species currently in trade in the United States (reticulated python and green anaconda); the listing of Beni and DeSchauensee's anacondas should not have any economic effect on U.S. trade. The supporting documentation accompanying this rule—the final Economic Analysis and the Final Regulatory Flexibility Analysis—estimates the impacts on small businesses, as required by the Small Business Regulatory Enforcement Fairness Act (SBREFA), and the benefits and costs of the rule, as required by Executive Order (E.O.) 12866. This analysis uses a regional input–output model to determine the impacts on supporting industries, such as snake-related care and food suppliers.

(77) *Comment:* The Service does not possess the information needed to do a credible benefit-cost or regulatory flexibility analysis on rules regarding constrictor snakes.

Our Response: The data needs for conducting a comprehensive analysis of any industry are very intense. Commenters agreed with our conclusion that there is very little reliable public information available about the snake industry, but we have utilized information that was available to us through the end of the public comment period for the proposed rule. Executive Order 12866 states that ''Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation'' (Section 1.b.7). The Regulatory Flexibility Act allows that the initial and final regulatory flexibility analyses may contain ''more general descriptive statements if quantification is not practicable or reliable'' (5 U.S.C. 607). We received information during the public comment period that we used to prepare the final economic analysis. While we received other information, it tended to be anecdotal, describing impacts to a specific firm or individual, which is insufficient to describe industry-wide impacts. However, we used some anecdotal information to better describe how some firms or individuals will be impacted. The Service believes the analysis is based on the best reasonably obtainable information.

(78) *Comment:* The Service ignored information submitted by industry participants and trade associations in response to its 2008 notice of inquiry. In addition, the Service misused the information it was provided by respondents to the notice.

Our Response: Industry responses to the 2008 notice of inquiry (73 FR 5784; January 31, 2008) were a primary source of information for the economic analysis. Trade association data were the only source for most of the sales and price information in the economic analysis, and the associations are cited repeatedly in the report. The Service sought clarification of the data provided by a trade association with a representative of the association and the consultant who prepared the submission. The additional information obtained from the conversations was applied in the draft economic analysis.

Many industry participants provided anecdotal information about their situations or made quantitative assertions. While informative, we cannot extrapolate anecdotal data about

individuals or businesses to describe the industry as a whole. However, in the final economic analysis, some anecdotal information from the public comments is used to better depict potential impacts.

(79) *Comment:* The Service employs baseless assumptions to estimate the information it lacks.

Our Response: Using informed assumptions for reasonable ranges to fill data gaps is a well-recognized economic technique. By applying a range of prices and quantities, the economic analysis derives the approximate scale of retail sales from the partial information available. The analysis is transparent and the assumptions can be easily replaced with more reliable information when it becomes available. Additional information, such as interstate sales from Florida, was received during the second comment period. This information was used to revise the draft economic analysis to more accurately depict the impact to industry. Industry profiles were not submitted during public comment and are not publicly available. Therefore, some assumptions are still necessary in the economic analysis.

(80) *Comment:* The economic analysis ignores wholesalers, transporters, and vendors of food and ancillary equipment.

Our Response: The economic analysis includes an input–output analysis that takes into account all of the industries that contribute to delivering the product to the consumer. Wholesalers and equipment used in the production of snakes for sale are included in the input–output analysis based on retail sales. Shipping cost information on individual sales has been obtained since we made the draft economic analysis available (March 12, 2010; 75 FR 11808). This information was used to revise the economic analysis.

(81) *Comment:* The Service also ignores pricing premiums for snakes, particularly for color morphs, dwarfs, etc.

Our Response: The aggregate information available and provided by the trade associations was insufficient to segment the market for different classes of snake for the draft economic analysis. The knowledge that ''pricing premiums reach up to 60 times the price of a 'normal' snake'' (PIJAC, August 2, 2010, FWS–R9–FHC–2008–0015–4531.1, p. 4) suggests that there are at least two market segments for a species—one for 'normal' snakes and one for high-end collectible snakes. We received additional pricing information during the 2010 public comment periods that more accurately depicts pricing premiums, and we used it in the revised economic analysis.

(82) *Comment:* The initial regulatory flexibility analysis (IRFA) underestimates the economic impact on small entities.

Our Response: We revised the IRFA to incorporate new information submitted during the course of the public comment periods.

(83) *Comment:* The IRFA does not discuss significant alternatives.

Our Response: The subject of the proposed rule was amending the regulations at 50 CFR 16.15 to add nine species of constrictor snakes to the list of injurious species under the Lacey Act. Management of feral snake populations is a much broader topic that the Service is vigorously pursuing but that is not within the purview of this rulemaking. Therefore, the alternatives considered in the environmental assessment are the only relevant choices.

(84) *Comment:* The draft economic analysis fails to quantify the benefits of the proposed rule.

Our Response: The benefits of the rule include both avoided costs of extirpating feral snake populations and maintained ecological services from areas that might have been harmed by released snakes. Little information is available about either of these sources that would allow the quantification of benefits. OMB Circular A–4, guidance for implementing E.O. 12866, recognizes that benefits are rarely fully quantified and recommends a qualitative discussion of the sources of benefits. We added this discussion to the final economic analysis (2012, 2015).

(85) *Comment:* The draft economic analysis lacks clarity in its exposition.

Our Response: The Service sought public comments on the draft economic analysis made available with the proposed rule published in the **Federal Register** (75 FR 11808; March 12, 2010). Per public comments received, the Service added additional clarification to the final economic analysis (2015) for this final rule. Please refer to the full revised final economic analysis and regulatory flexibility analysis, which are available in the docket for this rule (at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015).

(86) *Comment:* A recent economic report conducted by a third-party economics firm, Blue Sky Consulting Group, shows that the listing of the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor would not have a drastic effect on small businesses that deal in the sale of reptiles, concluding that listing would result in little or no net change in economic activity, consumer spending, or employment. Any decline in consumer spending and economic activity related to these five snakes would be offset by increased spending and economic activity in other sub-sectors of the reptile trade and in other sectors of the economy, with little or no net change in overall economic activity or employment. In addition, to the extent that Lacey Act listing reduces the likelihood of these species becoming established as invasive species, Federal, State, and local agencies will experience reduced costs for habitat restoration and invasive species control. The Blue Sky report also found that the Service's economic analysis did not assess the extent to which reductions in employment in the snake trade (for listed species) would be offset by gains in other areas of the economy as consumers reallocate spending away from listed species to unlisted species, to other reptile pets, or to other goods and services. This may have created a mistaken impression that listing constrictor snake species under the Lacey Act would result in a net reduction in consumer spending, employment, and economic activity.

Our Response: The Service agrees with this comment. As we stated in our 2012 final economic analysis, ''Impacts also are dependent upon whether or not consumers would substitute the purchase of an animal that is not listed, which would thereby reduce economic impacts described in this economic analysis. There are no marketing data that estimate how consumer preference may change due to the listing thus changing the types of snakes that businesses sell. This analysis does not account for this type of substitution effect.'' In other words, we did not make assumptions for which we had no specific information, even though such substitutions would likely occur. This makes our estimate more of a worst-case scenario.

(87) *Comment:* An economic assessment of the reptile industry commissioned by the U.S. Association of Reptile Keepers (USARK) and prepared by Georgetown Economic Services (GES), a subsidiary of USARK's lobbying firm, failed to take into account that a restriction on one particular consumer spending option usually has an approximate zero net effect on employment or macroeconomic activity. Consumers will simply replace the product with another similar product. For example, in 1975, the Food and Drug Administration (FDA) banned the sale or distribution of turtles with shells that measure less

than 4 inches in length in response to findings that pet turtles were responsible for a substantial number of *Salmonella* infections nationwide. The industry claimed economic risk in response to the ban. However, the ban on small turtle sales resulted in an increase in the number of other reptiles, such as iguanas, sold as pets. The trade will invariably shift to these other species if the selling of the large snakes is curtailed.

Our Response: Please see our response to Comment 86.

(88) *Comment:* The Small Business Administration (SBA) suggested that, at a minimum, the Service publish a supplemental initial regulatory flexibility analysis that fully addresses the issues in the 2010 IRFA.

Our Response: The service believes that SBA's concerns were adequately addressed in the 2012 final regulatory flexibility analysis (FRFA) on which the 2015 FRFA is based, and that a supplemental IRFA is not needed.

(89) *Comment:* According to the GES report, listing the 10 [*sic*] constrictor snakes on the injurious wildlife list would cost small businesses as much as $104 million in the first year and as much as $1.2 billion over 10 years.

Our Response: The GES report concluded that the economic costs to the industry over the first 10 years of lost revenues to be between $505 million and $1.2 billion. However, that figure is based on a discount rate of 3.25 percent and an annual growth rate of 7 percent (Collis and Fenili 2011), whereas the Office of Management and Budget (Circular A–94, October 29, 1992) states that Federal agencies use a discount rate of 7 percent. Additionally, it is not clear that an assumption of a 7 percent annual growth rate over a period of 10 years in the future is justified. Using a 7 percent discount rate without the assumption of a 7 percent annual growth rate (zero growth rate), the range would be $568 million to $779 million, which is within the GES estimate of $372 million to $900.9 million, using a discount rate of 3.25 percent and a zero annual growth rate.

(90) *Comment:* Referring to the GES report, an economist stated that the analysis has serious flaws because of these reasons: (a) Ignores likely substitution effects on the part of both the reptile industry and reptile owners, which leads to a likely large upward bias in the resulting estimates of negative economic impacts from the proposed rule. (b) Focuses only on the negative impacts on one small segment of the reptile industry (that is, breeders and importers of these nine large constrictor snakes) and snake owners that may result from the implementation of the proposed rule, while completely ignoring the positive impacts the rule would have in terms of benefits for native wildlife, including endangered and threatened species, avoided control and eradication expenditures by government agencies, and human safety. (c) Uses an inappropriate discount rate that by itself leads to a substantial (close to 20 percent) overstating of the projected future costs of the rule. (d) Incorrectly applies the term ''economic losses'' when referring to what in fact are reductions in revenues for this small segment of the reptile industry.

Our Response: In general, the Service concurs with these statements; using the OMB discount rate of 7 percent results in a 16 percent decrease in the 10-year aggregate cost compared with using a 3.25 discount rate with an assumption of zero annual growth.

Biological

(91) *Comment:* With the exception of predation by a *Python molurus bivittatus* on endangered Key Largo woodrats (*Neotoma floridana smalli*), there is no evidence of significant adverse environmental, human health, or economic impacts by these feral populations.

Our Response: Based upon what we know of the diet of Burmese pythons (77 FR 3330; January 23, 2012) in their native ranges and in Florida, and the four large constrictor snakes that are the subjects of this rule (snakes that share the same traits), we find that federally protected species, such as the endangered Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*), the endangered Florida panther (*Puma* (=*Felis*) *concolor coryi*), and the endangered American crocodile (*Crocodylus acutus*), are at risk of predation by these constrictors if they become feral. Reed and Rodda (2009) list a total of 64 federally and State-listed endangered or threatened species at risk from giant constrictors in Florida alone. As discussed earlier, additional Federal and State-listed species are at risk in Hawaii, Puerto Rico, Texas, and other areas of the United States from the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda. Please see our response to Comment 37 regarding the Burmese pythons linked to declines of up to 99 percent of populations of small- and medium-sized mammals as prey in Everglades National Park.

(92) *Comment:* The majority of these species have never been documented as being introduced into new environments. Despite having been detected in the vicinity of the Everglades since the 1970s, Burmese pythons are still limited to that general area.

Our Response: Of the four species we are listing in this rule, two are not yet in trade, another is involved in trade in minor amounts, and one is somewhat common in trade. Thus, their listing is intended to prevent their establishment in the wild through escapes or releases. The Burmese python illustrates the need to be proactive; although individual pythons had been regularly observed in the Everglades region since the mid-1990s, it was not until 2006 that a reproducing population was documented to be present there. By that time, the population was well established over a sizable area.

(93) *Comment:* The Burmese python population in south Florida was significantly reduced by the 2009–2010 winter cold weather.

Our Response: This comment refers to the previously listed Burmese python (77 FR 3330; January 23, 2012). Many Burmese pythons died during the record cold 2009–2010 winter, but many survived to reproduce and expand their range in south Florida (see the Final Environmental Assessment 2015).

(94) *Comment:* There is no scientific information indicating that large body size increases the likelihood that a species will become invasive. In fact, the opposite is likely the case since large-bodied animals are more readily evident and thus more likely to be removed from the environment before they can establish a viable population.

Our Response: The list of traits shared by the giant constrictors includes many of the traits that either increase the severity of their probable ecological impacts or exacerbate the challenge of controlling or eradicating them. The cryptic coloration of these snakes is a common form of camouflage where the snakes are similar to their surroundings, making them very difficult to detect and be removed from the environment. Burmese pythons have established viable populations partly because they are hard to detect, have high reproductivity, and occupy a variety of habitat types, and the four species listed in this final rule have the same traits. Thus, in comparison to potential invaders lacking these traits, this group of snakes constitutes a particularly high risk. A large body size would be a disadvantage for an animal whose size sets it off from its surrounding environment, such as a bear, which stands 1–1.2 m (3–4 ft) above ground level. However, even the largest pythons and anacondas extend only a foot above ground level, and are easily concealed by ground vegetation or water. A large

body size would also be a disadvantage for predators that hunt actively on a regular basis, because they would stand out more. Neither of these situations is true for the large constrictors, which are primarily sit-and-wait predators and which move along very low to the ground. These attributes, combined with the fact that these snakes have no similar ecological equivalents in the United States with respect to size of prey items they can consume, make them a successful predator on naïve wildlife that may otherwise not even have native predators (such as Florida panthers), thus increasing the likelihood that they will successfully invade areas of the United States that have suitable climate. In a study to determine why so few invasive reptiles in Florida succeeded as well as the Burmese python, Reed *et al.* (2012) found that the snake's giant size was one of the highest correlated factors.

(95) *Comment:* Which of the nine species of constrictor snakes are definitely reproducing in the wild in the United States?

Our Response: Of the four large constrictor snakes we are listing in this final rule, none is currently confirmed breeding in the wild in the United States. The purpose of this final rule is to prevent these species from establishing populations in the wild.

(96) *Comment:* Neither the State nor the Federal Government has made substantial investments in strategic programs for the eradication or control of Burmese python on the lands they manage. In South Florida, the cost of eradication of the Burmese python has been relatively small.

Our Response: [Refers to previously listed species; see 77 FR 3330, January 23, 2012]

(97) *Comment:* The most effective and least costly methods would focus on preventing establishment of any potentially invasive species and would include early detection and rapid response (EDRR). Eradication of established populations is very rarely effective and always costly.

Our Response: We agree. We also agree that EDRR programs can be of benefit once prevention options have been exhausted or proven to be ineffective. Sometimes considered the ''second line of defense'' after prevention, EDRR is a critical component of any effective invasive species management program. When new invasive species infestations are detected, a prompt and coordinated containment and eradication response can reduce environmental and economic impacts. This action results in lower cost and less resource damage than implementing a long-term control program after the species is established. Early detection of new infestations requires vigilance and regular monitoring of the managed area and surrounding ecosystem. An EDRR system will provide an important second line of defense against invasive animals that will work in concert with a first line of defense—that is, Federal regulations to prevent unwanted introductions by listing as injurious wildlife. Prevention is why we are listing the four large constrictor snakes that are the subjects of this final rule, which are either not yet found in the United States or not yet found to be reproducing in the United States.

(98) *Comment:* Two papers published in the journal *Biological Invasions,* one by USDA wildlife researchers and another authored by scientists at several research institutions including the University of Florida, have concluded that Burmese pythons cannot survive for any length of time outside south Florida unless they have the ability to find appropriate burrows or cavities to allow hibernation for several months during the winter. Given that this snake is primarily a tropical and subtropical species, it may not have evolved the behavior or physiology to successfully hibernate. Another paper (Jacobson *et al.* 2012) calls into question the fundamental premise of the USGS climate work that pythons can migrate north out of south Florida and across the southern third of the United States. Although this study specifically addresses Burmese pythons, it has clear implications for the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor.

Our Response: This comment refers specifically to a previously listed species (see 77 FR 3330, January 23, 2012) but the relevant science also applies conceptually to the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda, because they share with the Burmese python such traits as how they regulate their body temperature.

The winter of January 2010 was one of the coldest on record in southern Florida. Burmese pythons were documented to tolerate these conditions. In the USDA study (Avery *et al.* 2010), two of nine (22 percent) of the Burmese pythons survived the cold spell. This study was conducted in Gainesville, Florida, 400 km (248.5 mi) north of the known range where they are currently reproducing; this region of Florida also experienced record cold weather. The Mazzotti *et al.* (2010) study, which was conducted within the Everglades region, found that 1 of 10 telemetered Burmese pythons survived (10 percent) and 59 of 99 (60 percent) of nontelemetered pythons survived. Subsequently there have been sightings and recent removals of Burmese pythons and Northern African pythons in south Florida, including a mating aggregation of Burmese pythons with one gravid female and four males (Snow 2010). Therefore, despite the coldest winter on record since at least the 1940s (NOAA 2010), south Florida still has reproducing populations of nonnative large constrictor snakes. While the abundance of pythons clearly declined during this record cold winter, the population has recovered rapidly in south Florida, where the average female reaches reproductive maturity within 3 years and can subsequently produce more than 30 (but up to 107) eggs per clutch annually or biennially (Harvey *et al.* 2008).

Dorcas *et al.* (2011) published another study in *Biological Invasions.* They relocated 10 Burmese pythons from the Everglades to an outdoor research setting in South Carolina. The following January, they all died. However, they had not had a chance to acclimate to a milder winter before getting hit with record cold. Dorcas *et al.* (2011) concluded: ''Some pythons in our study were able to withstand long periods of considerably colder weather than is typical for South Florida, suggesting that some snakes currently inhabiting Florida could survive typical winters in areas of the southeastern United States more temperate than the region currently inhabited by pythons. Moreover, our results are specific to translocated pythons from southern Florida. Burmese pythons originating from more temperate localities within their native range may be more tolerant of cold temperatures and would presumably be more likely to successfully become established in temperate areas of North America. The susceptibility to cold we observed may reflect a tropical origin of the Florida pythons or acclimatization of snakes to warm southern Florida winters early in life.'' If the snakes in any of the research studies had been provided such refugia as gopher tortoise burrows, they may have shown that they could survive even lower temperatures without hibernating. Given the climate flexibility exhibited by the Burmese python in its native range (as analyzed through USGS' climate-matching predictions in the United States), we would expect new generations within the leading edge of the population's nonnative range to become increasingly

adaptable and able to expand to colder climates. Likewise, we would also expect the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to have the same climate flexibility, and new generations along the leading edge may become increasingly adaptable and able to expand to colder climates.

A subsequent paper (Jacobson *et al.* 2012) concluded that it would be unlikely that Burmese pythons will be able to expand to or colonize more temperate areas of Florida and adjoining States due to their lack of behavioral and physiological traits to seek refuge from cold temperatures. However, there is nothing in the paper that undermines the original approaches or conclusions of Rodda *et al.* (2009). Many factors, including temperature, may limit the distribution of pythons in the United States, but Jacobson *et al.* (2012) give no insight to what those limitations might be. Based on the rationale described in the paper, most of the continental United States is unsuitable even for native snakes, and that is not the case.

(99) *Comment:* The ''Reed and Rodda Report'' was only subject to an internal review process. Any policy changes or legislation that will have an effect on the freedoms of American citizens should be based on sound scientific evidence as well as the merit of a true scientific peer review process.

Our Response: Dr. Susan Haseltine, Associate Director for Biology, USGS, responded on January 23, 2010, to a press release issued by a reptile-trade organization and an accompanying letter by a group of veterinarians and other scientists regarding the USGS peer review process. She said, ''The USGS provides unbiased, objective scientific information upon which other entities may base judgments. To ensure objectivity, independent scientific review is required of every USGS publication. Standards require a minimum of two reviews, and adequacy of the author's responses to reviews is assessed by both research managers and independent scientists within the USGS. USGS went well beyond the requirements by soliciting reviews from 20 reviewers (18 of them external to the USGS). Reviewers comprised a large portion of the global expertise on both the biology of giant constrictor snakes and the management of invasive snakes.''

The USGS follows mandatory fundamental science practices for peer review, which can be read at the following Internet site: *http://www.usgs.gov/usgs-manual/500/502-3.html.* This policy establishes the requirements for peer review of USGS information products and applies to all USGS scientific and technical information, whether it is published by the USGS or an outside entity.

(100) *Comment:* For the 2012 final rule, the Service neglected relevant information and scientific reports brought to its attention during the comment period or published shortly thereafter. The Service also neglected information in reports contrary to conclusions they drew. Some studies were selectively quoted, giving misleading impressions about their findings. These legal errors cannot be repeated as the Service makes a determination regarding reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor.

Our Response: For the final rule published on January 23, 2012 (77 FR 3330), the Service reviewed all documents that were provided to us prior to the final determinations being made. We used information that we found to be relevant, including citing papers that we found not defensible, for which we explained why (see Need for the Final Rule above). For this final rule, we reopened the comment period on the proposed rule for an additional 30 days (see 79 FR 35719, June 24, 2014), and we considered all relevant information, including information that we had received after the decisions for the first four species of constrictor snakes had been made, along with other available information concerning the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor.

(101) *Comment:* The National Park Service (NPS) described where boa constrictors, reticulated pythons, and two of the anacondas have been captured outside of captivity in Florida and other States. NPS also comments that the potential range for the boa constrictor includes NPS units such as Cumberland Island and Gulf Coast national seashores, Cape Canaveral, Virgin Islands National Park, and other sites in Puerto Rico, the Florida Keys, and elsewhere. The reticulated python has been found on the loose in Florida, California, Colorado, Hawaii, and Massachusetts. The potential range for the three the anacondas includes Florida, Puerto Rico, and the Virgin Islands.

Our Response: We considered the information submitted by NPS and have incorporated that information into our analysis where appropriate. In this rule, we are adding reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(102) *Comment:* NPS's review of biological studies shows that: (a) The probability of detection of Burmese pythons in the environment is extremely low because they are highly cryptic in a variety of native and nonnative habitats. The reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor are also highly cryptic and thus difficult to detect. Similar to the Burmese python, they would likely be present, breeding, and causing impacts to the environment long before an invasion is fully recognized. By the time there is sufficient evidence gathered to determine that an invasion has occurred, a population will likely have expanded beyond the stage of eradication or containment. (b) Peer-review science confirms the serious environmental impact of Burmese pythons on wildlife in the Everglades. The green anaconda is the largest and heaviest of the constrictor snakes and has a prey base that includes aquatic species in larger proportion than the Burmese python. The boa constrictor is the most arboreal of the constrictor species addressed in this rulemaking process and is known to take birds from all forest strata in addition to preying on mammals. The reticulated python is noted as a good swimmer, is tolerant of salt water, and is likely able to colonize coastal islands from mainland shores. Such traits suggest potential to cause as much or greater damage to wildlife than the Burmese python has, particularly when cumulative impacts are considered. (c) Because an invasion of cryptic constrictor snakes, such as the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor, can only be determined after a large number are present in the environment, control and management after they become established in the wild is costly and both time and labor intensive. Further, eradication may never be possible. Current control and management tools for the Burmese python are extremely limited in their success, in spite of nearly 10 years of research and management efforts. If we use the several decades of information on the effort to contain brown tree snakes in Guam as a guide, efforts to develop landscape-scale control tools for constrictor snakes in south Florida is likely to require tens of millions of

dollars and several decades. The most effective and affordable means of control for invasions by large constrictor species is prevention from introduction, whether accidental or intentional. (d) Trade and transportation have been cited as the ultimate drivers of invasive species introductions, including those on NPS lands. Personal ownership via the pet trade is the principal pathway by which large constrictor species have been introduced into the environment in south Florida. Efforts in education and outreach are extensive but are not able to prevent all intentional or accidental releases of captive snakes into the wild. For the six large constrictor species that have been found outside of captivity in Florida, personal ownership in the pet trade was demonstrated as the principal pathway that has resulted in their presence in the environment. (e) New information on Burmese pythons has documented unprovoked attacks by wild pythons on humans in Everglades National Park. Attacks by reticulated pythons on humans in their native range are documented and include multiple fatalities. NPS is concerned about impacts to human health and safety as well as impacts to native wildlife and habitats on NPS lands.

Our Response: The Service concurs with these comments. In this rule, we are adding the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda to the list of injurious wildlife. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(103) *Comment:* An authority on the physiology and biology of pythons and boas makes these two conclusions: (a) These snakes are unable to expand their populations beyond southern Florida and will undoubtedly experience periodic population die-offs resulting from episodes of freezing temperatures. (b) It is doubtful that these species present a risk to natural populations of vertebrates because the amount of food that they eat is trivial compared to the yearly intake of a similar size carnivore (such as feral cats). (c) Finally, these snakes are valuable for scientific and biomedical research.

Our Response: We believe the species can potentially spread, but we will likely not know for certain until it is too late to act. Some individual snakes may die from cold weather, but some Burmese pythons, which are closely related, have already survived record cold temperatures in Florida. For the second statement, we believe that many large constrictors will attain much larger sizes than feral cats and that they will, therefore, consume each more than the 5 kilograms per year that the commenter estimates in his public comment. If these prey items are declining species, the snake predation will pose a risk to natural populations of vertebrates. Finally, scientific and biomedical researchers will still be able to obtain permits for importation and interstate transportation.

(104) *Comment:* The subspecies *Boa constrictor imperator* is indigenous to the Sonoran Desert of northern Mexico but has never naturally expanded its range to include the United States.

Our Response: For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

(105) *Comment:* In 2013, the Florida Fish and Wildlife Conservation Commission launched ''The Python Challenge,'' a legal hunt designed to highlight the problem of these invasive predators. This hunt attracted roughly 1,600 hunters, yet only 68 snakes were captured.

Our Response: [Refers to a previously listed species; 77 FR 3330, January 23, 2012.] This hunt was organized to heighten public awareness of the invasive species problem. The hunt confirmed how difficult it is even for dedicated hunters to locate the cryptic animals. The reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda are just as cryptically colored and just as difficult to locate in the field.

Other

(106) *Comment:* The Service has not thoroughly considered the full implications of the rule regarding effects on the pet industry.

Our Response: We understand that the implications of this rule are complex. We have endeavored to consider all aspects of listing the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda as injurious, including alternatives, using the best available information. Please see Alternatives to Listing, below, for an explanation of the alternatives that we considered. We have also made every effort to consider all of the indirect and cumulative effects. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010), thus decreasing the effects on the pet industry.

(107) *Comment:* Because the addition of any species to the lists of injurious species under the Lacey Act results in the nationwide ban of that species, a nationwide impact study should be performed.

Our Response: The commenter did not explain what type of nationwide impact study should be performed. We did, in fact, develop two nationwide impact studies, an economic analysis and an environmental assessment, drafts of which we posted on *http://www.regulations.gov* on March 12, 2010, with the proposed rule, and final versions of which are also available at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015 for the species listed in 2012 and the species we are listing in this final rule. We used the best available information, and we believe these impact studies are sufficient. We also believe we made a good-faith effort to locate information (see also response to Comment 57).

(108) *Comment:* We request an extension of the comment period for the proposed rule to provide our members much needed time to provide comments, data, and analysis that will be instrumental to the Service's final decision.

Our Response: We received requests for an extension of the public comment period for up to 90 days. We granted two additional 30-day comment periods to the original 60 days, for a total of 120 days for the proposed rule's comment period. We believe that amount of time was sufficient, even for a complex rule, considering we were seeking similar information to that for the 2008 notice of inquiry (73 FR 5784; January 31, 2008).

(109) *Comment:* One commenter referred to a memo written in 2007 by a former Service Assistant Director and Chief of Law Enforcement. The comment quoted the memo, ''The injurious species provisions of the Lacey Act were clearly not designed to deal with a species that is already a significant part of the pet trade in the United States'' and ''It could, however, make a felon out of a reptile enthusiast in Wisconsin who sells one python to an individual in Minnesota.'' The commenter stated that the Service has not made a case for the rule.

Our Response: The memo that the commenter referred to was an information memorandum to the Service's Director regarding the petition to list the Burmese python from the South Florida Water Management District in 2006. The memo described

various options that the Service and others could consider. The statements quoted by the commenter are verbatim. However, at the time the memo was written, the USGS risk assessment (Reed and Rodda 2009) had not yet been completed. No decision had been made by the Service at the time of the memo. The Service's memo acknowledges, ''We expect to have the risk assessment—an essential first step in any evaluation for injurious designation—completed in approximately one year.'' That was, however, an underestimation of the time it would take to prepare such a thorough document and have it extensively peer-reviewed. Once that risk assessment was completed, it became clear that all nine species included in our March 12, 2010, proposed rule (75 FR 11808) should be evaluated by the Service for possible listing as injurious.

The memo's statement, ''The injurious species provisions of the Lacey Act were clearly not designed to deal with a species that is already a significant part of the pet trade in the United States'' is true in that the pet trade was not established to the degree it is today when the Lacey Act was passed by Congress in 1900. That does not, however, mean that the injurious species provisions cannot be an effective tool in invasive species management. The reason that we are listing the reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda as injurious is that the listings may prevent their establishment in vulnerable parts of the country. In addition, two of the species are not currently part of the constrictor pet trade, and the reticulated python and green anaconda comprise less than 1 percent each of total constrictor snake imports (for the genera *Python, Boa,* and *Eunectes*) for 2008 to 2010. Therefore, taking the proactive step to list them as injurious species now will reduce the likelihood that their numbers will increase in the United States and pose a risk to native wildlife in the future. The Service has determined, however, that the boa constrictor should not be listed as an injurious species under the Lacey Act for the reasons explained in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, including, in part, that the species is widely held in captivity in the United States in high numbers, often as pets.

As for the comment from the memo, ''It could, however, make a felon out of a reptile enthusiast in Wisconsin who sells one python to an individual in Minnesota,'' that statement was also quoted correctly and is correct under certain situations. However, those situations are more representative of worst-case scenarios. A variety of other laws are often violated when people engage in illegal wildlife trafficking, some of which are Federal felonies. However, a stand-alone violation of the interstate transport or import prohibitions under 18 U.S.C. 42 is a misdemeanor, not a felony. Please also see our response to Comment 30 for an explanation of the misdemeanor and felony violations.

Alternatives to Listing

(110) *Comment:* This is a summary of the alternatives suggested through the public comment process. Where noted, they are explained further in the text of the preamble above.

(a) List some or all of the nine species, but:

• Exempt color and pattern genetic mutations of these snakes from the listing as albinos, leucistics, etc.

Our Response: The commenter explains that albinos and leucistic (having reduced pigmentation) snakes have a far lesser chance of survival in any wild environment. Not listing these color and pattern mutations would have a smaller financial impact on the industry and no financial impact on the government. The commenter may be correct that such color variations may have a lesser chance of survival in the wild. However, the survival differential is unknown, so we have assumed that all color variations still pose a substantial risk to the welfare of wildlife or wildlife resources of the United States. Furthermore, if snakes escape to the wild, their offspring may not have the same obvious color pattern and may perpetuate normally patterned populations given gene dominance, expression, mutation, and natural selection.

• Exempt hybrids.

Our Response: We realize that hybrids often are worth significantly more money than the parent species separately. Allowing hybrids would preserve more of the income of some breeders. However, we have determined that hybrids are at least the same risk as the parent species are to the welfare of wildlife or wildlife resources of the United States. The Wildlife Society commented, ''Hybrids between two invasive species are also invasive themselves and must be listed as injurious along with the exotic parental species. Hybrids maintain many of the characteristics of the parent species; this means that hybrids will retain an ability to reach the large sizes and continue the voracious dietary habits of the parental species, and they will cause as much damage to native threatened and endangered species and the environment as pure species ancestors. Many closely related constrictor species are known to hybridize, and it is likely that many of the invasive constrictors noted in the proposed rule have this same ability. Some hybrid combinations may result in sterile offspring, however, some do remain fertile. Furthermore, each individual snake still has the capability of causing extensive damage within its lifetime.''

• Do not list the species *Boa constrictor.*

Our Response: For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

• List regionally only where there is a climate match.

Our Response: Creating this type of geographical restriction or exemption (or both) under the Lacey Act would make enforcement of the regulations by the Federal Government, in cooperation with the affected States, virtually impossible. Furthermore, the authority to list regionally is unclear and untested.

• Allow for the interstate travel for captive-bred animals.

Our Response: Please see our response to Comment 66.

• Remove the status of the Port of Miami as an agricultural port and a port of entry. Move the port of entry north, maybe to one of the New England ports where the weather will eradicate anything that would be lost or illegally released.

Our Response: This alternative is beyond the scope of this rulemaking. In addition, it is highly impractical. While Miami is the port with the most imports of the reticulated python, green anaconda, and boa constrictor (94.2 percent from 2011 to 2013; Final Economic Analysis 2015), two other warm-weather southern ports (Los Angeles and Dallas-Fort Worth) also received imports of thousands of the species identified in the March 12, 2010, proposed rule. These three ports account for 99 percent of all imports of the reticulated python, green anaconda, and boa constrictor.

• The Service should consider paying restitution to or compensating these people for their losses, by buying the animals and the businesses that will no longer exist, suddenly made worthless, at fair market value, and then debating the question on how to dispose of those animals.

Our Response: This rule does not affect people's ability to own, possess,

or transport snakes within States, if allowed by State law. In addition, neither the Service nor the Department of the Interior has programs or authorities to compensate people for losses that may be related to this injurious wildlife listing. The Service can work with the affected States and industry, and offer technical assistance to provide environmentally risk-free approaches to disposing of constrictor snakes that businesses or pet owners no longer want to keep. Please also see our response to Comment 13 where we provide options for people to dispose of snakes responsibly.

(b) Do not list any of the species. Instead:

• Let the States regulate their own captive wildlife, such as following FWC's comprehensive approach in Florida.

Our Response: Please see our response to Comment 19.

• Allow the industry to self-regulate and educate with the Internet, etc.; United States Association of Reptile Keepers best management practices; State and local risk assessment industry best management practices (BMPs) as suggested by Dr. Frank Mazzotti; and Habitattitude™.

Our Response: We fully support all of these suggestions and look forward to working with all entities that endorse them. However, they are voluntary actions, with no guarantee that organizations or their members will cooperate. Of note is that these opportunities have been available for many years, but, for example, USARK has not published large constrictor snake best management practices to protect the environment (such as asking the public not to release nonnative species into the wild) on their Web site as of this date. We believe that both voluntary and regulatory actions are necessary to safeguard our ecosystems with more assurance.

• Issue permits and registrations, require microchipping, apply severe fines and criminal charges, etc., for the miskeeping or release of these animals in any State.

Our Response: These alternatives do have potential for preventing accidental and intentional escapes. However, the Service does not have the authority to issue permits for pets or for any use of injurious species other than for medical, zoological, educational, or scientific purposes.

(c) PIJAC offered to discuss options with the Service in detail including developing a comprehensive, State-led prevention and early detection and rapid response program.

Our Response: Industry and State partnerships are very important to the Service and Department of the Interior in our efforts to manage invasive species. As examples, the Department signed a memorandum of understanding with PIJAC in 2009, to create public awareness—through such public campaigns as Habitattitude™—about the threat of invasive species and to promote responsible pet ownership practices to prevent the accidental or intentional release of invasive species by pet owners. The Service also partners with States to develop a national aquatic invasive species program, and we support many State management actions through cost-share grants for implementation of State Aquatic Nuisance Species Management Plans. These partnerships with industry and States are essential aspects of managing the invasive species problem facing the nation and have been found to be particularly important in developing the most effective means for controlling the further establishment, spread, and damage from boa constrictors, as explained in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species. Also important, however, is the Federal Government's authority to regulate importation and interstate transport of species found to be injurious wildlife under 18 U.S.C. 42 when appropriate. This authority is one important aspect of an overall national strategy to reduce the risks from introduction and spread of harmful nonnative species.

(d) AZA offered an alternative to adopting the proposal by supporting a coordinated regional response to Florida's pythons, and invasive species in general, through a multipronged approach:

• A national educational program should be developed to bring the risks of invasive species to a broad audience and emphasize responsible pet ownership and gardening practices.

Our Response: The Service is working with stakeholders on Habitattitude™ and Stop Aquatic Hitchhikers! National campaigns. The Service also worked on the development of ANSTF's Water Gardening Guidelines, which became available to the public in 2014.

• Increased support and coordination is needed for State and local early detection, rapid response, and eradication efforts, including organized volunteer invasive species corps to help protect local ecosystems.

Our Response: The most effective and least costly methods should focus on preventing establishment of potentially invasive species (see our response to Comment 97), which is the intent of this rule.

• Guidelines should be developed to help States evaluate and manage the particular invasion risks in their region, including improved data collection and record-keeping, containment facility standards, and legitimate methods for unwanted pet disposition.

Our Response: We are unclear if this recommendation is directed toward the Service. We suggest that it is more appropriate for AFWA to address this recommendation.

Required Determinations

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is significant under Executive Order (E.O.) 12866. OMB bases its determination upon the following four criteria:

(1) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(2) Whether the rule will create inconsistencies with other Federal agencies' actions.

(3) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(4) Whether the rule raises novel legal or policy issues.

Executive Order 12866 Regulatory Planning and Review (U.S. Office of Management and Budget 1993) and a subsequent document, Economic Analysis of Federal Regulations under Executive Order 12866 (U.S. Office of Management and Budget 1996), identify guidelines or ''best practices'' for the economic analysis of Federal regulations. With respect to the regulation under consideration, an analysis that comports with the Circular A–4 would include a full description and estimation of the economic benefits and costs associated with implementation of the regulation. These benefits and costs would be measured by the net change in consumer and producer surplus due to the regulation. Both producer and consumer surplus reflect opportunity cost as they measure what people would be willing to forgo (pay) in order to obtain a particular good or service. ''Producers' surplus is the difference between the amount a producer is paid for a unit of good and the minimum amount the producer would accept to supply that unit. Consumers' surplus is the difference between what a consumer pays for a unit of a good and the maximum

amount the consumer would be willing to pay for that unit (U.S. Office of Management and Budget 1996, section C–1).''

Large constrictor snakes are commonly kept as pets in U.S. households, displayed by zoological institutions, used for science and research, and used as educational tools. Because none of the four species we are listing in this rule is native to the United States, the species are obtained by importing or breeding in captivity. We provided a draft economic analysis to the public at the time the March 12, 2010, proposed rule (75 FR 11808) was published (on *http://www.regulations.gov* at Docket No. FWS–R9–FHC–2008–0015) and offered two public comment periods totaling 90 days. Using the comments we received on the draft economic analysis and new information we acquired, we revised the economic analysis and provided the final version on *http://www.regulations.gov* at Docket No. FWS–R9–FHC–2008–0015 for the four species we listed as injurious in 2012 (see 77 FR 3330, January 23, 2012). We opened another 30-day public comment period on June 24, 2014 (79 FR 35719) on the five remaining species in the proposed rule, for a total of 120 public comment days. We prepared another economic analysis for the four species that are the subjects of this final rule (reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda) using the same protocols as in 2012. We provide a summary here of the part of the final economic analysis (2015) relevant to those four species.

In the context of the regulation under consideration, the economic effects to three groups would be addressed: (1) Producers; (2) consumers; and (3) society. With the prohibition of imports and interstate transport, producers, breeders, and suppliers would be affected in several ways. Depending on the characteristics of a given business (such as what portion of their sales depends on out-of-State sales or imports), sales revenue would be reduced or eliminated, thus decreasing total producer surplus compared to the situation without the regulation. Consumers (pet owners or potential pet owners) would be affected by having a more limited choice of constrictor snakes or, in cases where species were not available within their State, no choice at all if out-of-State sales are prohibited. Consequently, total consumer surplus would decrease compared to no injurious listing. Certain segments of society may value knowing that the risk to natural areas and other potential impacts from constrictor snake populations is reduced by implementing this rule. In this case, consumer surplus would increase compared to no injurious listing. If comprehensive information were available on these different types of producer and consumer surpluses, a comparison of benefits and costs would be relatively straightforward. However, information is not currently available on these values, so a quantitative comparison of benefits and costs is not possible.

The data currently available are limited to the number of constrictor snake imports each year, the estimated number of constrictor snakes bred in the United States, and a range of retail prices for each constrictor snake species. Using data for the three genera *Python, Boa,* and *Eunectes,* we provide the value of the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor sold as a rough approximation for the social cost of this final rulemaking and alternatives considered. We provide qualitative discussion on the potential benefits of this rulemaking. In addition, we used an input–output model in an attempt to estimate the secondary or multiplier effects of this rulemaking—job impacts, job income impacts, and tax revenue impacts (discussed below).

With this rule, the importation and interstate transport of four species of large constrictor snakes (reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda) will be prohibited, except as specifically permitted. The annual retail value losses as a result of this rule are estimated to range from $1.9 million to $4.1 million (Final Economic Analysis 2015).

The broad indicator of the economic impacts of the alternatives, economic output or aggregate sales, includes three types of effects: Direct, indirect, and induced. The direct effects are the changes in annual retail value due to the implementation of a given alternative. ''Indirect effects result from changes in sales for suppliers to the directly affected businesses (including trade and services at the retail, wholesale and producer levels). Induced effects are associated with further shifts in spending on food, clothing, shelter and other consumer goods and services, as a consequence of the change in workers and payroll of directly and indirectly affected businesses'' (Weisbrod and Weisbrod 1997). The indirect and induced effects represent any multiplier effects due to the loss of revenue. These cost estimates include the various potential scenarios we considered.

Businesses or individuals importing or transporting listed species across State lines could face penalties for Lacey Act violations. The penalty for a Lacey Act violation is not more than 6 months in prison and not more than a $5,000 fine for an individual, and not more than a $10,000 fine for an organization.

Under this final rule, the probability of the four species of large constrictor snakes establishing populations within the United States should decrease compared to the ''no action'' alternative. The change in probability is unknown.

Alternatives Considered

The draft economic analysis (2010) considered two other alternatives, in addition to listing all (Alternative 2) or none (Alternative 1) of the nine species under consideration. Alternative 3 would list the seven species known to be in trade in the United States (that is, all but the Beni and DeSchauensee's anacondas). Alternative 4 would list the five species judged to have a high ''overall risk potential'' in the USGS evaluation (Reed and Rodda 2009), while excluding the four species judged to have a medium overall risk potential (that is, the two nontraded species, plus the green anaconda and reticulated python).

For the final economic analysis for this final rule (2015), our alternatives changed because we had already listed four species as injurious (see 77 FR 3330, January 23, 2012). Therefore, Alternative 2A would list the five species remaining from the proposed rule (reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor); Alternative 2B would list the four species we are listing in this final rule (reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda); Alternative 3 would list the three species that are currently in trade (reticulated python, green anaconda, and boa constrictor); and Alternative 4 would list only the boa constrictor, which is the only species of the five remaining ones that Reed and Rodda (2009) determined to have a high risk potential (all nine species, however, are injurious).

Compared to the alternative of listing all five species (2A), Alternative 2B would have less effect on current sales revenues or indirect economic impacts from the loss of such revenues, because there are currently no sales revenues from two of these species and the rule does not include the boa constrictor, the one remaining species with the highest overall risk potential (Reed and Rodda

2009). Only the reticulated python is the subject of noticeable trade, and that is less than 4 percent of imported constrictor snakes of the genera *Python, Boa,* and *Eunectes* (Final Economic Analysis 2015). Alternative 2A would have the same economic impacts as Alternative 3, because the two species that are not in Alternative 3 are not in trade.

Alternative 3 would, however, allow consumers to substitute the two species not in trade (in addition to the many other substitute species already available) for the purchase of the prohibited species, thus reducing economic impacts to the degree that there would be substitute purchases of these two species. However, the possibility of substitute purchases is itself a potential problem in that the two currently nontraded species are so similar in appearance to the green and yellow anacondas that it would be difficult for enforcement officials to distinguish green or yellow anacondas that were mislabeled as Beni or DeSchauensee's anacondas. In addition, acting to prevent the importation of these two species before trade in them emerges means that environmental injury from them can be prevented, which is far more effective than waiting until after injury has already occurred to act to limit it.

Alternative 4 (listing only the one species determined to have a high ''overall risk potential'' in Reed and Rodda (2009)) would limit the rule to the species with the greatest potential for environmental injury. Of the four species that would not be listed under this alternative, two anacondas are not currently in trade in the United States, and one (the green anaconda) is in very limited trade (less than half a percent of imported constrictor snakes of the genera *Python, Boa,* and *Eunectes*). The economic impact of the one-species alternative (Alternative 4) would be slightly less than the five-species alternative (Alternative 2A) and the three-species alternative (Alternative 3) because the boa is the primary species in trade of the five species, but greater than the four-species alternative, which does not include the boa (Alternative 2B).

The relative level of risk associated with each species is determined by the criteria specified in the section Lacey Act Evaluation Criteria. Even in the case of those species with medium risk, the particular areas where the climate match occurs are notable for the number of endangered species found there (such as Hawaii, southern Florida, and Puerto Rico). That fact, the potential that yellow anacondas would be difficult for enforcement officials to distinguish if mislabeled as DeSchauensee's anacondas and green anacondas would be difficult for enforcement officials to distinguish if mislabeled as Beni anacondas, and the fact that the opportunity to act preventively before most of these species became established would be lost under this alternative all argued in favor of Alternatives 2A, 2B, and 3.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (that is, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. A final regulatory flexibility analysis was prepared for the four species listed in 2012 (see 77 FR 3330, January 23, 2012) and another was prepared for the four species in this final rule in 2015, which we briefly summarize below. See **ADDRESSES** or *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015 for the complete documents.

This rule lists four constrictor snake species (reticulated python, DeSchauensee's anaconda, green anaconda, and Beni anaconda) as injurious species under the Lacey Act. Entities impacted by the listing include: (1) Companies importing live snakes, gametes, viable eggs, and hybrids; (2) companies (breeders and wholesalers) with interstate sales of live snakes, gametes, viable eggs, and hybrids; (3) entities selling reptile-related products and services (pet stores, veterinarians, and shipping companies); and (4) research organizations, zoos, and educational operations. Importation of the four constrictor snakes will be prohibited, except as specifically authorized. Impacts to entities breeding or selling these snakes domestically will depend on the amount of interstate sales within the constrictor snake market. Impacts also are dependent upon whether or not consumers substitute the purchase of an animal that is not listed, which would thereby reduce economic impacts.

For businesses importing any of the four large constrictor snakes we are listing in this final rule, the maximum impact of this rulemaking will result in 20 to 28 small businesses (39 percent) having a reduction in their retail sales of 1 percent.

In addition to companies that import snakes, entities that breed and sell large constrictor snakes will also be impacted. These entities include distributors, retailers, breeders and hobbyists, and exhibitors and trade shows. We do not know the total number of businesses, large or small, that sell or breed the two species we are listing in this rule that are currently in trade domestically. However, we know approximately the number of businesses that sell or breed large constrictor snake species of the genera *Python, Boa,* and *Eunectes* and that, overall, the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor represent 39 percent of all U.S.-bred large constrictor snake sales of those three genera. Because we do not know exactly how many businesses sell those five species, we extrapolated the percentage of sales to determine the number of affected businesses. Thus, we assume that 8 percent of businesses sell or breed the reticulated python and green anaconda (the two snake species in U.S. trade in this final rule) and that approximately 60 to 85 percent of these entities would qualify as small businesses. Therefore, approximately 490 to 1,281 small businesses will be affected. Impacts to this group of businesses as a whole could represent an 8 percent reduction in retail value.

In addition to snake sales, ancillary and support services comprise part of the snake industry. Four major categories include: (1) Food suppliers (such as for frozen or live rats and mice), (2) equipment suppliers (such as for cages, containers, lights, and other nonfood items), (3) veterinary care and other health-related items, and (4) shipping companies. The decrease in constrictor-snake-industry economic output and related employment from baseline conditions is $5.3 to 11.4 million for the reticulated python and green anaconda. This estimate includes impacts to the support service businesses. The number of businesses

that provide these services to the large constrictor snake market is unreported. Thus, we do not know the impact to these types of individual businesses.

Under the final rule, the interstate transport of the reticulated python and green anaconda (the two constrictor snakes currently in U.S. trade in this final rule) will be discontinued, except as specifically permitted. Thus, any revenue that would be potentially earned from this portion of the business will be eliminated. The amount of sales impacted is completely dependent on the percentage of interstate transport. That is, the impact depends on where businesses are located and where their customers are located.

This final rule may have a significant economic effect on a small number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Will not have an annual effect on the economy of $100 million or more. According to the final economic analysis (USFWS 2015), the annual retail value losses for the four constrictor snake species we are listing in this final rule are estimated to range from $1.9 million to $4.1 million. In addition, businesses would also face the risk of fines if caught importing or transporting these constrictor snakes, gametes, viable eggs, or hybrids across State lines. The penalty for a Lacey Act violation under the injurious wildlife provisions is not more than 6 months in prison and not more than a $5,000 fine for an individual and not more than a $10,000 fine for an organization.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Businesses breeding or selling the listed snakes will be able to substitute other species and maintain business by seeking unusual morphologic forms in other snakes. Some businesses, however, may close. We do not have data for the potential substitutions, and, therefore, we do not know the number of businesses that may close.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Takings

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), the rule does not have significant takings implications. A takings implication assessment is not required. This rule will not impose significant requirements or limitations on private property use. Any person who possesses one or more snakes of the four species we are listing in this rule can continue to possess, sell, or transport them within their State boundaries.

Federalism

In accordance with E.O. 13132 (Federalism), this rule does not have federalism implications. This rule will not have substantial direct effects on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule does not have substantial direct effects on States because it: (1) Imposes no affirmative obligations on any State, (2) preempts no State law, (3) does not limit the policymaking discretion of the States, (4) requires no State to expend any funds, and (5) imposes no compliance costs on any State. Executive Order 13132 requires Federal agencies to proceed cautiously when there are ''uncertainties regarding the constitutional or statutory authority of the national government,'' but there are no such uncertainties here. The statutory authority of the U.S. Fish and Wildlife Service to designate injurious species pursuant to the Lacey Act is clear. The Executive Order also encourages early consultation with State and local officials, which the Service has done. Therefore, in accordance with Executive Order 13132, we determine that this rule does not have federalism implications or preempt State law, and therefore a federalism summary impact statement is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order. The rule has been reviewed to eliminate drafting errors and ambiguity, was written to minimize litigation, provides a clear legal standard for affected conduct rather than a general standard, and promotes simplification and burden reduction.

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. OMB has approved the information collection requirements associated with the required permits and assigned OMB Control No. 1018–0093, which expires May 31, 2017. 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.

National Environmental Policy Act

We have reviewed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), Department of the Interior NEPA regulations (43 CFR part 46), and the Departmental Manual in 516 DM 8. This action is being taken to protect the natural resources of the United States. A final environmental assessment and a finding of no significant impact (FONSI) have been prepared and are available for review by written request (see **ADDRESSES**) or at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015. The final environmental assessment was based on the proposed listing of the reticulated python, DeSchauensee's anaconda, green anaconda, Beni anaconda, and boa constrictor as injurious and was revised based on comments from peer reviewers and the public. By adding reticulated python and DeSchauensee's, green, and Beni anacondas to the list of injurious wildlife, we intend to prevent their new introduction, further introduction, and establishment into natural areas of the United States to protect native wildlife species, the survival and welfare of wildlife and wildlife resources, and the health and welfare of human beings. If

we did not list these constrictor snakes as injurious, the species are more likely to expand in captivity in States where they are not already found in the wild; this would increase the risk of their escape or intentional release and subsequent establishment in new areas, which would likely negatively affect native fish and wildlife, and humans. Releases of the four constrictor snakes into natural areas of the United States are likely to occur, and the species are likely to become established in additional U.S. natural areas such as national wildlife refuges and parks, negatively affecting native fish and wildlife populations and ecosystem form, function, and structure. For reasons discussed above in the section Withdrawal of the Boa Constrictor from Consideration as an Injurious Species, we are withdrawing our proposal to list the boa constrictor as an injurious reptile (75 FR 11808; March 12, 2010).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. This rule involves the importation and interstate movement of three live anaconda species and one live python species, gametes, viable eggs, or hybrids that are not native to the United States. We are unaware of trade in these species by tribes.

Effects on Energy

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action, and no Statement of Energy Effects is required.

References Cited

A complete list of all references used in this rulemaking is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R9–FHC–2008–0015.

Authors

The primary authors of this rule are the staff members of the South Florida Ecological Services Office (see **ADDRESSES**).

List of Subjects in 50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons discussed in the preamble, the U.S. Fish and Wildlife Service amends part 16, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 16—[AMENDED]

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 18 U.S.C. 42.

■ 2. Amend § 16.15 by revising paragraph (a) to read as follows:

§ 16.15 Importation of live reptiles or their eggs.

(a) The importation, transportation, or acquisition of any live specimen, gamete, viable egg, or hybrid of the species listed in this paragraph is prohibited except as provided under the terms and conditions set forth at § 16.22:

(1) *Boiga irregularis* (brown tree snake).

(2) *Python molurus* (including *P. molurus molurus* (Indian python) and *P. molurus bivittatus* (Burmese python)).

(3) *Python reticulatus, Broghammerus reticulatus,* or *Malayopython reticulatus* (reticulated python).

(4) *Python sebae* (Northern African python or African rock python).

(5) *Python natalensis* (Southern African python or African rock python).

(6) *Eunectes notaeus* (yellow anaconda).

(7) *Eunectes deschauenseei* (DeSchauensee's anaconda).

(8) *Eunectes murinus* (green anaconda).

(9) *Eunectes beniensis* (Beni anaconda).

* * * * *

Dated: February 25, 2015.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–05125 Filed 3–6–15; 4:15 pm]

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