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**DEPARTMENT OF AGRICULTURE**

**Natural Resources Conservation Service**

**7 CFR Parts 610, 622, 624, 625, 652, and 662**

**Commodity Credit Corporation**

**7 CFR Parts 1455 and 1465**

**[Docket No. NRCS–2014–0006]**

**RIN 0578–AA60**

## Changes to Existing Conservation Program Regulations

**AGENCY:** Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC), United States Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Act of 2014 (the 2014 Act) made several nondiscretionary changes to NRCS conservation programs. These conservation programs have existing regulations that required adjustments. These adjustments include addressing the required review of operating procedures of the State Technical Committee, adding reference of the Regional Conservation Partnership Program (RCPP) to the Watershed Protection and Flood Prevention Act program regulations, adding reference of RCPP to the Healthy Forests Reserve Program (HFRP), expanding the definition of ''acreage owned by Indian Tribes'' under HFRP, revising and simplifying the Regional Equity provision, and adjusting the Agricultural Management Assistance (AMA) Program to correspond with changes to payment provisions under the Environmental Quality Incentives Program (EQIP). Additionally, the Secretary of Agriculture delegated to NRCS administrative responsibility for implementing the Voluntary Public Access and Habitat Incentive Program (VPA–HIP), and internal NRCS administrative changes warrant updating the appropriate delegated official in the Technical Service Provider (TSP) provision. NRCS published an interim rule with a request for comments on August 1, 2014, to implement changes to these NRCS conservation program regulations that were either necessitated by enactment of the 2014 Act, or required to implement administrative streamlining improvements and clarifications. NRCS received six comments on the interim rule. In this document, NRCS issues a final rule to make permanent these changes and to incorporate two minor mandatory changes in two of the affected parts.

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

**FOR FURTHER INFORMATION CONTACT:** Leslie Deavers, NRCS Farm Bill Coordinator, USDA, NRCS, Post Office Box 2890, Washington, DC 20013–2890; telephone: (202) 720–4531; fax: (202) 720–2998; email: *leslie.deavers@wdc.usda.gov,* Attn: Farm Bill Program Inquiry.

Persons with disabilities who require alternate means for communication (Braille, large print, audio tape, etc.) should contact the USDA Technology and Accessible Resources Give Employment Today (TARGET) Center at: (202) 720–2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

### Regulatory Certifications

*Executive Orders 12866 and 13563:* The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866; therefore, OMB will not review this final rule.

*Regulatory Flexibility Act:* It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because NRCS is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

*Environmental Analysis:* The 2014 Act made changes in statutory authority and administrative delegations that required conforming amendments to existing program regulations. This final rule confirms the changes made to these regulations by the interim rule. Such changes were mandatory; therefore, did not require analysis under the National Environmental Policy Act. In addition, a number of minor administrative improvements were made to the regulations as a result of continuing evaluations of NRCS program implementation efforts. Such administrative changes fell within a categorical exclusion for policy development, planning, and implementation that relate to routine administrative activities (7 CFR 1b.3(a)(1)).

*Civil Rights Impact Analysis:* NRCS has determined through a Civil Rights Impact Analysis that this final rule discloses no disproportionately adverse impacts for minorities, women, or persons with disabilities. This final rule presents no issues that our analysis identified as posing a risk of adverse impacts. Outreach and communication strategies are in place to ensure all producers will be provided the same information to allow them to make informed compliance decisions regarding the use of their lands that will affect their participation in USDA programs. NRCS conservation programs apply to all persons equally, regardless of their race, color, national origin, gender, sex, or disability status; therefore, the conservation program rules portend no adverse civil rights implications for women, minorities, and persons with disabilities.

*Paperwork Reduction Act:* Section 1246 of the Food Security Act of 1985 (the 1985 Act), Public Law 99–198, states that implementation of programs authorized by Title XII of the 1985 Act be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). NRCS is not reporting recordkeeping or estimated paperwork burden associated with this final rule for programs administered under Title XII of the 1985 Act. The non-Title XII programs, HFRP and the Emergency Watersheds Protection Program (EWPP), utilize forms that have previously been approved for use, and OMB assigned the control number 0578–0013. The changes made by this final rule do not affect the burden previously reported under 0578–0013.

*Government Paperwork Elimination Act:* NRCS is committed to compliance with the Government Paperwork Elimination Act and the Freedom to E-

File Act, which require Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS developed an online application and information system for public use.

*Executive Order 13175:* This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have been substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. NRCS has assessed the impact of this final rule on Indian Tribes and determined that this rule does not have Tribal implications that require Tribal consultation under Executive Order 13175. The rule neither imposes substantial direct compliance costs on Tribal governments nor preempts Tribal law. The 2014 Act change addressed by this final rule that impact participation by Indian Tribes was limited to expanding land eligibility under HFRP to include trust lands. The agency has developed an outreach/collaboration plan that it has been implementing as it develops its Farm Bill policy. If a Tribe requests consultation, NRCS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

*Unfunded Mandates Reform Act of 1995:* Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA requires NRCS to prepare a written statement, including a cost benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and Tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

*Executive Order 13132:* NRCS considered this final rule in accordance with Executive Order 13132, issued August 4, 1999. NRCS determined that the final rule conforms with the federalism principles set out in this Executive Order, would not impose any compliance costs on the States, and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. NRCS concludes that this final rule does not have federalism implications.

*Federal Crop Insurance Reform and USDA Reorganization Act of 1994:* Pursuant to section 304 of the Federal Crop Insurance Reform Act of 1994, (Pub. L. 103–354), USDA has estimated that this regulation will not have an annual impact on the economy of $100 million in 1994 dollars; therefore, is not a major regulation. A risk analysis was not conducted.

*Executive Order 13211:* This rule is not a significant regulatory action subject to Executive Order 13211, Energy Effects.

*Small Business Regulatory Enforcement Fairness Act (SBREFA):* This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121, SBREFA). Neither NRCS nor CCC is required to delay the effective date for 60 days from the date of publication to allow for congressional review. Accordingly, this rule is effective April 9, 2015.

*Background:* On August 1, 2014, NRCS published an interim final rule with request for comments in the **Federal Register** (79 FR 44635) that amended a number of agency regulations to implement mandatory changes made by the 2014 Act. The interim rule made the following changes to existing conservation program rules:

- NRCS amended 7 CFR 610.24 to update the list of Title XII programs to which the State Technical Committee Rule applies.
- NRCS amended HFRP regulation at 7 CFR 625.2 to adjust the regulatory definition of ''acreage owned by Indian Tribes'' to conform with the new statutory definition of the term in Section 502(e)(3) of the Healthy Forests Restoration Act, as amended by section 8203 of the 2014 Act.
- NRCS amended HFRP and the Watershed Operations regulation at 7 CFR part 622 to incorporate their status as programs used in the implementation of RCPP.
- NRCS updated subpart C of the TSP rule at 7 CFR part 652 to designate the Deputy Chief for Programs as the decertification official for TSPs.
- NRCS removed the regional equity rule, formerly at 7 CFR part 662, from the Code of Federal Regulations.
- NRCS amended the rule for VPA–HIP at 7 CFR part 1455 to reflect the transfer of the program's administration from the Administrator of the Farm Service Agency (FSA) to the Chief of NRCS.
- NRCS amended the rule governing the AMA Program (7 CFR part 1465) to maintain consistency with the EQIP program.

NRCS solicited comments on the interim final rule for 60 days ending September 30, 2014. Six comments were received on the rule. Overall, the commenters supported the changes made by the interim rule. This final rule makes only technical and clarifying changes to language adopted in the interim rule, and adds one additional mandatory change to reflect a change made by the 2014 Act to EWPP implementation of floodplain easements.

*Summary of Comments:* NRCS received two negative comments, two generally positive comments, and one comment related to the implementation of EQIP which did not pertain to any amendments made by this rule. A sixth comment received was unrelated to this or any other NRCS conservation program. The negative comments expressed opposition to the funding of VPA–HIP and HFRP. Two commenters were generally supportive of the interim rule, with one of the comments recommending that NRCS strengthen the importance of the State Technical Committees. NRCS has done so in the development of its regulations to implement the changes made by the 2014 Act. The EQIP comment related to non-lethal deterrents and strategies to reduce predator-livestock conflict and this comment will be considered with the comments submitted to the EQIP interim rule published December 12, 2014.

Additional Clarification Added to VPA–HIP (7 CFR part 1455): VPA–HIP is authorized by section 1240R of the 1985 Act. VPA–HIP provides, within funding limits, grants to State and Tribal governments to encourage owners and operators of privately held farm, ranch,

and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing under programs administered by State and Tribal governments. VPA–HIP is not an entitlement program and no grant will be made unless the application is acceptable to CCC. The program was originally delegated to the Administrator of FSA to administer on behalf of CCC. The program is now delegated to the Chief of NRCS, and NRCS incorporated the necessary administrative changes in the interim rule. NRCS announced its Availability of Program Funding on May 1, 2014, to implement VPA–HIP in fiscal year 2014. During its first round of grant proposals, NRCS received requests for funding from Indian Tribes which required confirmation regarding whether Tribal lands would be considered private lands for the purposes of VPA–HIP. This final rule clarifies that governmental and Tribal lands are considered private lands for the purposes of VPA–HIP when such lands are part of a private operation of a private individual or legal entity.

Discussion of EWPP (7 CFR part 624): NRCS purchases floodplain easements to restore, protect, maintain, and enhance the functions of the floodplain; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge, and open space; reduce long-term Federal disaster assistance; and safeguard lives and property from floods, drought, and the products of erosion. Section 382 of the Federal Agriculture Improvement and Reform Act of 1996 amended EWPP, 16 U.S.C. 2203, to authorize the purchase of floodplain easements (FPE) as an emergency measure on lands that qualify for EWPP assistance. EWPP FPEs are administered under 7 CFR part 624.

Prior to the 2014 Act, the EWPP–FPE statute did not address modification or termination of FPEs; therefore the regulations at 7 CFR part 624 specified that FPEs could not be modified or terminated. Section 2206 of the 2014 Act provided such authority, and NRCS is removing this prohibition from EWPP regulations.

**List of Subjects**

*7 CFR Part 610*

Soil conservation, State Technical Committees, Technical assistance, and Water resources.

*7 CFR Part 622*

Watershed projects, Watershed protection, and Flood prevention.

*7 CFR Part 624*

Disaster assistance, Floodplain easement, Flooding, Imminent threat, Natural disaster, and Watershed impairment.

*7 CFR Part 625*

Administrative practice and procedure, Agriculture, and Soil conservation.

*7 CFR Part 652*

NRCS, Soil conservation, and Technical assistance.

*7 CFR Part 662*

Administrative practice and procedure, Agriculture, and Soil conservation.

*7 CFR Part 1455*

Agriculture, Animals, Environmental protection, Fishing, Forests and forest products, Grant programs, Hunting, Indians, Indians-land, Natural resources, Recreation and recreation areas, Rural areas, State and local governments, and Wildlife.

*7 CFR Part 1465*

Conservation contract, Conservation plan, Conservation practices, and Soil and water conservation.

Accordingly, the interim rule amending 7 CFR parts 610, 622, 625, 652, 662, 1455, and 1465 which was published at 79 FR 44635 on August 1, 2014, is adopted as a final rule with the following changes:

## PART 624—EMERGENCY WATERSHED PROTECTION

■ 1. The authority citation for part 624 continues to read as follows:

**Authority:** Sec. 216, Pub. L. 81–516, 33 U.S.C. 701b–1; Sec. 403, Pub. L. 95–334, as amended, 16 U.S.C. 2203; 5 U.S.C. 301.

■ 2. Amend § 624.10 by revising paragraph (c) to read as follows:

**§ 624.10 Floodplain easements.**

* * * * *

(c) The Chief of NRCS may modify or terminate an easement if, pursuant to 16 U.S.C. 2203(b), the Chief determines the modification or termination is in the public interest and will address a compelling public need for which there is no practicable alternative.

* * * * *

## PART 1455—VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM

■ 3. The authority citation for part 1455 continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; 16 U.S.C. 3839.

■ 4. Section 1455.2 is amended in paragraph (b) by adding a definition for ''legal entity'' and revising the definition of ''privately-held land'' to read as follows:

**§ 1455.2 Definitions.**

* * * * *

*Legal entity* means any entity created under Federal or State law, excluding: (a) a local, State or Federal government or political subdivision or agency of such government; and (b) a Tribal government.

*Privately-held land* means farm, ranch, or forest land that is owned or operated by a person or legal entity.

* * * * *

Signed this 1st day of April, 2015 in Washington, DC.

**Jason A. Weller,**

*Vice President, Commodity Credit Corporation, Chief, Natural Resources Conservation Service.*

[FR Doc. 2015–08008 Filed 4–8–15; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0123; Directorate Identifier 2013–NM–040–AD; Amendment 39–18134; AD 2015–07–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. This AD was prompted by a report of inner skin disbonding damage on a rudder. This AD requires repetitive ultrasonic inspections for disbonding of certain rudders; an elasticity of laminate

checker inspection; a woodpecker or tap test inspection; venting the core, if necessary; and repairing, if necessary. We are issuing this AD to detect and correct rudder disbonding, which could affect the structural integrity of the rudder.

**DATES:** This AD becomes effective May 14, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 14, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0123;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0123.

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

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. The NPRM published in the **Federal Register** on February 28, 2014 (79 FR 11355).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0039, dated February 26, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. The MCAI states:

> One A310 operator found substantial inner skin disbonding damage on a rudder that was previously inspected in accordance with the instructions of Airbus Service Bulletin (SB) A310–55–2044. The results of the subsequent investigation revealed that the most probable cause of this damage was a blunt impact with no visible damage from outside during the rudder handling. Damage like this might grow with pressure variation during ground-air-ground cycles, and tests performed with other rudders showed a rapid propagation of damage during artificial pressure cycling.
>
> This condition, if not detected and corrected, could affect the structural integrity of the rudder.
>
> To address this potential unsafe condition, Airbus issued Alert Operators Transmission (AOT) A55W002–12 [dated December 13, 2012], pending Aircraft Maintenance Manual (AMM) 27–21–21 PB401 revision to update rudder handling procedures.
>
> For the reasons described above, this [EASA] AD requires ultrasonic test (UT) inspections of the affected rudders to detect signs of disbonding and, depending on findings, accomplishment of applicable corrective action(s).

Required actions also include an elasticity of laminate checker inspection to detect external and internal disbonding, and a woodpecker or tap test inspection to detect external disbonding. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0123-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 11355, February 28, 2014) and the FAA's response to each comment.

### Requests To Exclude Certain Airplanes From AD Requirements

Airbus requested that we revise paragraph (g) of the NPRM (79 FR 11355, February 28, 2014) to mirror the language in Airbus Alert Operators Transmission (AOT) A55W002–12, dated December 13, 2012, which takes into account whether or not the rudder has been removed and/or installed since the last inspection. Airbus stated that the removal/installation process is linked to the risk of the unseen damage occurring to the rudder. Airbus suggested revised language for a requirement to determine if the rudder has been removed or installed since the last inspection.

In addition, FedEx requested that we revise paragraph (c) or (g) of the NPRM (79 FR 11355, February 28, 2014) to state that, if the installed rudder has been inspected (and not removed) per AD 2008–11–05, Amendment 39–15527 (73 FR 29423, May 21, 2008), since its installation, no further inspection will be required since the unsafe condition would be alleviated.

UPS, FedEx, and Airbus requested that we revise the NPRM (79 FR 11355, February 28, 2014) to eliminate unnecessary AD tracking requirements. UPS noted that the identified risk only exists in cases where the rudder has been changed since inspection under AD 2008–11–05, Amendment 39–15527 (73 FR 29423, May 21, 2008). UPS further stated that the NPRM does not refer to AD 2008–11–05, even though the repetitive ultrasonic inspections to detect disbonding in the NPRM are identical to the requirements of paragraph (f)(2) of AD 2008–11–05. Also, UPS stated that the airplane maintenance manual (AMM) has been updated as of June 1, 2013, to include the same ultrasonic inspection specified in both AD 2008–11–05 and the NPRM. UPS suggested revised wording for the NPRM.

We concur with the requests to limit the airplanes subject to the requirements of paragraph (g) of this AD. This AD does relate to AD 2008–11–05 (73 FR 29423, dated May 21, 2008), in that the ultrasonic inspections are required in both ADs. This AD requires the ultrasonic inspections for only certain airplanes. Therefore, we have added a new paragraph (h)(2) in this AD. Paragraph (h)(2) of this AD specifies that, for airplanes on which it can be conclusively determined that the most recent inspection specified in Airbus Service Bulletin A310–55–2044 or Airbus Service Bulletin A300–55–6043 was done on the airplane; or the rudder was not removed for any reason since doing the most recent inspection specified in Airbus Service Bulletin A310–55–2044 or Airbus Service Bulletin A300–55–6043; no further action is necessary, except as specified in paragraphs (j) and (k) of this AD.

We have also re-designated paragraphs (h), (h)(1), and (h)(2) of the NPRM as paragraphs (h)(1), (h)(1)(i), and (h)(1)(ii) of this AD, respectively.

### Request To Remove Requirement To Refer to This AD in Repair Approvals

UPS requested that we revise the NPRM (79 FR 11355, February 28, 2014)

to remove the requirement to include the AD reference in repair approvals. UPS noted its concerns that the NPRM will increase requests for approval of alternative methods of compliance (AMOCs) and result in delays to other services and actions addressed by the FAA on a daily basis.

We concur with the commenter's request to remove from this AD the requirement that repair approvals must specifically refer to this AD. Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD. The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 11355, February 28, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include ''the Design Approval Holder (DAH) with a State of Design Authority's design organization approval (DOA)'' to refer to a DAH authorized to approve required repairs for the AD.

In its comments to the NPRM (79 FR 11355, February 28, 2014), UPS stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages or other approved EASA documents are acceptable for approving minor deviations (corrective actions) needed during accomplishment of a[n AD] mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, EASA, or Airbus's EASA DOA.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility afforded previously by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the AD Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to another NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI may have been issued some time before the FAA AD. Therefore, the DOA may have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement from this AD that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement in the future, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in an AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We have also decided not to include a generic reference to either the ''delegated agent'' or the ''DAH with State of Design Authority design organization approval,'' but instead we will provide the specific delegation approval granted by the State of Design Authority for the DAH.

**Compliance Time Clarification**

In paragraph (g) of this AD, for airplanes on which the part number or serial number cannot be determined, we have revised the compliance time of ''before further flight'' to ''within 3 months after the effective date of this AD.'' This clarification corresponds to the compliance time in the MCAI. We have determined that extending the compliance time will provide an acceptable level of safety.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 11355, February 28, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 11355, February 28, 2014).

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

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

Airbus has issued AOT A55W002–12, dated December 13, 2012, including Inspection Flowchart. The service information describes, among other actions, procedures for an ultrasonic inspection along the Z-profile of the rudder side panel. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**Costs of Compliance**

We estimate that this AD affects 89 airplanes of U.S. registry. We also estimate that it would take about 10 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $75,650, or $850 per product.

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0123;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2015–07–06 Airbus:** Amendment 39–18134. Docket No. FAA–2014–0123; Directorate Identifier 2013–NM–040–AD.

**(a) Effective Date**

This AD becomes effective May 14, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, except airplanes on which modification 08827 has been embodied in production.

(1) Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes, certificated in any category, all manufacturer serial numbers.

(2) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all manufacturer serial numbers.

**(d) Subject**

Air Transport Association (ATA) of America Code 55; Stabilizers.

**(e) Reason**

This AD was prompted by a report of inner skin disbonding damage on a rudder. We are issuing this AD to detect and correct rudder disbonding, which could affect the structural integrity of the rudder.

**(f) Compliance**

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

**(g) Identification of Part Number**

Within 3 months after the effective date of this AD, identify the rudder assembly part number (P/N) and serial number (S/N), in accordance with Airbus Alert Operators Transmission (AOT) A55W002–12, dated December 13, 2012, including Inspection Flowchart. If the part number or serial number cannot be determined, within 3 months after the effective date of this AD, identify the part number and serial number, in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

**(h) Inspections**

(1) Except as provided by paragraph (h)(2) of this AD, if a rudder assembly part number starting with A55471500 is found during the inspection required by paragraph (g) of this AD, before further flight, do an ultrasonic (UT) inspection for damage (*e.g.,* disbonding and liquid ingress) of the rudder side panel along the Z-profile and in the booster area, in accordance with Airbus AOT A55W002–12, dated December 13, 2012, including Inspection Flowchart. If any damage is found, before further flight, do the inspections to confirm disbonding damage, as specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD, in accordance with Airbus AOT A55W002–12, dated December 13, 2012.

(i) Do an elasticity of laminate checker inspection to detect external and internal disbonding of the rudder side panel along the Z-profile and in the booster area.

(ii) Do a woodpecker or tap test inspection to detect external disbonding of the rudder side panel along the Z-profile and in the booster area.

(2) For airplanes on which it can be conclusively determined that the most recent inspection specified in Airbus Service Bulletin A310–55–2044 or Airbus Service Bulletin A300–55–6043 was done on the airplane; or the rudder was not removed for any reason since doing the most recent inspection specified in Airbus Service Bulletin A310–55–2044 or Airbus Service Bulletin A300–55–6043: No further action is required by this AD, except as specified in paragraphs (j) and (k) of this AD.

**(i) Repair**

(1) If any disbonding is confirmed during any inspection required by paragraphs (h)(1)(i) and (h)(1)(ii) of this AD, before further flight, repair as specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD, as applicable.

(i) If disbonding is less than or equal to 50 millimeters (mm) in width and less than or equal to 150 mm in length, before further flight, vent the core, using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. Within 100 flight cycles after the UT inspection specified in paragraph (h) of this AD is done, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(ii) If disbonding is greater than 50 mm in width or greater than 150 mm in length, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(2) If liquid ingress is confirmed during any inspection required by paragraphs (h)(1)(i) and (h)(1)(ii) of this AD, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

**(j) Inspection after Re-Installation**

If any rudder has been inspected as specified in Airbus Service Bulletin A300–55–6043, Revision 01, dated December 3, 2007; or A310–55–2044, Revision 01, dated December 3, 2007; as applicable; and has been removed and re-installed on any airplane after this inspection, that rudder must be re-inspected as required by paragraph (g) of this AD; and all applicable actions required by paragraphs (h) and (i) of this AD must be done.

**(k) Parts Installation Limitation**

As of the effective date of this AD, no person may install, on any airplane, a rudder assembly having a part number starting with A55471500, unless it has been inspected as required by paragraph (h) of this AD, and all applicable actions required by paragraph (i) of this AD have been done.

**(l) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(m) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0039, dated February 26, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0123-0002.*

**(n) Material Incorporated by Reference**

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

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

(i) Airbus Alert Operators Transmission (AOT) A55W002–12, dated December 13, 2012, including Inspection Flowchart. The inspection flowchart attached to this AOT is referred to in the AOT as ''Appendix 1''; however, the flowchart page does not identify itself as an appendix. While the inspection flowchart page does specify the AOT document number, it does not specify a revision level or an issue date.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 27, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015–07799 Filed 4–8–15; 08:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0627; Directorate Identifier 2013–NM–217–AD; Amendment 39–18126; AD 2015–06–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2011–09–03 for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. AD 2011–09–03 required repetitive eddy current inspections to detect cracks in the center wing upper and lower rainbow fittings, and corrective actions if necessary; and repetitive replacement of rainbow fittings, which would extend the repetitive interval for the next inspection. This new AD requires reduced intervals for inspections of the upper rainbow fittings. This AD was prompted by analysis of in-service cracking, which has shown that a reduction in the inspection intervals is necessary for the upper rainbow fittings. We are issuing this AD to detect and correct fatigue cracking of the upper and lower rainbow fittings on the center wings, which could grow large and lead to the failure of the fitting and a catastrophic failure of the center wing.

**DATES:** This AD is effective May 14, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 14, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 26, 2011 (76 FR 22311, April 21, 2011).

**ADDRESSES:** For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness

Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0627.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0627; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011). AD 2011–09–03 applied to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. The NPRM published in the **Federal Register** on September 17, 2014 (79 FR 55675). The NPRM was prompted by analysis of in-service cracking, which has shown that the initial and repetitive inspection schedules for the upper rainbow fitting need to be revised to reduce the probability of failure until the rainbow fitting is replaced. The NPRM proposed to continue to require repetitive eddy current inspections to detect cracks in the center wing upper and lower rainbow fittings, and corrective actions if necessary; and repetitive replacement of rainbow fittings, which would extend the repetitive interval for the next inspection. This AD reduces compliance times for initial and repetitive inspections of the upper rainbow fitting. We are issuing this AD to detect and correct fatigue cracking of the upper and lower rainbow fittings on the center wings, which could grow large and lead to the failure of the fitting and a catastrophic failure of the center wing.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 55675, September 17, 2014) or on the determination of the cost to the public.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 55675, September 17, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 55675, September 17, 2014).

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

We reviewed Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A, B, and C, dated July 11, 2013. The service information describes procedures for repetitive eddy current inspections of the upper and lower rainbow fittings of the center wing; repetitive replacement of the upper and lower rainbow fittings; and related investigative and corrective actions. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

**Costs of Compliance**

We estimate that this AD affects 14 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection of upper and lower fitting [retained actions from AD 2011-09-03, Amendment 39-16665 (76 FR 22311, April 21, 2011)]. | 20 work-hours × $85 per hour = $1,700 per inspection cycle. | None | $1,700, per inspection cycle. | $23,800, per inspection cycle. |
| Fitting replacement [retained actions from AD 2011-09-03, Amendment 39-16665 (76 FR 22311, April 21, 2011)]. | 2,438 work-hours × $85 per hour = $207,230 per replacement. | $40,000 | $247,230, per replacement. | $3,461,220, per replacement. |

This AD reduces the compliance times for the upper rainbow fitting inspections and adds no additional economic burden.

**Authority for this Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), and adding the following new AD:

**2015–06–08 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company:** Amendment 39–18126; Docket No. FAA–2014–0627; Directorate Identifier 2013–NM–217–AD.

**(a) Effective Date**

This AD is effective May 14, 2015.

**(b) Affected ADs**

This AD replaces AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011).

**(c) Applicability**

This AD applies to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by an analysis of in-service cracking that has shown that the rainbow fittings are susceptible to multiple site fatigue damage. We are issuing this AD to detect and correct fatigue cracking of the upper and lower rainbow fittings on the center wings, which could grow large and lead to the failure of the fitting and a catastrophic failure of the center wing.

**(f) Compliance**

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

**(g) Retained Initial Inspections**

This paragraph restates the requirements of paragraph (g) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), with revised service information. Except as required by paragraph (m) of this AD, at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do eddy current inspections to detect cracking of the center wing upper and lower rainbow fittings on the left and right side of the airplane. Do the actions in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 382–57–82, Revision 4, including Appendixes A and B, dated May 20, 2009; or Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A and B, dated July 11, 2013. If any crack is found during the inspections required by this paragraph, before further flight, do the actions required by paragraph (k) of this AD. Doing the requirements of paragraph (m) of this AD terminates the requirements of this paragraph for the affected upper rainbow fitting only. As of the effective date of this AD, only use Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A and B, dated July 11, 2013, for accomplishing the actions specified in this paragraph.

(1) Before the accumulation of 15,000 total flight hours on the rainbow fitting.

(2) Within 365 days or 600 flight hours on the rainbow fitting after May 26, 2011, (the effective date of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011)), whichever occurs first.

**(h) Retained Repetitive Inspection Schedule**

This paragraph restates the requirements of paragraph (h) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), with a new exception. Except as required by paragraph (n) of this AD, repeat the inspection required by paragraph (g) of this AD at intervals not to exceed 3,600 flight hours on the center wing, until the rainbow fitting has accumulated 30,000 total flight hours. If any crack is found during the inspections required by this paragraph, before further flight, do the actions required by paragraph (k) of this AD. Doing the requirements of paragraph (n) of this AD terminates the requirements of this paragraph for the affected upper rainbow fitting only.

**(i) Retained Rainbow Fitting Replacements**

This paragraph restates the requirements of paragraph (i) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), with revised service information. Before the accumulation of 30,000 flight hours on the rainbow fitting, or within 600 flight hours after May 26, 2011, (the effective date of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011)), whichever occurs later: Replace the rainbow fitting with a new rainbow fitting, do all related investigative actions, and do all applicable corrective actions, in accordance with paragraph 2.C. of the Accomplishment Instructions of Lockheed Service Bulletin 382–57–82, Revision 4, including Appendix C, dated May 20, 2009, except as required by paragraph (l) of this AD; or Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendix C, dated July 11, 2013, except as required by paragraph (l) of this AD. Replace the rainbow fitting thereafter at intervals not to exceed 30,000 flight hours. As of the effective date of this AD, only use Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendix C, dated July 11, 2013, for accomplishing the actions specified in this paragraph.

**(j) Retained Post-Replacement Repetitive Inspections**

This paragraph restates the requirements of paragraph (j) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), with a new exception. For upper and lower rainbow fittings replaced in accordance with paragraph (i) or (k) of this AD: Except as required by paragraph (o) of this AD, do the eddy current inspections specified in paragraph (g) of this AD within 15,000 flight hours after doing the replacement and repeat the eddy current inspections specified in paragraph (h) of this AD thereafter at intervals not to exceed 3,600 flight hours until the rainbow fittings are replaced in accordance with paragraph (i) or (k) of this AD. Doing the requirements of paragraph (o) of this AD terminates the requirements of this paragraph for the affected upper rainbow fitting only.

**(k) Retained Replacement, Related Investigative Actions, and Corrective Actions**

This paragraph restates the requirements of paragraph (k) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), with revised service information and revised references to inspection paragraphs. If, during any inspection required by paragraph (g), (h), (m), or (n) of this AD, any crack is detected in the rainbow fitting, before further flight, replace the rainbow fitting with a new rainbow fitting, do all related investigative actions, and do all applicable corrective actions, in accordance with Paragraph 2.C. of the Accomplishment Instructions of Lockheed Service Bulletin 382–57–82, Revision 4, including Appendix C, dated May 20, 2009, except as provided by paragraph (l) of this AD; or Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendix C, dated July 11, 2013, except as required by paragraph (l) of this AD. As of the effective date of this AD, only use Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendix C, dated July 11, 2013, for accomplishing the actions specified in this paragraph.

**(l) Retained Exceptions to Service Information**

This paragraph restates the requirements of paragraph (l) of AD 2011–09–03, Amendment

39–16665 (76 FR 22311, April 21, 2011), with revised service information. Where Lockheed Service Bulletin 382–57–82, Revision 4, including Appendixes A, B, and C, dated May 20, 2009; or Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A, B, and C, dated July 11, 2013; specifies to contact the manufacturer for disposition of certain repair conditions or does not specify corrective actions if certain conditions are found, this AD requires repairing those conditions using a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

**(m) New Requirement: Reduced Initial Compliance Time for Upper Rainbow Fittings**

At the applicable compliance time specified in paragraphs (m)(1) and (m)(2) of this AD, do eddy current inspections to detect cracking of the center wing upper rainbow fittings on the left and right side of the airplane. Do the actions in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A and B, dated July 11, 2013. If any crack is found during the inspections required by this paragraph, before further flight, do the actions required by paragraph (k) of this AD. Doing the requirements of this paragraph terminates the requirements of paragraph (g) of this AD for that upper rainbow fitting only. Repeat the inspection thereafter at the interval required by paragraph (n) of this AD.

(1) For upper rainbow fittings that have accumulated less than 10,000 total flight hours as of the effective date of this AD, the compliance time is at the later of the times in paragraphs (m)(1)(i) and (m)(1)(ii) of this AD.

(i) Before the accumulation of 10,000 total flight hours.

(ii) Within 365 days or 600 flight hours after the effective date of this AD, whichever occurs first.

(2) For upper rainbow fittings that have accumulated 10,000 total flight hours or more, but less than 15,000 total flight hours as of the effective date of this AD, the compliance time is the earlier of the times specified in paragraphs (m)(2)(i) and (m)(2)(ii) of this AD.

(i) Within 365 days or 600 flight hours after the effective date of this AD, whichever occurs first.

(ii) Before the accumulation of 15,000 total flight hours on the rainbow fitting.

**(n) New Requirement: Reduced Repetitive Inspection Intervals**

For upper rainbow fittings on which the requirements of paragraph (g), (h), or (m) of this AD were done, do the next inspection at the earlier of the times required in paragraphs (n)(1) and (n)(2) of this AD. Thereafter, repeat the inspection required by paragraph (m) of this AD at intervals not to exceed 2,500 flight hours until the upper rainbow fitting has accumulated 30,000 total flight hours. If any crack is found during the inspections required by this paragraph, before further flight, do the actions required by paragraph (k) of this AD. Doing an inspection required by this paragraph terminates the requirements of paragraph (h) of this AD for the affected upper rainbow fitting only.

(1) Within 3,600 flight hours since the last inspection done in accordance with paragraph (g), (h), or (m) of this AD, whichever occurs latest.

(2) At the later of the times specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this AD.

(i) Within 2,500 flight hours after the last inspection done in accordance with paragraph (g), (h), or (m) of this AD, whichever occurs latest.

(ii) Within 365 days or 600 flight hours after the effective date of this AD, whichever occurs first.

**(o) New Requirement: Reduced Post-Replacement Repetitive Inspections**

For upper rainbow fittings replaced in accordance with paragraph (i) or (k) of this AD, do the inspection required by paragraph (m) of this AD at the earlier of the compliance times required in paragraph (o)(1) and (o)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 2,500 flight hours. Doing the inspections required by this paragraph terminates the requirements of paragraph (j) of this AD for the affected upper rainbow fitting only.

(1) At the later of the times in paragraphs (o)(1)(i) and (o)(1)(ii) of this AD. (i) Within 10,000 total flight hours on the upper rainbow fitting.

(ii) Within 365 days or 600 flight hours after the effective date of this AD, whichever occurs first.

(2) Within 15,000 total flight hours on the upper rainbow fitting.

**(p) Credit for Previous Actions**

The service information identified in paragraphs (p)(1)(i), (p)(1)(ii), (p)(1)(iii), (p)(2), and (p)(3) is not incorporated by reference in this AD.

(1) This paragraph provides credit for actions required by paragraphs (g), (h), (i), (j), and (k) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraphs (p)(1)(i), (p)(1)(ii), and (p)(1)(iii) of this AD.

(i) Lockheed Service Bulletin 382–57–82, including Appendixes A and B, dated December 7, 2004.

(ii) Lockheed Service Bulletin 382–57–82, Revision 1, including Appendixes A and B, dated February 24, 2005.

(iii) Lockheed Service Bulletin 382–57–82, Revision 2, including Appendixes A and B, dated February 15, 2007.

(2) This paragraph restates paragraph (m) of AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011). This paragraph provides credit for actions required by paragraphs (g), (h), (i), (j), and (k) of this AD, if those actions were performed before May 26, 2011 (the effective date of AD 2011–09–03), using Lockheed Service Bulletin 382–57–82, Revision 3, including Appendixes A, B, and C, dated April 25, 2008.

(3) This paragraph provides credit for actions required by paragraphs (g), (h), (i), (j), (k), (m), (n), and (o) of this AD, if those actions were performed before the effective date of this AD using Lockheed Service Bulletin 382–57–82, Revision 5, including Appendixes A, B, and C, dated August 12, 2010.

**(q) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (r)(2) of this AD.

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

(3) AMOCs approved for AD 2011–09–03, Amendment 39–16665 (76 FR 22311, April 21, 2011), are approved as AMOCs for the corresponding provisions of this AD.

**(r) Related Information**

(1) For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *carl.w.gray@faa.gov.*

(2) For information about AMOCs, contact Hal Horsbough, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *hal.horsbough@faa.gov.*

**(s) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on May 14, 2015.

(i) Lockheed Martin Aeronautics Company Service Bulletin 382–57–82, Revision 6, including Appendixes A, B, and C, dated July 11, 2013.

(ii) Reserved.

(4) The following service information was approved for IBR on May 26, 2011 (76 FR 22311, April 21, 2011).

(i) Lockheed Service Bulletin 382–57–82, Revision 4, including Appendixes A, B, and C, dated May 20, 2009.

(ii) Reserved.

(5) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M,

Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.*

(6) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 12, 2015.

**Jeffrey E. Duven,**

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

[FR Doc. 2015–06785 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0839; Directorate Identifier 2015–CE–006–AD; Amendment 39–18131; AD 2015–07–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Cessna Aircraft Company Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Model 402C and 414A airplanes. This AD requires repetitively inspecting the engine mount beams for cracks and contacting Cessna for FAA-approved corrective action if cracks are found. This AD also requires sending an inspection report to the FAA and to Cessna. This AD was prompted by reports of cracks found across the engine mount beams. We are issuing this AD to correct the unsafe condition on these products.

**DATES:** This AD is effective April 24, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2015.

We must receive comments on this AD by May 26, 2015.

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

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

For service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com;* Internet: *http://www.cessnasupport.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0839.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0839; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Gary Park, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We received reports of cracks found on the engine mount beams of certain Cessna Aircraft Company (Cessna) Model 402C airplanes. The cracks found run across the beam and extend beyond the doubler located under the aft engine mount and aft of the forward engine mount. Investigation revealed that the cause of the cracks is fatigue.

The engine beam mounts of the Cessna Model 402C airplanes are the same type design as that of the Cessna Model 414A airplanes.

This condition, if not detected and corrected, could result in failure of an engine mount beam and could lead to engine separation with consequent loss of power and loss of control. We are issuing this AD to correct the unsafe condition on these products.

### Relevant Service Information Under 1 CFR Part 51

We reviewed Cessna Aircraft Company Multi-engine Service Letter No. MEL–54–01, dated March 20, 2015, including the undated Attachment, ''Inspection Results Form.'' The Cessna Aircraft Company Multi-engine Service Letter describes procedures for inspecting the engine mount beams for cracks and reporting the inspection results to Cessna. This information is reasonably available at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0839, or you may see **ADDRESSES** for other ways to access this service information.

### FAA's Determination

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

### AD Requirements

This AD requires repetitively inspecting the engine mount beams for cracks and contacting Cessna for an FAA-approved corrective action if cracks are found. This AD also requires sending the inspection results to the FAA and to Cessna.

### Differences Between This AD and the Service Information

Cessna Aircraft Company Multi-engine Service Letter No. MEL–54–01, dated March 20, 2015, including the undated Attachment, ''Inspection Results Form,'' specifies reporting the inspection results to Cessna. In this AD, we also require that the inspection results be reported to the FAA.

### FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this

AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the engine mount beam could cause the engine mount beam to fail and lead to engine separation with consequent loss of power and loss of control. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2015–0839 and Directorate Identifier 2015–CE–006–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

**Costs of Compliance**

We estimate that this AD affects 555 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Prepare airplane for inspections | 3 work-hours × $85 per hour = $255 per inspection cycle. | Not applicable | $255 per inspection cycle. | $141,525 per inspection cycle |
| X-ray inspection of the engine mount beams (4 engine mount beams per airplane). | 8 work-hours × $85 per hour = $680 per inspection cycle. | $180 | $860 per inspection cycle. | $477,300 per inspection cycle |
| Eddy current inspection of the engine mount beams (4 engine mount beams per airplane). | 1 work-hour × $85 per hour = $85 per inspection cycle. | Not applicable | $85 per inspection cycle. | $47,175 per inspection cycle |
| Visual inspection of the engine mount beams (4 engine mount beams per airplane). | 1 work-hour × $85 per hour = $85 per inspection cycle. | Not applicable | $85 per inspection cycle. | $47,175 per inspection cycle |

We have no way of knowing the extent of cracks that may be found during the required inspections. Therefore, we have no way of determining the cost of the corrective action.

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2015–07–03 Cessna Aircraft Company:** Amendment 39–18131; Docket No. FAA–2015–0839; Directorate Identifier 2015–CE–006–AD.

**(a) Effective Date**

This AD is effective April 24, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Cessna Aircraft Company Model 402C airplanes, serial numbers 402C0001 through 402C1020, and Model 414A airplanes, serial numbers 414A0001 through 414A1212, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

**(e) Unsafe Condition**

This AD was prompted by reports of cracks found on the engine mount beams. We are issuing this AD to prevent failure of the engine mount beams, which could lead to engine separation with consequent loss of power and loss of control.

**(f) Compliance**

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

**(g) Inspect Engine Mount Beams**

At the compliance times specified in paragraphs (g)(1) through (g)(4) of this AD, inspect each engine mount beam using radiographic (x-ray), eddy current, and visual methods following the Accomplishment Instructions in Cessna Aircraft Company Multi-engine Service Letter No. MEL–54–01, dated March 20, 2015. If total hours time-in-service (TIS) on an engine mount beam is unknown, use the airplane's total hours TIS.

(1) For each engine mount beam that has accumulated less than 20,000 hours TIS, initially inspect at whichever of the following that occurs later and repetitively thereafter at intervals not to exceed 200 hours TIS as long as no cracks are found:

(i) At or before the accumulation of 15,000 hours TIS on each engine beam; or

(ii) Within the next 100 hours TIS after the effective date of this AD or within the next 90 days after the effective date of this AD, whichever occurs first.

(2) For each engine mount beam that has accumulated 20,000 hours TIS but no more than 24,999 hours TIS, initially inspect at whichever of the following that occurs first and repetitively thereafter at intervals not to exceed 200 hours TIS as long as no cracks are found:

(i) Within the next 75 hours TIS after the effective date of this AD; or

(ii) Within the next 60 days after the effective date of this AD.

(3) For each engine mount beam that has accumulated 25,000 hours TIS but no more than 30,000 hours TIS, initially inspect at whichever of the following that occurs first and repetitively thereafter at intervals not to exceed 200 hours TIS as long as no cracks are found:

(i) Within the next 50 hours TIS after the effective date of this AD; or

(ii) Within the next 45 days after the effective date of this AD.

(4) For each engine mount beam that has accumulated more than 30,000 hours TIS, initially inspect at whichever of the following that occurs first and repetitively thereafter at intervals not to exceed 200 hours TIS as long as no cracks are found:

(i) Within the next 25 hours TIS after the effective date of this AD; or

(ii) Within the next 30 days after the effective date of this AD.

**(h) Contact Cessna Aircraft Company**

If any cracks are found during any inspection required in paragraphs (g)(1) through (g)(4) of this AD, before further flight, contact Cessna Aircraft Company at the address specified in paragraph (m)(3) of this AD for an FAA-approved corrective action developed specifically for this AD.

**(i) Reporting Requirement**

Within 10 days after each inspection required in paragraphs (g)(1) through (g)(4) of this AD or within 10 days after the effective date of this AD, whichever occurs later, using the undated Attachment, ''Inspection Results Form,'' to Cessna Aircraft Company Multi-engine Service Letter No. MEL–54–01, dated March 20, 2015, report the results to the FAA, Wichita Aircraft Certification Office (ACO) at the address specified in paragraph (l) of this AD. Report the result of each inspection to the FAA, Wichita ACO, for one year after the date of the initial inspection required in paragraphs (g)(1) through (g)(4) of this AD. Also report the results of the initial inspection to Cessna at the address specified in paragraph (m)(3) of this AD.

**(j) Paperwork Reduction Act Burden Statement**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(k) Alternative Methods of Compliance (AMOCs)**

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

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

**(l) Related Information**

Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4123; fax: (316) 946–4107; continued operational safety email: *9-ACE-Wichita-COS@faa.gov;* engineer contact email: *gary.park@faa.gov.*

**(m) Material Incorporated by Reference**

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

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

(i) Cessna Aircraft Company Multi-engine Service Letter No. MEL–54–01, dated March 20, 2015, including the undated Attachment, ''Inspection Results Form.''

(ii) Reserved.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com;* Internet: *http://www.cessnasupport.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0839.

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

Issued in Kansas City, Missouri, on March 30, 2015.

**Pat Mullen,**

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

[FR Doc. 2015–07705 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2011–0938; FRL–9925–86–Region 6]**

### Approval and Promulgation of Implementation Plans; New Mexico; Transportation Conformity and Conformity of General Federal Actions

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On February 10, 2015, the Environmental Protection Agency (EPA) published a direct final rule approving revisions to the New Mexico State Implementation Plan (SIP). These revisions amend the State transportation conformity provisions and remove the State general conformity provisions from the SIP, as allowed by the 2005 amendments to the Clean Air Act (CAA). The direct final rule was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if EPA received relevant, adverse comments by March 12, 2015, EPA would publish a timely withdrawal in the **Federal Register**. EPA received a relevant, adverse comment on March 10, 2015, and accordingly is withdrawing the direct final rule, and in a separate subsequent final rulemaking will address the comment received. The withdrawal is being taken pursuant to section 110 of the CAA.

**DATES:** The direct final rule published on February 10, 2015 (80 FR 7341), is withdrawn effective April 8, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey Riley (6PD–L), Air Planning Section, telephone (214) 665–8542, fax (214) 665–6762, email: *riley.jeffrey@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On February 10, 2015, EPA published a direct final rule approving revisions to the New Mexico SIP. These revisions amend the State transportation conformity provisions and remove the State general conformity provisions from the SIP, as allowed by the 2005 amendments to the CAA. The direct final rule was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if relevant, adverse comments were received by March 12, 2015, EPA would publish a timely withdrawal in the **Federal Register**. EPA received a comment on March 10, 2015 from the Sierra Club stating in relevant part, that an Acting Regional Administrator cannot sign approvals, disapprovals, or any combination of approvals or disapproval, in whole or in part, due to the fact that the authority to act on agency actions on state implementation plans is delegated only to, and therefore can only be signed by, the Regional Administrator. EPA considers this a relevant, adverse comment and accordingly is withdrawing the direct final rule. In a separate subsequent final rulemaking EPA will address the comment received. The withdrawal is being taken pursuant to section 110 of the CAA.

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

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

Dated: March 31, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

Accordingly, the amendments to 40 CFR 52.1620 published in the **Federal Register** on February 10, 2015 (80 FR 7341), which were to become effective on April 13, 2015, are withdrawn.

[FR Doc. 2015–07995 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2013–0754; FRL–9924–69-Region 9]**

### Revisions to the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District; Quantification of Emission Reductions From Incentive Programs

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This regulation establishes requirements and procedures for the District's quantification of emission reductions achieved through incentive funding programs implemented in the San Joaquin Valley. The effect of this action would be to make these requirements and procedures federally enforceable as part of the California SIP. Under authority of the Clean Air Act (CAA or the Act), this action simultaneously approves the local rule and directs California to correct rule deficiencies.

**DATES:** This rule will be effective on May 11, 2015.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2013–0754 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports), and some may not be available in either location (*e.g.,* confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Idalia Pérez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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**I. Proposed Action**

On May 19, 2014 (79 FR 28650), EPA proposed to fully approve the following rule, which the California Air Resources Board (CARB) submitted for incorporation into the California SIP.

| Local agency | Rule # | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| SJVUAPCD | 9610 | State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs. | 06/20/13 | 06/26/13 |

We proposed to fully approve Rule 9610 based on a proposed conclusion that the rule satisfied the applicable CAA requirements. We noted, however, that section 6.2 of the rule contained an incorrect statutory reference and inaccurately described the statutory obligations of the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) with respect to disclosure of information concerning implementation of the Environmental Quality Incentives Program (EQIP). *See* 79 FR 28650 at 28657 (May 19, 2014). We strongly recommended that the District revise section 6.2 of the rule at its earliest convenience to remove the incorrect reference and to provide an accurate description of NRCS's statutory obligations with respect to disclosure of information related to EQIP. *See id.*

Based on additional evaluation of this rule and in response to public comments, we continue to believe that Rule 9610 largely satisfies the applicable CAA requirements but find that the deficiencies in section 6.2 of the rule, as described in our proposed rule, necessitate a limited disapproval. We provide our rationale for this limited disapproval in our responses to comments below.

## II. Public Comments and EPA Responses

EPA's proposed rule provided a 30-day public comment period. During this period, we received comments from the following entities:

1. Paul Cort, Earthjustice; letter dated June 18, 2014.

2. Seyed Sadredin, SJVUAPCD; letter dated June 17, 2014.

We summarize these comments and provide our responses below.

*Comment 1:* Earthjustice states that EPA should withdraw its proposed approval of Rule 9610 because approval of the rule will ''create legal confusion over the requirements that must be met for approval of voluntary incentive measures into the State Implementation Plan ('SIP').'' Earthjustice further claims that the rule adds no value to the SIP and that EPA's proposal does not fully identify all of the ''legal defects'' in the rule. ''At best,'' according to Earthjustice, ''EPA's approval of Rule 9610 does nothing, because compliance with Rule 9610 will not be enough to support approval of future incentive programs into the SIP,'' and at worst ''it will create legal confusion over the governing criteria'' and waste resources by encouraging the development of faulty programs.

*Response 1:* We disagree with these comments. We believe Rule 9610 is consistent with the flexibility accorded states in incorporating discretionary, innovative and non-traditional emission reduction programs in their SIPs, under CAA sections 110(a)(2)(A) and 172(c)(6). The CAA establishes a system of cooperative federalism in which EPA provides national leadership, sets standards for environmental protection and conducts oversight of state implementation, while states play a larger role in implementation of these standards including developing SIPs and adopting emission reduction measures. *See* CAA sections 101 and 102. Under section 110 of the Act, states have broad discretion to choose the mix of emission limitations and other control measures, means, or techniques (including economic incentive programs) that they will implement to provide for attainment of the national ambient air quality standards (NAAQS). *See Union Electric Co.* v. *EPA,* 427 U.S. 246 (1976) (''So long as the national standards are met, the State may select whatever mix of control devices it desires.'').

As we explained in our proposal, Rule 9610 contains key provisions designed to establish a regulatory framework for the District's quantification of emission reductions achieved through incentive programs and to provide opportunities for EPA, CARB, and the public to review and comment on the District's evaluations on an annual basis. *See* 79 FR 28650 at 28652. We believe the criteria and procedures in Rule 9610 establish a useful starting point for the District's development of such programs and for public participation in the District's development of air quality plans that rely on such programs.[1] Upon incorporation of Rule 9610 into the SIP, the requirements and procedures in the rule become federally enforceable against the District, enabling EPA and citizens to hold the District accountable for compliance with these requirements.

As we also stated in the proposed rule, nothing in Rule 9610 supplants the applicable requirements of the CAA, and EPA will review each SIP submittal developed pursuant to Rule 9610 and EPA guidance on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. *See* 79 FR 28650 at 28658. EPA specifically identified a number of shortcomings in Rule 9610 to ensure that the State and District are aware of the rule's limitations. *See, e.g.,* 79 FR 28650 at 28656 (noting that Rule 9610 does not specifically address CAA requirements concerning funding, personnel, and implementation authority) and 28657 (discussing incorrect statutory reference in section 6.2 of Rule 9610). To the extent our proposal did not make clear that Rule 9610 in no way substitutes for the requirements of the CAA, we hereby clarify that the requirements of the CAA continue to apply to each SIP submitted by the State and District, notwithstanding any provision in Rule 9610, and that our action on this rule does not constitute an endorsement of its content as an adequate representation of the requirements of the Act. Additionally, we are finalizing a limited approval and limited disapproval of Rule 9610 because of the deficiencies in section 6.2 concerning disclosure of records related to the NRCS's implementation of the EQIP program. We explain our reasons for disapproving the rule on this basis in Response 3.h below.

Given that the District's stated purpose in adopting Rule 9610 was to establish an administrative mechanism for crediting emission reductions achieved through incentive programs toward SIP requirements, EPA discussed in the proposed rule ''the extent to which the requirements and procedures contained in the rule

[1] EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act. *See* 40 CFR part 51, subpart U. For discretionary EIPs, EPA has issued guidance entitled ''Improving Air Quality with Economic Incentive Programs,'' U.S. EPA, Office of Air and Radiation, January 2001 (EPA–45/R–01–001) (''2001 EIP Guidance''). Because the 2001 EIP Guidance is non-binding and does not represent final agency action on discretionary EIPs, EPA uses the 2001 EIP Guidance as an initial screen to evaluate potential approvability issues. Final action on any discretionary EIP occurs when EPA acts on it after its submission as a SIP revision.

establish a framework for development of SIP submittals that satisfy the requirements of the Act, as interpreted in EPA policy on discretionary EIPs and other nontraditional emission reduction measures.'' 79 FR 28650 at 28653. In the Technical Support Document (TSD), EPA also provided evaluations of the specific incentive program guidelines listed in Section 3.1 of the rule, as a ''preliminary guide to assist the District in its effort to address CAA requirements in SIP submittals that rely on incentive programs going forward.'' 79 FR 28650 at 28654; *see also* U.S. EPA Region 9 Air Division, ''Technical Support Document for EPA's Notice of Proposed Rulemaking for the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District's Rule 9610, State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs,'' May 2014 (hereafter ''Proposal TSD''). We provided these evaluations to explain the minimum statutory requirements that apply to SIPs that rely on economic incentive programs; to inform the District of both provisions in Rule 9610 that adequately represent these requirements and shortcomings in the rule that should be corrected to avoid confusion; and to invite public comment on EPA's understanding of the way in which the District would implement Rule 9610 going forward. *See, e.g.,* 79 FR 28650 at 28653 (discussing EPA's recommended programmatic ''integrity elements'' for innovative measures), 28654 (discussing EPA's recommended SIP components for innovative measures); and 28657 (recommending rule corrections to avoid confusion concerning NRCS's statutory obligations and requesting public comment on mechanisms for tracking the District's compliance with SIP commitments). EPA's limited approval and limited disapproval of Rule 9610 into the SIP does not, in any way, constitute endorsement of the rule as a substitute for CAA requirements.

Section 110 of the CAA requires each state to submit to EPA for approval a ''plan which provides for implementation, maintenance, and enforcement'' of each primary and secondary NAAQS, and EPA is required to approve a SIP submittal that relates to these purposes and satisfies the applicable federal requirements. *See* CAA section 110(k)(3), 42 U.S.C. 7410(k)(3) and 40 CFR 52.02(a). Rule 9610 establishes requirements and procedures for the District's quantification of reductions in emissions of NAAQS pollutants (*e.g.,* nitrogen oxides (NOx) and fine particulate matter ($PM_{2.5}$)) achieved through incentive programs and, therefore, relates to the requirements of CAA section 110. *See generally* San Joaquin Valley Unified Air Pollution Control District, Final Staff Report, ''Proposed Rule 9610 (State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs),'' June 20, 2013. With the exception of the deficiencies in section 6.2 of the rule, Rule 9610 satisfies the requirements concerning enforceability in section 110(a)(2)(A) and SIP revisions in section 110(l) of the Act. *See* 79 FR 28650 at 28652 (summarizing rule provisions enforceable against the District) and 28658 (explaining that approval of Rule 9610 would not interfere with applicable requirements concerning attainment and other CAA requirements) and Proposal TSD at 3–8; *see also* Response 3.h (discussing deficiencies in section 6.2 of Rule 9610). Additionally, EPA has reviewed Rule 9610 for conflicts with CAA requirements and identified one provision (section 6.2 of the rule) that clearly conflicts with the requirements of the Act. Based on these evaluations, we conclude that Rule 9610 satisfies the statutory requirements for approval into the SIP, except for the disclosure provision in section 6.2, which we are disapproving. *See* Response 3.h.

We expect the District to address the applicable requirements of the CAA in each individual SIP submittal that relies on incentive programs, and our recommendations in both the proposal and today's final rule are intended to provide the District with general guidance on how these requirements, as interpreted in EPA guidance, apply to future SIP submittals developed pursuant to Rule 9610 and the requirements of the Act. To the extent our action on Rule 9610 and the related public process provide a forum for EPA and the public to comment on the statutory requirements that the District must address in future SIP submittals that rely on incentive programs, we view this as an important step toward clarifying the applicable CAA requirements and ensuring transparency in SIP actions going forward. In any case, as EPA stated in the proposed rule, EPA will review each SIP submittal developed pursuant to Rule 9610 (including the necessary evaluation of the applicable incentive program guidelines) on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. *See* 79 FR 28650 at 28654, 28658. Nothing in today's action prohibits EPA from disapproving a SIP relying on incentive-based emission reductions that fails to satisfy the requirements of the CAA.

*Comment 2:* Earthjustice states that the CAA requires emission reductions resulting from incentive programs to be ''quantifiable, surplus, enforceable and permanent'' and asserts that the District's new definitions for these terms in Rule 9610 are an attempt to redefine these four integrity elements for ''SIP creditability.'' Quoting EPA's statement that ''[n]othing in Rule 9610 supplants the applicable requirements of the CAA,'' Earthjustice states that ''compliance with the SIP-creditability definitions in Rule 9610 does not mean that a given incentive program is, in fact, SIP creditable.'' Earthjustice claims that the potential confusion and conflict caused by EPA's action beg the question why EPA is approving Rule 9610 and claims that the purpose of the rule and EPA's action are not evident in the proposal. In support of these claims, Earthjustice cites a statement in the Proposal TSD in which EPA disagrees with the District's claims that Rule 9610 identifies ''pre-approved incentive program guidelines'' for claiming SIP credit and that certain Carl Moyer programs provide SIP creditable emission reductions. Earthjustice further asserts that the District's definitions in Rule 9610 do not meet all of EPA's criteria and that EPA's analysis of the District's definitions ''notes some of these deficiencies but ignores others,'' leaving readers to ''puzzle through'' the reason for EPA's approval of the rule.

*Response 2:* We agree that the CAA requires emission reductions resulting from incentive programs to be ''quantifiable, surplus, enforceable and permanent'' in order to qualify for emission reduction credit in a SIP. We disagree, however, with the commenter's claim that the definitions of the terms ''quantifiable,'' ''surplus,'' ''enforceable'' and ''permanent'' in Rule 9610 represent an attempt by the District to redefine the CAA's requirements for SIP creditability. As we stated in our proposed action, the SJVUAPCD's stated intent in adopting Rule 9610 was to establish a regulatory framework to address the CAA's requirements for crediting incentive-based emission reductions in SIPs. *See* 79 FR 28650 at 28651. Upon incorporation of Rule 9610 into the SIP, its requirements will become federally enforceable under the CAA and thereby supplement, but not supplant, the requirements of the Act.

As we explained in the proposed rule and further in the Proposal TSD, Rule 9610 does not represent all of the CAA requirements applicable to SIPs that rely on incentive programs for emission reduction credit (*see, e.g.,* 79 FR 28650 at 28656, 28657 and Proposal TSD at 50–52), and we agree with Earthjustice that compliance with the SIP-creditability definitions in Rule 9610 does not necessarily mean that a given incentive program is, in fact, SIP creditable under the CAA. Additionally, as Earthjustice notes, EPA's Proposal TSD identifies several statements in the District's 2013 Annual Demonstration Report that improperly characterize the effect of compliance with the rule (*e.g.,* the District's statement that ''Section 3.1 of Rule 9610 identifies pre-approved incentive program guidelines''). *See* Proposal TSD at 53. As we explained in both the proposed rule and the Proposal TSD, EPA is taking no action on the incentive program guidelines as the guidelines themselves are not part of Rule 9610, and the State has not separately submitted any of these guidelines for approval into the SIP. *See* 79 FR 28650 at 28653, n. 7 and 28654. It follows that EPA cannot, in today's action, approve (or ''pre-approve'') any of these guidelines for use in quantifying SIP emission reduction credit.[2]

We continue to believe, however, that the definitions of the terms ''quantifiable,'' ''surplus,'' ''enforceable'' and ''permanent'' in Rule 9610 generally represent the four fundamental ''integrity elements'' defined in EPA guidance for discretionary EIPs and other innovative emission reduction programs, provided the District interprets these terms consistent with our interpretations in this rulemaking, which are the bases for our limited approval of the rule.[3] If the District implements Rule 9610 (including its definitions) in a manner that is consistent with EPA's interpretation and the recommendations provided in our proposed and final rulemaking documents, we expect that future SIPs developed in accordance with Rule 9610 would adequately address EPA's policy recommendations with respect to these four integrity elements.[4] Conversely, to the extent the District implements Rule 9610 in a manner that departs significantly from EPA's understanding of the rule and related recommendations, we expect such future SIPs would not adequately address the requirements of the Act. Although we make no determination today concerning SIP emission reduction credit for any particular incentive program, we believe that our interpretations of Rule 9610, our related recommendations for corrections or clarifications to the rule, and our preliminary reviews of the incentive program guidelines referenced in the rule (as discussed in the Proposal TSD) provide general guidance to the State and District that will help clarify the applicable CAA requirements for future SIPs, compared to EPA inaction on Rule 9610.

*Comment 3:* Earthjustice claims that Rule 9610 does not ensure ''surplus'' and ''enforceable'' emission reductions and disagrees with several aspects of EPA's evaluation of the rule's definitions of these terms.

*Response 3:* EPA is finalizing a limited approval and limited disapproval of Rule 9610 based on our conclusion that the rule relates to the requirements of CAA section 110 and, with one exception, satisfies the statutory criteria for approval into the SIP. *See* Response 1 and Response 2, above; *see also* Response 3.h (discussing deficiencies in section 6.2 of Rule 9610).

Nonetheless, the commenter raises a number of important concerns regarding the adequacy of Rule 9610 as a legal framework for quantifying SIP emission reduction credit for incentive programs, and in an effort both to respond to these comments and to provide the District with specific guidance on the requirements of the Act that each SIP must satisfy, we respond below (in Response 3.a through Response 3.j) to each of these concerns.

*Comment 3.a:* Earthjustice states that according to EPA, ''emission reductions are surplus only if they are not otherwise required by or assumed in a SIP-related program,'' any other adopted State air quality program, a consent decree, or a federal rule designed to reduce emissions of a criteria pollutant or its precursors, and that measures are only surplus for ''the remaining useful life of the vehicle, engine, or equipment being replaced.'' Rule 9610, on the other hand, defines ''surplus'' to mean that the emission reductions are ''not otherwise required by any federal, state, or local regulation, or other legal mandate, and are in excess of the baseline emission inventories underlying a SIP attainment demonstration'' (citing Rule 9610, section 2.27). Earthjustice claims that this definition in Rule 9610 is not consistent with EPA's definition, for example because ''the District's definition leaves out various other assumptions built into SIP-related programs, such as growth factors in attainment and other plans, turnover assumptions in conformity demonstrations, etc.'' and does not incorporate the ''useful life'' concept into its definition. Earthjustice claims that EPA's proposal gives only ''short shrift'' to these differences and provides an unsupported claim that the District's new definition will ''treat as 'surplus' only those emission reductions'' that meet EPA's definition of the term.

*Response 3.a:* We disagree with the commenter's claims about the definition of ''surplus'' in Rule 9610 and believe that this definition is generally consistent with EPA's guidance on ''additionality'' of emission reductions, provided the District interprets the term consistent with EPA's interpretation, as explained further below.

Section 2.27 states that ''emission reductions are surplus when they are not otherwise required by any federal, state, or local regulation, or other legal mandate, and are in excess of the baseline emission inventories underlying a SIP attainment demonstration.'' First, we understand that ''any federal, state, or local regulation, or other legal mandate'' would include: (1) Any federal rule designed to reduce emissions of a criteria pollutant or its precursors (*e.g.,* a new source performance standard or federal mobile source requirements); (2) any State or local regulation concerning air pollutant emissions; and (3) any obligation in a consent decree, settlement agreement, or other legal mandate. Read accordingly, the definition would prohibit emission reductions required by any of these types of legal obligations from being treated as ''surplus.'' Second, we understand that the phrase ''baseline emission inventories underlying a SIP attainment demonstration'' means the projection year emission inventories that provide the basis for the attainment-related demonstrations in a SIP. Read accordingly, emission reductions ''in excess of the baseline emission inventories underlying a SIP attainment demonstration'' would mean

[2] We understand that CARB and the District do not intend to submit any incentive program guidelines to EPA for approval into the SIP, given that SIP-approval of an incentive program guideline *per se* is not necessary to demonstrate that the emission reductions associated with that program satisfy CAA requirements for SIP emission reduction credit.

[3] Should the District's implementation of Rule 9610 going forward reveal a conflict between a provision of the rule and the requirements of the CAA, EPA may exercise its authorities under CAA sections 110(k)(5) or 110(k)(6) to issue a SIP call or to revise this action as appropriate.

[4] Nothing in the comments submitted by the District on EPA's proposed rule (see Comment 6) indicates that the District disagrees with EPA's interpretation of Rule 9610, as provided in the proposed rule and Proposal TSD.

emission reductions that go *beyond* those already assumed in a SIP-related program, taking into account growth factors, assumptions concerning fleet turnover, and other relevant planning assumptions—that is, any emission reductions assumed in a SIP-related program (*e.g.,* an attainment or reasonable further progress plan or a transportation conformity demonstration) would not be treated as ''surplus.''

Read in its entirety, section 2.27 provides that only those emission reductions that are *not* otherwise required by or assumed in a SIP-related program, any other adopted State air quality program, a consent decree, or a federal rule designed to reduce criteria pollutant or precursor emissions will qualify for treatment as ''surplus'' emission reductions, consistent with EPA's definition of the term in longstanding guidance. *See, e.g.,* ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' EPA, Office of Air and Radiation, October 24, 1997 (hereafter ''1997 VMEP'') at 6; ''Improving Air Quality with Economic Incentive Programs,'' EPA, Office of Air and Radiation, January 2001 (hereafter ''2001 EIP Guidance'') at 35; ''Incorporating Emerging and Voluntary Measures in a State Implementation Plan,'' EPA, Office of Air and Radiation, September 2004 (hereafter ''2004 Emerging and Voluntary Measures Guidance'') at 3; and ''Diesel Retrofits: Quantifying and Using Their Emission Benefits in SIPs and Conformity,'' EPA, Office of Transportation and Air Quality, February 2014 (hereafter ''2014 Diesel Retrofits Guidance'') at 27.

One component of EPA's various policy recommendations that the definition of ''surplus'' in section 2.27 does not explicitly address is the recommendation concerning the remaining useful life of the vehicle, engine, or equipment being replaced. *See* 2014 Diesel Retrofits Guidance at 30 (recommending that states ''consider factors that may affect emission reductions and their surplus status overtime, including changing patterns of operations or use, vehicle deterioration factors, equipment useful life, and government emission standards''). Rule 9610 does, however, contain a definition of ''project life'' in section 2.20 that addresses this recommendation. Specifically, section 2.20 defines ''project life'' to mean ''the period of time over which an incentive program project achieves SIP-creditable emission reductions'' and states that ''[p]roject life shall not exceed the useful life of equipment, vehicles, or practices funded through incentive programs, and may vary across incentive programs and project types.'' As we explained in the Proposal TSD, in future SIP submittals developed pursuant to Rule 9610, we expect the State and/or District will demonstrate: (1) How the ''project life'' for each funded project relied on for SIP credit takes into account the remaining useful life of the vehicle, engine, or equipment being replaced, and (2) how the State and/or District ensure that the emission reductions relied on for SIP credit are in excess of the reductions attributed to normal fleet turnover and other assumptions built into future year emissions inventories (*i.e.,* that the same emission reductions are not ''double counted''). *See* Proposal TSD at 18 and 48.

*Comment 3.b:* Earthjustice asserts that EPA's analysis of the District's definition of ''enforceable'' is arbitrary. Quoting from section 110(a)(2)(A) of the CAA and EPA's interpretative statements in ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992) (hereafter ''General Preamble''), Earthjustice states that even those ''nontraditional techniques'' for reducing pollution authorized by section 110(a)(2)(A) must be ''enforceable.'' Additionally, Earthjustice quotes from an EPA docket memorandum for a rulemaking entitled ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction,'' February 4, 2013 (hereafter ''2013 SSM Memo''), in which EPA highlights the importance of the EPA and citizen enforcement authorities established by Congress to ensure compliance with CAA requirements and states that SIP provisions that function to bar effective enforcement by the EPA or citizens for violations would be inconsistent with the regulatory scheme established in title I of the Act. Earthjustice quotes from this memorandum to support its assertion that according to EPA policy, SIPs must be built upon emission reductions that are ''enforceable,'' meaning that ''EPA and citizens must have the ability to bring enforcement actions to assure compliance.'' For example, Earthjustice states, EPA will not approve control measures that include ''director discretion'' to define or redefine compliance requirements and also will ''not allow SIPs to include state affirmative defenses that would foreclose EPA or other enforcement.'' Earthjustice further asserts that ''[a] state cannot claim SIP credit from control measures that shield pollution sources from independent enforcement actions.'' Earthjustice also references the 2001 EIP Guidance in support of these arguments.

*Response 3.b:* We agree that under the CAA, as interpreted in EPA policy, all measures approved into a SIP, including those ''nontraditional techniques'' for reducing pollution identified in section 110(a)(2)(A) of the Act, must be ''enforceable'' to qualify for SIP emission reduction credit and that EPA and citizens must be able to bring enforcement actions to assure compliance. *See, e.g.,* General Preamble at 13556. We disagree, however, with the claim that EPA's analysis of the definition of ''enforceable'' in Rule 9610 is arbitrary.

In our proposed rule and Proposal TSD, we compared the Rule 9610 definition of ''enforceable'' with EPA's recommended enforceability factors for voluntary and other nontraditional emission reduction measures, and we found the Rule 9610 definition to be generally consistent with EPA's recommendations. *See* 79 FR 28650 at 28654 (discussing components of Rule 9610, section 2.8 that reflect EPA recommendations) and Proposal TSD at 8–11. Specifically, we highlighted key components of EPA's policy recommendations concerning enforceability and found that the District's definition of the term ''ensures that the District will treat as 'enforceable' only those emission reductions that can, as a practical matter, be independently verified and that result from a program or measure that defines violations clearly, allows for identification of responsible parties, requires grantees to provide all records needed to demonstrate that emission reductions are achieved, and provides for public access to emissions-related information.'' *See* 79 FR 28650 at 28653, 28654. We provided these analyses not to support a regulatory determination concerning the enforceability of any particular incentive program or air quality plan that relies on incentive programs, as no such program or plan is before us in this action, but rather to highlight the District's obligation under Rule 9610 to ensure that any incentive program relied upon in a SIP requires documentation adequate for EPA and the public to independently verify that the necessary emission reductions have occurred. *See* 79 FR 28650 at 28654 (noting District's obligation to demonstrate, in each SIP submittal that relies on an incentive program, that the

emission reductions relied upon to satisfy SIP requirements are surplus, quantifiable, enforceable, and permanent).[5] That is, we highlighted these provisions of section 2.8 of Rule 9610 in an effort to ensure that future SIPs that rely on incentive programs in the SJV will, at minimum, satisfy the rule's enforceability requirements, which reflect important components of EPA's recommendations concerning enforceability under the CAA. *See* 79 FR 28650 at 28654.

Earthjustice asserts generally that ''[a] state cannot claim SIP credit from control measures that shield pollution sources from independent enforcement actions.'' But nothing in Rule 9610 shields pollution sources from independent enforcement actions and Earthjustice does not identify any provision that does so. As further explained in Response 3.d., the CAA authorizes EPA and citizens to enforce requirements of an ''applicable implementation plan'' [6] and certain requirements of the Act. *See* CAA sections 113 and 304(a), 42 U.S.C. 7413, 7604(a). Specifically, under section 113 of the Act, EPA may bring an enforcement action against any individual or government agency for violation of ''any requirement or prohibition of an applicable implementation plan,'' [7] and under section 304(a) citizens may bring suit against any individual or government agency alleged to be in violation of ''an emission standard or limitation,'' including a schedule or timetable of compliance which is in effect under an applicable implementation plan.[8] To the extent Earthjustice intended to argue that Rule 9610 would ''shield'' pollution sources from an action to enforce the requirements of an ''applicable implementation plan''—*e.g.,* the requirements of an EPA-approved SIP—we disagree as Rule 9610 does not apply to any pollution source. *See* 79 FR 28650 at 28652 (''the requirements and procedures in [Rule 9610] apply *only to the District* . . . [and] would become federally enforceable *against the District* upon EPA's final approval of the rule into the California SIP'') (emphases added). Earthjustice does not identify any provision in Rule 9610 that would apply to a pollution source or preclude enforcement of SIP requirements against a pollution source.

We understand that Earthjustice may have intended to argue that Rule 9610 would encourage *future* development of programs that preclude EPA or citizen enforcement against pollution sources, rather than to comment on the enforceability of Rule 9610 itself.[9] Under CAA section 110(a)(2)(A), however, the relevant inquiry is not whether EPA or citizens may directly sue pollution sources but whether the ''measure,'' ''means,'' or ''technique'' for reducing emissions is ''enforceable.'' Section 110 of the Act requires that each SIP include ''enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate'' to meet the Act's requirements. CAA 110(a)(2)(A), 42 U.S.C. 7410(a)(2)(A). Thus, according to the plain language of the statute, SIPs may contain ''means'' or ''techniques'' including economic incentives and/or ''schedules and timetables for compliance'' that EPA considers ''appropriate'' for attainment, so long as they are ''enforceable.'' Courts have long held that citizen suits can be brought to enforce specific measures, strategies, or commitments by state or local agencies that are designed to ensure compliance with the NAAQS. *See, e.g., BCCA Appeal Group* v. *EPA,* 355 F.3d 817 (5th Cir. 2003), *reh'g denied, BCCA Appeal Group* v. *EPA,* 2004 U.S. App. LEXIS 215 (5th Cir. 2004); *Conservation Law Foundation, Inc.* v. *James Busey et al.,* 79 F.3d 1250, 1258 (1st Cir. 1996) (citing, *inter alia, Wilder* v. *EPA,* 854 F.2d 605 at 613–14) and *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, 1454–59 (N.D. Cal.), modified, 746 F. Supp. 976 (1990).

Nothing in Rule 9610 undermines the ability of EPA or citizens to bring enforcement actions to assure compliance with SIP requirements, nor does the rule contain or authorize the District to develop any ''director discretion'' or ''affirmative defense'' provision that will apply to SIP requirements. To the contrary, section 7.0 of Rule 9610 requires that the District maintain responsibility for ensuring that SIP emission reductions occur through an ''enforceable commitment,'' which becomes federally enforceable by EPA and citizens upon approval into the SIP under CAA section 110(k). *See* 79 FR 28650 at 28655 (citing Rule 9610, section 7.0). EPA has approved enforceable commitments in the past and courts have enforced these commitments against states that failed to comply with them. *See, e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), aff'd, 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, recon. Granted in par, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.,* No. CV 97–6916–HLH (C.D. Cal. Aug. 27, 1999). We believe it is appropriate to allow California to rely in its SIP on voluntary incentive programs, provided the State and/or District retain clear responsibility through an enforceable commitment to ensure that the emission reductions necessary to meet applicable CAA requirements are achieved, which EPA or citizens may enforce under sections 113 or 304 of the Act, respectively.

As we noted previously, following the State's submittal of a specific air quality plan or measure that relies on incentive programs for necessary emission reductions, EPA will evaluate that plan or measure to determine whether it satisfies the enforceability requirements of the Act. We provide these responses to the commenter's concerns only as a preliminary explanation of the enforceability requirements that future SIPs developed through the Rule 9610 process must satisfy, and we encourage the commenter and the public at large

[5] Such documentation is necessary to hold the District accountable for any SIP commitments developed in accordance with Section 7.0 of Rule 9610, as explained further in Response 3.h.

[6] Section 302(q) of the CAA defines ''applicable implementation plan,'' in relevant part, as ''the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110 of [title I of the Act] . . . and which implements the relevant requirements of [the Act].'' 42 U.S.C. 7602(q).

[7] Section 113 of the CAA authorizes EPA to issue notices and compliance orders, assess administrative penalties, and bring civil actions against any ''person,'' including a state agency, who ''has violated or is in violation of any requirement or prohibition of an applicable implementation plan. . . .'' CAA 113(a)(1)–(2), 42 U.S.C. 7413(a)(1)–(2); CAA 302(e), 42 U.S.C. 7602(e) (defining ''person'' to include a State or political subdivision thereof).

[8] Section 304(a)(1) of the CAA authorizes any person to bring a civil action against any ''person,'' including a state agency (to the extent permitted by the Eleventh Amendment to the Constitution), ''who is alleged to have violated or to be in violation of . . . an emission standard or limitation. . . .'' 42 U.S.C. 7604(a)(1); CAA 302(e), 42 U.S.C. 7602(e) (defining ''person'' to include a State or political subdivision thereof). An ''emission standard or limitation'' is defined in section 304(f), in relevant part, to mean ''a schedule or timetable of compliance'' which is in effect under the Act ''or under an applicable implementation plan.'' 42 U.S.C. 7604(f)(1). ''Schedule and timetable of compliance'' is broadly defined in section 302(p) to mean ''a schedule of required measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.'' 42 U.S.C. 7602(p).

[9] Earthjustice does not appear to question EPA's statement that Rule 9610 itself is enforceable against the District and that our approval of the rule would make it federally enforceable by EPA and citizens under the CAA.

to participate in future rulemakings on specific air quality plans or measures that rely on incentive programs for SIP emission reduction credit.

*Comment 3.c:* Citing a 2004 guidance entitled, ''Incorporating Emerging and Voluntary Measures in a State Implementation Plan'' (September 2004) (hereafter ''2004 Emerging and Voluntary Measures Guidance''), Earthjustice states that according to EPA, ''emission reductions are 'voluntary,' and therefore subject to a cap on SIP credit, when the emission reductions are not enforceable against individual sources.'' According to Earthjustice, ''Rule 9610 suggests that measures could be SIP creditable even if EPA and the public have to rely entirely on the State and local air District to ensure source compliance,'' and that this runs counter to EPA's longstanding policy and statutory interpretations, under which EPA ''has only been willing to allow such programs with a cap on the SIP credit that can be claimed.''

*Response 3.c:* We agree with Earthjustice's characterization of ''voluntary'' measures as those that are not directly enforceable against individual emission sources. *See, e.g.,* 1997 VMEP at 4; 2004 Emerging and Voluntary Measures Guidance at 1, 19; and 2005 Bundled Measures Guidance at 2, n. 1. We disagree, however, with the commenter's suggestion that emission reductions from voluntary measures are ''subject to'' a specific cap on SIP emission reduction credit because they are unenforceable for SIP purposes under the CAA.

Under longstanding guidance, EPA has recommended presumptive limits (sometimes referred to as ''caps'') on the amounts of emission reductions from certain voluntary and other nontraditional measures that may be credited in a SIP. Specifically, for voluntary mobile source emission reduction programs (VMEPs),[10] EPA has identified a presumptive limit of three percent (3%) of the total projected future year emission reductions required to attain the appropriate NAAQS, and for any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3% of the specific statutory requirement. *See* 1997 VMEP at 5. As explained in the 2001 EIP Guidance, EPA recommended this 3% cap (per pollutant) on the credit allowed for VMEPs because states are ''not required to play a direct role in implementing these programs, the programs are not directly enforceable against participating parties, and there may [be] less experience in quantifying the emission benefits from these programs.'' 2001 EIP Guidance at 158; *see also* 1997 VMEP at 5 (recommending 3% cap due to ''innovative nature of voluntary measures and EPA's inexperience with quantifying their emission reductions''). For voluntary stationary and area source measures, EPA has identified a presumptive limit of 6% of the total amount of emission reductions required for RFP, attainment, or maintenance demonstration purposes. *See* 2004 Emerging and Voluntary Measures Guidance at 9 (''EPA believes it is appropriate to limit these measures to a small portion of the SIP given the untested nature of the control mechanisms'') and ''Incorporating Bundled Measures in a State Implementation Plan (SIP),'' August 2005 (hereafter ''2005 Bundled Measures Guidance'') at 8 (recommending limits ''[d]ue to the innovative nature of voluntary and emerging measures''). EPA has also long stated, however, that states may justify higher amounts of SIP emission reduction credit for voluntary programs on a case-by-case basis, and that EPA may approve measures for SIP credit in excess of the presumptive limits ''where a clear and convincing justification is made by the State as to why a higher limit should apply in [its] case.'' 2004 Emerging and Voluntary Measures Guidance at 9; *see also* 2005 Bundled Measures Guidance at 8, n. 6 and 2014 Diesel Retrofits Guidance at 12. Thus, the presumptive ''cap'' on SIP credit referenced by Earthjustice is not a specific regulatory cap but a general policy recommendation, which states and EPA may justify departing from on a case-by-case basis, subject to notice-and-comment rulemaking on a particular SIP.

Importantly, EPA has consistently stated that SIP credit may be allowed for a voluntary or other nontraditional measure only where the State submits enforceable mechanisms to ensure that the emission reductions necessary to meet applicable CAA requirements are achieved—*e.g.,* an enforceable commitment to monitor and report on emission reductions achieved and to rectify any shortfall in a timely manner. *See* 79 FR 28650 at 28653 (citing, *inter alia,* 1997 VMEP at 4–7; 2004 Emerging and Voluntary Measures Guidance at 8–12; 2005 Bundled Measures Guidance at 7–12; and 2004 Electric-Sector EE/RE Guidance at 6–7). Thus, if California intends to satisfy a SIP requirement through reliance on an incentive program that EPA and citizens may not directly enforce against participating sources, the State/District must take responsibility for assuring that SIP emission reduction requirements are met through an enforceable commitment, which EPA and citizens may enforce against the State/District upon EPA's approval of the commitment into the SIP. EPA continues to believe that voluntary incentive measures accompanied by an enforceable commitment to monitor emission reductions achieved and timely rectify any shortfall meet the SIP control measure requirements of the Act. *See* Response 3.b above.

Should California submit a SIP that relies on incentive programs to satisfy a CAA requirement, EPA intends to evaluate the submittal to determine whether the necessary emission reductions may be enforced by EPA and citizens through an enforceable State/District commitment. Additionally, should such a SIP rely on incentive-based emission reductions in amounts that exceed EPA's presumptive limits, as discussed in EPA's longstanding guidance, EPA intends to evaluate the SIP submittal to determine whether the State and/or District have provided a clear and convincing justification for such higher amounts.

*Comment 3.d:* Citing both the 2001 EIP Guidance and the 2004 Emerging and Voluntary Measures Guidance, Earthjustice states that emission reductions are ''enforceable'' against the source if: (1) They are independently verifiable; (2) program violations are defined; (3) those liable for violations can be identified; (4) the District, State and EPA maintain the ability to apply penalties and secure appropriate corrective actions where applicable; (5) citizens have access to all the emissions-related information obtained from the source; (6) citizens can file suits against sources for violations; and (7) they are practicably enforceable in accordance with other EPA guidance on practicable enforceability. Earthjustice states that EPA's proposed rule recites all of these criteria except for citizen suit enforceability and questions whether this was an oversight or a deliberate attempt to mislead the public on the criteria for enforceability. In any case, Earthjustice contends that ''nothing in Rule 9610 would require incentive programs to provide for such citizen enforcement'' and that the rule ''would only require that violations be defined through contracts, [which] can only be

[10] A voluntary mobile source emission reduction program (VMEP) is a mechanism that supplements traditional emission reduction strategies through voluntary, nonregulatory changes in local transportation sector activity levels or changes in in-use vehicle and engine fleet composition, among other things. *See* 1997 VMEP at 3.

enforced by the parties to the contract.'' Earthjustice asserts that citizens would have no recourse to ''file suits against sources for violations,'' and that EPA's proposal includes ''no explanation of how this requirement is met or why it does not apply.'' To the extent EPA believes it is the latter, Earthjustice states, ''it has now afforded the public no opportunity to respond to any reasoning behind that assertion.''

*Response 3.d:* First, to the extent the commenter argues that all SIP emission reduction techniques must provide for citizen suits directly against emission sources, we disagree. Section 110(a)(2)(A) of the Act explicitly includes ''economic incentives'' among the ''control measures, means, or techniques'' that states may use to meet SIP requirements, and EPA has long interpreted the Act to allow SIPs to rely on nontraditional emission reduction techniques—including voluntary measures that are not directly enforceable against emitting sources—provided the State submits enforceable mechanisms to assure that the requirements of the Act are met. *See* Response 3.b and Response 3.c, above. As Earthjustice correctly notes, EPA's 2001 EIP Guidance states that emission reductions and related actions are ''enforceable'' if, among other things, ''[c]itizens can file suits against sources for violations. . . .'' 2001 EIP Guidance at 35–36.[11] As with all guidance, however, the 2001 EIP Guidance provides only non-binding recommendations and does not represent final agency action concerning the requirements for SIPs containing discretionary EIPs. *See id.* at 12, 19, and 119. Moreover, in several other policies concerning nontraditional measures, EPA has indicated that provisions for citizen suits against a state or other responsible entity (other than the emission source) may suffice to meet the Act's enforceability requirements. *See* Response 3.c above. For example, the 2004 Emerging and Voluntary Measures Guidance recommends provisions authorizing citizen suits against sources for ''emerging measures'' [12] but states that for ''voluntary measures,'' emission reductions and other required actions are enforceable if, among other things, ''EPA maintains the ability to apply penalties and secure appropriate corrective action *from the State* where applicable and *the State* maintains the [ability to] secure appropriate corrective action with respect to portions of the program that are directly enforceable against the source. . . .'' 2004 Emerging and Voluntary Measures Guidance at 3, 4 (emphases added); *see also* 2005 Bundled Measures Guidance at 25 (also discussing EPA enforcement against State) and 1997 VMEP at 6–7 (''[a] *State's* obligations with respect to VMEPs must be enforceable at the State and Federal levels'') (emphasis added). In other guidance concerning nontraditional emission reduction measures, EPA has indicated that provisions for enforcement against a ''responsible party'' may be acceptable in lieu of enforcement directly against the emitting source. *See, e.g.,* ''Guidance on SIP Credits for Emission Reductions from Electric-Sector Energy Efficiency and Renewable Energy Measures,'' August 5, 2004 (hereafter ''2004 Electric-Sector EE/RE Guidance'') at 5, 6 (distinguishing emission reductions that are ''enforceable directly against the source'' from those that are ''enforceable against *another party responsible* for the energy efficiency or renewable energy activity'') and 2014 Diesel Retrofits Guidance at 28 (emission reductions are federally enforceable only if, among other things, ''[c]itizens can file lawsuits against *the responsible party* for violations'') (emphases added). Thus, a number of EPA policies concerning nontraditional measures indicate that provisions for EPA and citizen enforcement against the State or against some other ''responsible party'' other than the source may satisfy the Act's requirements for enforceability. Earthjustice fails to identify any statutory or regulatory support for a claim that all emission reduction measures approved into a SIP must provide for citizen suits directly against emitting sources.

Second, Earthjustice's claim that Rule 9610 ''would only require that violations be defined through contracts'' which ''can only be enforced by the parties to the contract'' overlooks an important provision in the rule that requires the District to provide a mechanism for EPA and citizen enforcement in *each* submitted SIP that relies on an incentive program. Specifically, section 7.0 of Rule 9610 requires that each SIP submission in which the District relies on projections of SIP-creditable emission reductions to satisfy a CAA SIP requirement contain, among other things, an ''enforceable commitment'' that: (1) Identifies the applicable incentive program guidelines; (2) identifies emission reductions not to exceed the amount projected to be achieved through the use of secured or reasonably anticipated incentive program funding and the estimated availability of projects and willing participants, based on historical participation and estimates of remaining equipment; (3) is specifically adopted by the District as part of the SIP and accounted for in annual demonstration reports; and (4) states that ''if either the District or EPA finds that there is a SIP shortfall for a particular year, the District will adopt and submit to EPA, by specified dates, substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the Clean air Act or EPA's implementing regulations.'' *See* 79 FR 28650 at 28655 (citing Rule 9610, sections 7.1–7.4). A District commitment adopted in accordance with these requirements would, upon approval into the SIP, become enforceable by EPA and citizens under sections 113 and 304 of the Act, respectively. *See* Response 3.b. Thus, although Rule 9610 does not require that incentive programs provide for citizen enforcement directly against emission sources for contract violations,[13] the rule does require that each SIP in which the District relies on incentive program emission reductions contain, among other things, an enforceable commitment that enables EPA and citizens to hold the *District* accountable for violations of the SIP. We therefore disagree with the commenter's suggestion that Rule 9610 deprives citizens of the ability to enforce SIP emission reduction requirements.

Finally, with respect to Earthjustice's claim that EPA's proposal provides ''no explanation of how this requirement is met or why it does not apply,'' it appears that Earthjustice is referring to

[11] The 2001 EIP Guidance states that ''[e]mission reductions use, generation, and other required actions are enforceable if'': (1) They are independently verifiable; (2) program violations are defined; (3) those liable for violations can be identified; (4) the State and EPA maintain the ability to apply penalties and secure appropriate corrective actions where applicable; (5) citizens have access to all the emissions-related information obtained from the source; (6) citizens can file suits against sources for violations; and (7) they are practicably enforceable in accordance with other EPA guidance on practicable enforceability. *See* 2001 EIP Guidance at 35–36.

[12] EPA has described ''emerging measures'' as new emission reduction measures for which pollutant reductions are more difficult to accurately quantify than traditional SIP emission reduction measures. *See* 2004 Emerging and Voluntary Measures Guidance at 13 and 2005 Bundled Measures Guidance at 2.

[13] Under the Carl Moyer, Prop 1B, and EQIP funding programs, each grantee must sign a contract specifying terms and conditions of the grant which are enforceable by the funding agency. *See, e.g.,* CARB, ''The Carl Moyer Program Guidelines, Approved Revisions 2011,'' Release Date: July 11, 2014, at Chapter 3, Section Y (''Minimum Contract Requirements'') (available electronically at *http://www.arb.ca.gov/msprog/moyer/guidelines/2011gl/2011cmpgl_12_30_14.pdf).*

EPA's policy recommendation concerning citizen suits against *emission sources* as a ''requirement.'' As discussed above in this response, however, the CAA does not limit SIPs to those emission reduction techniques that citizens may directly enforce against an emission source, nor do EPA's guidance documents establish any requirement that nontraditional emission reduction measures provide specifically for citizen suits against sources. In our proposed rule, we referenced numerous EPA guidance documents addressing nontraditional emission reduction measures that ''provide for some flexibility in meeting established SIP requirements for enforceability and quantification, provided the State takes clear responsibility for ensuring that the emission reductions necessary to meet applicable CAA requirements are achieved.'' 79 FR 28650 at 28653 (citing, *inter alia,* 1997 VMEP, 2004 Emerging and Voluntary Measures Guidance, and 2005 Bundled Measures Guidance). Consistent with these guidance documents, our proposed rule highlighted the importance of the enforceable ''backstop'' commitment from the State to monitor emission reductions achieved and to rectify shortfalls in a timely manner, which must accompany any nontraditional emission reduction measure submitted for SIP purposes. *Id.* and 79 FR 28650 at 28654–55 (discussing necessary components of a SIP submittal that relies on nontraditional emission reduction measures). Our proposed rule also discussed the requirements concerning enforceable SIP commitments in section 7.0 of Rule 9610 and provided specific recommendations for the District to consider in its development and adoption of such commitments, to ensure that the requirements of the Act are met. *Id.* at 28655. We believe these explanations are adequate to inform the public of EPA's policies concerning enforceability of nontraditional emission reduction measures and to provide a preview of the factors that EPA intends to apply in reviewing enforceable commitments submitted by the District going forward. As EPA also explained at proposal, EPA will review each SIP submittal developed pursuant to Rule 9610 (including the necessary evaluation of the applicable incentive program guidelines) on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. *See* 79 FR 28650 at 28654, 28658.

To the extent the commenter disagrees with EPA's interpretations of the Act, we encourage the commenter to submit comments on the SIP rulemakings through which EPA takes final action on air quality plans or measures that rely on incentive program emission reductions. Nothing in our approval of Rule 9610 today deprives the public of these opportunities to comment on these future SIP actions.

*Comment 3.e:* Earthjustice states that ''[t]he structure of the CAA reinforces EPA's conclusion that Congress was not willing to rely on states alone to guarantee that the claimed emission reductions would occur or be enforced.'' According to Earthjustice, section 113 of the Act gives EPA authority to ensure compliance whenever any person is in violation of any requirement of the Act and section 304 allows citizens to enforce the requirements of the Act. Earthjustice also quotes from the Supreme Court's decision in *Pennsylvania* v. *Del. Valley Citizens' Council for Clean Air,* 478 U.S. 546, 560 (1986), to support its statement that Congress enacted section 304 specifically to encourage citizen participation in the enforcement of standards and regulations established under the Act and ''to afford citizens very broad opportunities to participate in the effort to prevent and abate air pollution.''

*Response 3.e:* We do not dispute the importance of federal enforcement under section 113 of the Act and citizen enforcement under section 304 of the Act. As explained in our proposed rule and further in these responses to comments, EPA has consistently stated in longstanding guidance that SIP credit may be allowed for a voluntary or other nontraditional emission reduction measure only where the State submits enforceable mechanisms to ensure that the emission reductions necessary to meet applicable CAA requirements are achieved (*e.g.,* an enforceable commitment to monitor and report on emission reductions achieved and to timely rectify any shortfall), which EPA and citizens may enforce under CAA sections 113 and 304, respectively, upon approval into the SIP. *See* 79 FR 28650 at 28653–28655 and Response 3.b above. We encourage citizens to participate in the effort to prevent and abate air pollution by requesting information from the District concerning the commitments it has adopted under Rule 9610 and enforcing these commitments in the U.S. district courts in accordance with section 304 of the Act.

*Comment 3.f:* Earthjustice claims that the Rule 9610 definition of ''enforceable'' would not only waive any notion that citizens can file a suit to enforce the reductions but ''would also waive any requirement that EPA have any 'ability to apply penalties and secure appropriate corrective actions' against the source.'' The commenter asserts that EPA cannot enforce the conditions of a contract between the District and the source and that ''the State and District are free to shield sources from enforcement, or even amend or rescind these contracts altogether without EPA oversight.'' According to Earthjustice, ''EPA simply has no claim that it can apply penalties or secure corrective actions against the sources responsible for reducing emissions'' and ''no basis for asserting that [the enforceability] criterion is met.''

*Response 3.f:* Although we agree that EPA cannot enforce the conditions of a contract issued by the District pursuant to a state incentive program that is not approved into the SIP under CAA section 110, we disagree with the claim that this renders the emission reductions achieved by such a program unenforceable by citizens under the Act. As explained in response to comment 3.d., above, Rule 9610 requires the District to provide a mechanism for EPA and citizen enforcement in *each* submitted SIP that relies on an incentive program. Specifically, section 7.0 of Rule 9610 requires that each SIP submission in which the District relies on projections of SIP-creditable emission reductions to satisfy a CAA SIP requirement contain, among other things, an ''enforceable commitment'' containing specific provisions to ensure that the District remains accountable for the required emission reductions. Upon EPA's approval of an enforceable SIP commitment by the District, section 113 of the Act authorizes EPA to apply penalties and secure appropriate corrective actions to enforce the requirements of the commitment against the District. *See* Response 3.b. A SIP-approved commitment cannot be modified except through a SIP revision adopted by the State after reasonable notice and public hearing and approved by the EPA through notice-and-comment rulemaking. *See* CAA section 110(l); 5 U.S.C. 553; 40 CFR 51.105. Consequently, should the District's amendment or rescission of contracts issued to participating sources result in a shortfall in the emission reductions required under a SIP commitment, EPA may enforce the District's obligation to implement a remedy, provided the District's SIP commitment includes a schedule for adoption and submittal of

substitute measures to remedy any shortfalls as required by Rule 9610. *See* Rule 9610, section 7.4; *see also* Response 3.d above (discussing requirements of Rule 9610, section 7.0). EPA would not approve a submitted SIP revision under Rule 9610 that did not contain such a schedule.

*Comment 3.g:* Earthjustice states that ''EPA seems to imply that it is enough that EPA can push for the District to fulfill any shortfall in emission reductions through other means'' but claims that EPA ''has not analyzed this rule through the relevant criteria for enforceable SIP commitments, which are subject to limits on quantity, etc.'' As a result, Earthjustice asserts that commenters have no basis for unraveling EPA's legal rationale.

*Response 3.g:* Because we are not approving any State or District commitments in today's action, it is not necessary to evaluate this SIP submittal in accordance with the criteria that EPA has historically applied in approving enforceable commitments. We will apply the relevant criteria for evaluating enforceable SIP commitments when we take action on a SIP that relies on a commitment to satisfy the control measure requirements of the Act.

*Comment 3.h:* Earthjustice claims that the Rule 9610 definition of enforceable does not allow for independent verification or even the identification of liable sources. Earthjustice states that EPA identified several defects in the District's rule that would limit the disclosure of information necessary to verify compliance, such as ''problems in [the] Annual Report'' and ''the District's mistaken interpretation of, and reference to, the Federal Food Security Act.'' Based on these defects alone, the commenter claims that it is unclear why EPA is still proposing to approve the rule.

*Response 3.h:* We continue to believe that the definition of ''enforceable'' in Rule 9610 generally allows for independent verification of emission reductions and identification of liable sources. As we explained in our proposed rule, Rule 9610 states that ''emission reductions are enforceable if the incentive program includes provisions for ensuring the following: [1] The emission reductions are independently and practicably verifiable through inspections, monitoring, and/or other mechanisms; [2] Incentive program violations are defined through legally binding contracts, including identifying the party or parties responsible for ensuring that emission reductions are achieved; [3] Grantees are obligated to provide all records needed to demonstrate that emission reductions are achieved; and [4] The public has access to all emissions-related information for reductions claimed in the annual demonstration report, as outlined in Section 4.0 [of Rule 9610].'' 79 FR 28650 at 28654 (citing Rule 9610, section 2.8). Additionally, Rule 9610 requires that each SIP in which the District relies on emission reductions achieved through incentive programs contain an ''enforceable commitment'' by the District to adopt and submit substitute measures to EPA by specified dates if there is a shortfall in required emission reductions for a particular year, among other things. *See* Rule 9610, section 7.4. Read together, these provisions of Rule 9610 obligate the District to include, with each SIP submittal that relies on incentive programs for necessary emission reductions, an enforceable commitment that enables EPA and citizens to obtain records adequate to independently confirm whether necessary emission reductions have occurred. Going forward, we intend to review each SIP commitment submitted by the District for compliance with these ''enforceability'' requirements in section 2.8 and the provisions concerning commitments in section 7.0 of Rule 9610, in addition to the applicable requirements of the Act.

One significant exception to the general enforceability provisions in Rule 9610 is the provision in section 6.2 that categorically prohibits public disclosure of records related to NRCS's implementation of the EQIP program. As explained in our proposed rule (*see* 79 FR 28650 at 28657 and Proposal TSD at 9–10), section 6.2 of Rule 9610 does not accurately describe NRCS's statutory obligations with respect to disclosure of information concerning the EQIP program. Based on further evaluation of this provision and in response to Earthjustice's comments, we find that this provision necessitates a limited disapproval of Rule 9610 because, in addition to stating NRCS's statutory obligations incorrectly, the provision creates a potential conflict between the requirements of Rule 9610 and the requirements of the CAA concerning public availability of emission data. *See* CAA 114(c) and 40 CFR 2.301(a)(2); *see also* 2001 EIP Guidance at section 5.1d (''Procedures for public disclosure of information''). Therefore, EPA is finalizing a limited approval and limited disapproval of Rule 9610 on the basis of this deficiency in section 6.2 of the rule. This limited disapproval does not trigger any sanctions clocks under CAA section 179(a) because Rule 9610 was not submitted to address a requirement of part D, title I of the Act or in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (*i.e.,* a ''SIP Call''), but it does trigger an obligation on EPA to promulgate a federal implementation plan (FIP) to correct the deficiency, unless the State submits and EPA approves a corrective SIP revision within two years of the disapproval (*see* CAA section 110(c)(1)(B)). EPA expects the District to revise section 6.2 at its earliest opportunity to correct the errors in this provision and to ensure that the rule does not preclude disclosure of emission data related to the EQIP program.

With respect to any future SIP submittal that relies on emission reductions achieved through EQIP to satisfy a CAA requirement, we expect that the annual reports certified by NRCS, as described in the March 2014 Addendum signed by NRCS, EPA, CARB and the District,[14] will provide information that enables EPA and the public to verify the emissions of participating sources with an adequate level of accuracy and to determine whether the District has violated any SIP emission reduction commitment. *See* 79 FR 28650 at 28657 and Proposal TSD at 10–11. Additionally, in order for emission reductions achieved through EQIP to be enforceable under the CAA, the District will have to submit an enforceable SIP commitment to specifically describe the information obtained from NRCS in the relevant annual demonstration reports, to incorporate project-specific information obtained from NRCS in the electronic ''Data Sheet'' associated with each of these annual demonstration reports, and to make the NRCS's certified annual reports themselves available to the public upon request. *See id.* and Rule 9610, sections 6.1 and 7.0. EPA would not approve any SIP submittal that relies on emission reductions achieved through EQIP (or any other incentive program) if it does not provide for public availability of emission data consistent with CAA requirements. EPA will review each SIP submittal developed pursuant to Rule 9610 on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. We encourage the District to consult with us during its

[14] *See* ''Addendum to the December 2010 Statement of Principles Regarding the Approach to State Implementation Plan Creditability of Agricultural Equipment Replacement Incentive Programs Implemented by the USDA Natural Resources Conservation Service and the San Joaquin Valley Air Pollution Control District'' (''NRCS Addendum'').

development of any SIP commitments under section 7.0 of Rule 9610 to ensure that these commitments will be legally and practically enforceable by EPA and citizens, in accordance with the requirements of the Act. *See* Response 3.i, below.

With respect to the 2013 Annual Demonstration Report, we provided suggestions for future reports in the Proposal TSD. *See* Proposal TSD at 52–55. We expect the District to consider these recommendations as it develops its annual demonstration reports for future years.

*Comment 3.i:* Earthjustice argues that EPA's analysis ignores ''the more fundamental defect which is that EPA and citizens can only rely on data submitted to, or collected by the District'' and that this defect undermines any claim that the rule will ensure that citizens have access to all emissions-related information obtained from participating sources. According to Earthjustice, EPA has no authority to inspect sources for compliance with the contracts between the District and the source—*i.e.,* EPA cannot collect its own information, conduct inspections, demand additional reporting, or enforce the failure to submit required reports. Earthjustice contends that EPA's ability to verify any of these emission reductions is limited because the emission reductions are secured through contracts that do not include EPA. Thus, Earthjustice claims, EPA ''lacks the ability to independently verify compliance and instead must rely on the District and State to determine compliance.'' For example, with respect to information regarding sources of EQIP funding, Earthjustice argues that because EPA and the public will not be provided with any information that can be independently verified or that identifies the participating sources, there is no way for EPA or the public to ''verify compliance by 'the source' as EPA's definition of enforceability requires'' or to ''even identify sources liable for violations.''

*Response 3.i:* We disagree with the commenter's claim that EPA's definition of enforceability ''requires'' that EPA and the public have the ability to verify compliance by ''the source.'' The commenter cites two guidance documents (the 2001 EIP Guidance and 2004 Emerging and Voluntary Measures Guidance [15]) to support its claim that, to be ''enforceable,'' an emission reduction measure must allow citizens to ''file suits against sources for violations.'' As explained above in Response 3.d, however, the CAA does not limit SIPs to those emission reduction techniques that citizens may directly enforce against emission sources, and EPA has indicated in a number of other guidance documents that provisions for EPA and citizen enforcement against a state or against some other ''responsible party'' (other than the source) may satisfy the Act's requirements for enforceability. *See* Response 3.d above.

We continue to believe that Rule 9610 generally ensures that citizens will have access to all emissions-related information obtained by the District from sources participating in incentive programs, with one significant exception in section 6.2 of the rule. As we explained in the proposed rule, section 6.1 of Rule 9610 specifically requires the District to keep and maintain ''[a]ll documents created and/or used in implementing the requirements of Section 4.0'' of the rule and to make these documents available for public review consistent with the requirements of the California Public Records Act and related requirements. *See* 79 FR 28650 at 28657 (citing Rule 9610, section 6.1). Section 4.0 of Rule 9610, in turn, requires the District to annually prepare a public report that contains, among other things, identification of the amounts of ''SIP-creditable emission reductions'' from incentive programs that the District is relying on for SIP purposes; descriptions of the applicable incentive program guidelines; and detailed information about the individual projects relied upon to achieve the required emission reductions. *See* 79 FR 28650 at 28656 (citing Rule 9610, sections 4.0–4.6). Additionally, section 7.0 of the rule requires the District to make enforceable commitments that enable EPA and citizens to obtain records adequate to independently confirm whether necessary emission reductions have occurred. *See* Response 3.d and Response 3.h, above. Many of the incentive program guidelines identified in section 3.1 of Rule 9610 require that the District maintain specific documentation of pre-project and post-project inspections for each funded project and that all grantees submit detailed compliance-related documentation to the District on an annual or biennial basis. *See, e.g.,* Proposal TSD at 15–16 (discussing provisions of Carl Moyer program guidelines) and 44–45 (discussing provisions of Prop 1B program guidelines). Provided the District commits to make these project records and other compliance-related documents available to the public upon request, consistent with the requirements of sections 6.1 and 7.0 of Rule 9610, EPA and citizens would have access to emissions-related information that the District obtains from participating sources.[16]

Finally, we disagree with the commenter's claim that EPA lacks authority to collect information relevant to source compliance with the contracts issued by the District. Rule 9610 requires the District to maintain, with respect to all projects that the District relies upon for SIP emission reduction credit, reports submitted by grantees and records of all inspections and enforcement actions, among other things. *See* Rule 9610, section 6.1. Upon EPA's approval of a District commitment into the SIP, section 114(a) of the Act authorizes EPA to require information from ''any person'' who may have information necessary for the purpose of determining whether the District has violated such a SIP commitment—including all compliance-related documentation that the District maintains in accordance with the applicable incentive program guidelines. *See* CAA section 114(a) (authorizing the EPA to require submission of information from ''any person'' who may have information necessary for the purpose of determining whether a SIP requirement has been violated) and section 302(e) (defining ''person'' to include a State or political subdivision thereof). Additionally, both EPA and citizens may obtain compliance-related records from the District under the California Public Records Act. *See* Rule 9610, section 6.1. Thus, although EPA is not authorized to *enforce* the individual contracts between the District and the source, both EPA and citizens may collect information concerning source compliance from the District and, in

[15] As explained in Response 3.d., the 2004 Emerging and Voluntary Measures Guidance recommends provisions authorizing citizen suits against sources for ''emerging measures'' but states that for ''voluntary measures,'' emission reductions and other required actions are enforceable if, among other things, ''EPA maintains the ability to apply penalties and secure appropriate corrective action *from the State* where applicable and *the State* maintains the [ability to] secure appropriate corrective action with respect to portions of the program that are directly enforceable against the source. . . .'' 2004 Emerging and Voluntary Measures Guidance at 3, 4 (emphases added).

[16] Although EPA or citizen enforcement of a SIP commitment adopted in accordance with section 7.0 of Rule 9610 generally depends upon project-related information maintained by the District, this does not preclude independent verification of the emission reductions if the applicable incentive program guidelines require participating sources to regularly submit compliance-related documentation to the District and require the District to maintain these records for specified amounts of time. *See, e.g.,* 2011 Carl Moyer Guidelines at 3–31 and Proposal TSD at 15.

some cases directly from participating sources,[17] to the extent this information is necessary for the purpose of determining whether the District has violated a SIP commitment.

We expect an enforceable commitment that obligates the District to comply with adequate monitoring and recordkeeping requirements would ensure that emission reductions can be independently verified. In any case, EPA will review each submitted SIP commitment on a case-by-case basis to determine whether the commitment is legally and practically enforceable by EPA and citizens, in accordance with the requirements of the Act.

*Comment 3.j:* Earthjustice argues that ''[t]o the extent EPA wishes to allow credit for unenforceable emission reduction programs, it has a policy for doing so''—*i.e.,* ''[t]hese programs can be included with a cap on the credit they can receive.'' Alternatively, Earthjustice contends, to the extent EPA wishes to treat these programs as enforceable SIP commitments, it also has a policy for reviewing and approving those, but the analysis of Rule 9610 is not consistent with those policies.

*Response 3.j:* We disagree with the commenter's suggestions that emission reductions from voluntary incentive measures are entirely ''unenforceable'' under the CAA or subject to a specific ''cap'' on the credit allowed in a SIP. As explained above in Response 3.c, EPA has consistently stated in longstanding guidance that SIP credit may be allowed for a voluntary or other nontraditional measure only where the State takes responsibility for assuring that SIP emission reduction requirements are met through an enforceable commitment, which EPA and citizens may enforce upon EPA's approval of the commitment into the SIP. That is, emission reductions achieved by voluntary measures are enforceable under the Act where they are accompanied by such an enforceable commitment. In addition, the ''cap'' on SIP credit for voluntary measures that Earthjustice refers to is not a specific regulatory cap but a general policy recommendation. States and EPA may justify departing from these caps on a case-by-case basis, subject to notice-and-comment rulemaking on a particular SIP. *See* Response 3.c and EPA guidance documents referenced therein.

In any case, we are not approving any State or District commitments in today's action and therefore do not have reason to evaluate this SIP submittal in accordance with EPA's policy criteria for approving enforceable commitments. As EPA stated in the proposed rule, EPA will review each SIP submittal developed pursuant to Rule 9610 on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. *See* 79 FR 28650 at 28654, 28658. We will apply the relevant criteria for evaluating SIP commitments when we take action on a SIP that contains such a commitment. Nothing in Rule 9610 supplants the applicable requirements of the Act, nor does anything in EPA's approval of Rule 9610 alter the requirements of the Act as they apply to SIPs that rely on emission reductions achieved through voluntary incentive programs.

*Comment 4:* Earthjustice claims that the ''best option for proceeding . . . would be to adopt backstop control measures that are fully SIP-creditable and use incentive programs to address cost-effectiveness concerns and incentivize early adoption and turnover.''

*Response 4:* We continue to support the use of incentive programs to address cost-effectiveness concerns and to incentivize early adoption and turnover to cleaner, less-polluting mobile sources, and we encourage the commenter to provide these recommendations, together with any recommendations it may have concerning ''backstop'' control measures, to the State and/or District during their state and local rulemaking processes on air quality plans that rely on incentive programs for necessary emission reductions.

*Comment 5:* Earthjustice claims that ''Rule 9610 is a flawed attempt to make programs 'SIP creditable' by *fiat''* and that this is not legitimate under the CAA. Earthjustice also asserts that ''EPA's inconsistent analysis of the rule does not help in this effort.'' In conclusion, Earthjustice asserts that if the desired goal is to promote the adoption of incentive programs, EPA, the State, and the District should go back to the drawing board and work with stakeholders to come up with a legally viable approach.''

*Response 5:* For the reasons provided in Response 1 through Response 3 above, we disagree with Earthjustice's claims that Rule 9610 is a flawed attempt to make programs SIP creditable by *fiat* and that EPA has provided an inconsistent analysis of the rule. As previously explained, nothing in Rule 9610 supplants the applicable requirements of the Act, and EPA will review each SIP submittal developed pursuant to Rule 9610 on a case-by-case basis, following notice-and-comment rulemaking, to determine whether the applicable requirements of the Act are met. *See* 79 FR 28650 at 28654, 28658.

We agree, however, with Earthjustice's suggestion that EPA, the State, the District and interested stakeholders should work together toward the development of air quality plans and measures that satisfy CAA requirements as applied to discretionary incentive programs and other nontraditional emission reduction measures. We look forward to the public's continued involvement, both during the State and local rulemaking processes through which the District and ARB adopt these plans and during the EPA rulemakings through which EPA takes final action on these plan submittals under section 110 of the CAA.

*Comment 6:* The SJVUAPCD states that incentive funds to reduce mobile source emissions have become a critical component of the District's clean air strategy in the SJV and expresses appreciation for EPA's work with the District and with CARB, NRCS, and other stakeholders throughout the development of Rule 9610 and related documents. The District states that it supports EPA's proposal to fully approve Rule 9610 as a revision to the California SIP.

*Response 6:* For the reasons provided in our proposed rule (79 FR 28650 at 28657) and further explained in Response 3.h, EPA is finalizing a limited approval and limited disapproval of Rule 9610. We look forward to the District's submittal of a revised rule that corrects the deficiencies we have identified in section 6.2 of the rule and addresses the recommendations provided in our proposed rule and Proposal TSD.

EPA supports and encourages the continuing efforts by CARB, the District, and NRCS to make voluntary economic incentive programs an effective part of the SJV's strategy for clean air. We commit to continue our work with these agencies to develop reliable methods for documenting and verifying the emission reductions achieved through these programs and to ensure that future air

[17] For example, under certain Prop 1B program guidelines, each grantee must be subject to detailed contract provisions requiring the grantee to maintain certain documents for specified periods and/or submit these documents to the District on a regular basis. *See, e.g.,* 2008 Prop 1B guidelines at Section III.D (''Local Agency Project Implementation Requirements''), Section IV (''General Equipment Project Requirements''), and Appendix A, Section C (''Recordkeeping Requirements'') and Section D (''Annual Reporting Requirements''); 2010 Prop 1B guidelines at Section IV.A (''Project Implementation Requirements''), Section VI (''General Equipment Project Requirements''), and Appendix A, Section F (''Recordkeeping Requirements'') and Section G (''Annual Reporting Requirements'').

quality plans for the SJV area that rely on economic incentives will satisfy the requirements of the Act.

## III. Final Action

Under CAA sections 110(k)(3) and 301(a) of the Act and for the reasons set forth above and in our May 19, 2014 proposed rule, EPA is finalizing a limited approval and limited disapproval of Rule 9610 as submitted June 26, 2013. We are finalizing a limited approval of the submitted rule because we continue to believe that the rule improves the SIP and is largely consistent with the applicable CAA requirements. This action incorporates the submitted rule, including those provisions identified as deficient, into the SJV portion of the federally-enforceable California SIP.

We are finalizing a limited disapproval of Rule 9610 because section 6.2 of the rule incorrectly describes NRCS's statutory obligations with respect to disclosure of information concerning the EQIP program and creates a potential conflict with the requirements of the CAA concerning public availability of emission data. Our reasons for disapproving the rule on these bases are explained in the proposed rule and further in our responses to comments above.

This limited disapproval does not trigger any sanctions clocks under CAA section 179(a) because Rule 9610 was not submitted to address a requirement of part D, title I of the Act or in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (*i.e.,* a ''SIP Call''). The limited disapproval does trigger an obligation on EPA to promulgate a federal implementation plan (FIP) to correct the deficiency, unless the State submits and EPA approves a corrective SIP revision within two years of the disapproval (*see* CAA section 110(c)(1)(B)). EPA expects the District to revise section 6.2 at its earliest opportunity to correct the errors in this provision and to ensure that the rule does not preclude disclosure of emission data related to the EQIP program.

Note that the submitted rule has been adopted by the SJVUAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it. The limited disapproval also does not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: *http://www.epa.gov/nsr/ttnnsr01/gen/pdf/memo-s.pdf.*

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the SJVUPACD rule described in the amendments to 40 CFR 52 set forth below. EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

### *A. Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Burden is defined at 5 CFR 1320.3(b).

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals and limited approvals/limited disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this limited approval/limited disapproval action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

### *D. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the limited approval/limited disapproval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### *E. Executive Order 13132, Federalism*

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local

governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on May 11, 2015.

*L. Petitions for Judicial Review*

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 June 8, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 26, 2015.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Part 52, 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 F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(455) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(455) New and amended regulations for the following APCDs were submitted on June 26, 2013.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 9610, ''State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs,'' adopted on June 20, 2013.

[FR Doc. 2015–07972 Filed 4–8–15; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 141222999–5322–02]**

**RIN 0648–BE72**

## Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Midwater Trawl Fishery Season Date Change

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

**ACTION:** Final rule.

**SUMMARY:** This action implements revisions to the Pacific Coast Groundfish Trawl Rationalization Program affecting the limited entry midwater trawl fisheries managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). This action revises the primary season-opening date for the Shorebased Individual Fishing Quota (IFQ) Program midwater trawl fishery (targeting both whiting and non-whiting species) to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This moves the season a month earlier for waters off the coasts of Washington and Oregon, and a month and half later for waters off the coast of northern California (north of 40°30′ N. lat.). This action increases consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets.

**DATES:** Effective May 15, 2015.

**ADDRESSES:** NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is summarized in the Classification section of this final rule. NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule. Copies of the IRFA, FRFA and the Small Entity Compliance Guide are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or by phone at 206–526–6150. Copies of the Small Entity Compliance Guide are available on the West Coast Region's Web site at *http://www.westcoast.fisheries.noaa.gov/.*

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen, 206–526–4656, *jamie.goen@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

Since implementing the trawl rationalization program in 2011, the Pacific Fishery Management Council (Council) and NMFS have been working to implement additional regulatory changes to further improve the trawl rationalization program and respond to industry requests. Changing the midwater trawl fishery season date will further increase consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets. This action revises the primary season-opening date for the Shorebased IFQ Program midwater trawl fishery (targeting both whiting and non-whiting species) to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This moves the season a month earlier for waters off the coasts of Washington and Oregon, and a month and half later for waters off the coast of northern California (north of 40°30′ N. lat.).

NMFS published a proposed rule for this action on February 17, 2015 (80 FR 8280). The preamble to the proposed rule provided more background and information on the history of season date changes in the groundfish midwater trawl fisheries, as well as expected impacts. The preamble to the proposed rule also described the re-emerging midwater trawl fishery targeting groundfish species other than Pacific whiting (non-whiting midwater trawl). The season date change in this action applies to all midwater trawling in the Shorebased IFQ Program, whether targeting whiting or non-whiting groundfish species.

### Response to Comments

The comment period on the proposed rule ended March 19, 2015. NMFS received one comment letter (with three separate comments) on the proposed rule from a fishing industry organization.

*Comment 1:* The commenter stated industry support for the midwater season date change as proposed. It provides more flexibility for harvesters and processors to make their own business plans and taking in to consideration markets, weather, and participation in other fisheries. It also equalizes opportunity between whiting sectors (at-sea and shorebased) and simplifies regulations. The commenter urged the importance of this action being effective by May 15, 2015, to provide the expected benefits to industry this year.

*Response:* NMFS agrees and is implementing the proposed change to be effective on May 15, 2015.

*Comment 2:* The commenter noted that they did not expect increased impacts on prohibited species, such as salmon, because of this season date change. They also stated that both the at-sea and shorebased whiting fishery participants have actively taken steps to reduce their interactions with prohibited species, including voluntary actions through their harvesting cooperatives to share information and reduce salmon interactions.

*Response:* NMFS agrees that there is not expected to be a significant impact to prohibited species, such as salmon, as a result of this action as explained further in the preamble to the proposed rule and in the associated environmental assessment. NMFS will continue to track prohibited and protected species bycatch in groundfish fisheries, including inseason monitoring of Chinook salmon bycatch. In an effort to further support industry's voluntary efforts to reduce bycatch, NMFS will provide the public with inseason estimates of Chinook bycatch in trawl fisheries. Inseason catch of Chinook salmon in at-sea fisheries is already publicly available in a report titled ''NWR At-Sea Pacific Whiting Fishery Summary'', which can be found on the Pacific States Marine Fisheries Commission Web site at *http://pacfin.psmfc.org/pacfin_pub/data.php.* In the spring of 2015, NMFS will also begin providing inseason estimates of Chinook bycatch in shorebased trawl fisheries on the Pacific States Marine Fisheries Commission Web site. NMFS supports industry's voluntary efforts to track their bycatch, share information, and take appropriate actions to reduce bycatch.

*Comment 3:* The commenter stated that, in addition to increased total allowable catches for widow and yellowtail rockfish (non-whiting species) in 2015 and 2016, the season date change will allow more opportunity for non-whiting midwater fishing, which should increase revenue in coastal communities and provide a greater net benefit to the nation.

*Response:* NMFS supports efforts to build and maintain resilient and vibrant coastal communities while also balancing conservation of marine resources.

### Changes From the Proposed Rule

There are no changes to the regulatory text from the proposed rule.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the NMFS Assistant

Administrator has determined that this rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the MSA, and other applicable law.

The Council prepared an environmental assessment (EA) for this action and the NMFS Assistant Administrator concluded in a ''Finding of No Significant Impact'' that there will be no significant impact on the human environment as a result of this rule. The EA is available on the Council's Web site at *http://www.pcouncil.org/* or on NMFS' Web site at *http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Trawl-Program/index.cfm.*

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

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

The SBA has established size criteria for all major industry sectors in the United States, 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. For marinas and charter/party boats, a small business is 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 they 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. A small organization is any nonprofit enterprise that is independently owned and operated and is not dominant in its field. A small governmental jurisdiction is a government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

This action revises the primary season opening date for the Shorebased IFQ Program midwater trawl fishery (targeting both whiting and non-whiting species) to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This moves the season a month earlier for waters off the coasts of Washington and Oregon (from June 15 to May 15), and a month and half later for waters off the cost of northern California (north of 40°30′ N. lat.) (from April 1 to May 15), increasing consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets.

NMFS did not receive any public comments directly related to the IRFA. One public comment did indicate that the change should result in greater revenue to the local fishing communities.

This rule affects shorebased midwater trawlers in the trawl rationalization program and the processors that receive their product. During the 2011 to 2014 period, 30 midwater trawl vessels delivered to 10 shoreside processing plants in this fishery. Some vessels share common ownership, other vessels are owned by processing companies, and some companies own multiple processing plants. After accounting for these relationships, there are 26 entities that have participated in the fishery, 22 of which are small entities, based on NMFS' review of available information.

There are no significant alternatives that accomplish the stated objectives of applicable statutes and that minimize the impact of the rule on small entities. Most entities affected by this rule are small entities (22 out of 26). An earlier shorebased season will increase the choices available for the Northern fishery (off Oregon and Washington), providing an opportunity to improve business decisions and potential profits from the fishery. For the Central Area fishery, there would be a contraction in flexibility to harvest from April 1 to May 15. Reducing the season in the Central fishery may have a chilling effect on the potential growth in the fishery. However, data for 2011 through 2014 shows that no midwater trawl gear harvest occurred in this area under the IFQ program.

There are no new Federal reporting and recordkeeping requirements associated with this action. There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office, and the guide will be included in a public notice sent to all members of the groundfish email group. To sign-up for the groundfish email group, click on the ''subscribe'' link on the following Web site: *http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/recent_public_notices.html.* The guide and this final rule will also be available on the West Coast Region's Web site (see **ADDRESSES**) and upon request.

NMFS issued Biological Opinions under the Endangered Species Act (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 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 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 FMP 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 Pacific Coast Groundfish FMP 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 coordinate with the Council to put additional alternatives or measures into place, as required. 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, the southern distinct population segment (DPS) of green sturgeon, humpback whales, the eastern DPS of Steller sea lions, and leatherback sea turtles. The opinion also concluded 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. Since that biological opinion, the eastern DPS of Steller sea lions was delisted on November 4, 2013 (78 FR 66140); however, this delisting did not change the designated critical habitat for the eastern DPS of Steller sea lions. On January 21, 2013, NMFS informally consulted on the fishery's effects on eulachon to consider whether the 2012 opinion should be reconsidered for eulachon in light of new information from the 2011 fishery and the proposed chafing gear modifications. NMFS determined that information about bycatch of eulachon in 2011 and chafing gear regulations did not change the effects that were analyzed in the December 7, 2012, biological opinion, or provide any other basis to reinitiate consultation.

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.

West Coast pot fisheries for sablefish are considered Category II fisheries under the Marine Mammal Protection Act (MMPA), 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 a negligible impact on the affected species or stock. As noted above, NMFS concluded in its biological opinion for the 2012 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 a period of 3 years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553).

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, and Indian fisheries.

Dated: April 6, 2015.

**Eileen Sobeck,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons stated 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.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.131, revise paragraph (b)(2)(iii)(C) to read as follows:

**§ 660.131 Pacific whiting fishery management measures.**

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(C) *Shorebased IFQ Program.* The start of the Shorebased IFQ Program primary whiting season is:

(*1*) North of 40°30′ N. lat.—May 15;

(*2*) South of 40°30′ N. lat.—April 15.

* * * * *

[FR Doc. 2015–08194 Filed 4–8–15; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 80, No. 68
Thursday, April 9, 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 721

**[EPA–HQ–OPPT–2014–0649; FRL–9924–10]**

**RIN 2070–AB27**

## Modification of Significant New Uses of Certain Chemical Substances

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 24 chemical substances which were the subject of premanufacture notices (PMNs). This action would amend the SNURs to allow certain uses without requiring a significant new use notice (SNUN), and would extend SNUN requirements to certain additional uses. EPA is proposing these amendments based on review of new data as described for each chemical substance. This action would requires persons who intend to manufacture (including import) or process any of these 24 chemical substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

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

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0649, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Jim Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a modified SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

## II. Background

### *A. What action is the agency taking?*

EPA is proposing amendments to the SNURs for 24 chemical substances in 40 CFR part 721 subpart E. This proposed action would require persons who intend to manufacture or process these chemical substances for an activity that is designated as a significant new use by these amended rules to notify EPA at least 90 days before commencing that activity. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs.

*B. What is the agency's authority for taking this action?*

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors, listed in Unit III. of this document. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

*C. Applicability of General Provisions*

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

## III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 24 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

## IV. Substances Subject to a Proposed Significant New Use Rule Amendment

EPA is proposing to amend the significant new use and recordkeeping requirements for 24 chemical substances in 40 CFR part 721 Subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number and SNUN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) number (if assigned for non-confidential chemical identities).
- **Federal Register** publication date and reference for the final SNUR previously issued.
- Basis for the Proposed Amendment.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

### PMN Number P–99–669, SNUN Number S–09–1, and SNUN Number S–13–29

*Chemical name:* Oxirane, methyl-, polymer with oxirane, mono (3,5,5,-trimethylhexyl) ether.

*CAS number:* 204336–40–3.

**Federal Register** *publication date and reference:* March 28, 2003 (68 FR 15061) (FRL–6758–7).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance for the PMN and the SNUN is as a wetting agent. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(4)(ii). The original SNUR required notification if the chemical substance was used for uses other than as described in the PMN. On November 12, 2008 EPA received a SNUN, S–09–1, and on June 4, 2013 EPA received a SNUN, S–13–29 for the chemical substance describing uses different than those in the PMN. The 90-day review period for the SNUNs expired with EPA not taking action on the significant new uses described in the SNUNs. Based on structural analogy to nonionic surfactants, EPA is still concerned that toxicity to aquatic organisms may occur at a concentration of 600 parts per billion (ppb) in surface waters. Because EPA finds that the substance is not released to surface waters in significant quantities as described in either the PMN or the SNUNs, EPA has not determined that the proposed manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance may cause significant adverse environmental effects. Based on this the substance meets the concern criteria at § 721.170 (b)(4)(ii). Based on these findings, EPA is proposing to modify the SNUR to allow the uses described in S–09–01 and S–13–29.

*Recommended testing:* EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity text, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the chemical substance.

*CFR citation:* 40 CFR 721.522.

### PMN Number P–00–618 and SNUN Numbers S–05–03 and S–11–4

*Chemical name:* 1-Butanol, 3-methoxy-3-methyl-, acetate.

*CAS number:* 103429–90–9.

**Federal Register** *publication date and reference:* March 28, 2003 (68 FR 15061) (FRL–6758–7).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance for the PMN is as a processing aid. The uses of the chemical substance for the SNUNs are as an organic solvent of polyurethane plastic coating, an ingredient in various kinds of paint thinner, an organic solvent of polyurethane resin, an ingredient of cleaning agents, an organic solvent for screen ink, an ingredient in airplane paint, and a solvent for inkjet printer ink. EPA identified concerns for liver toxicity, kidney toxicity, developmental neurotoxicity and carcinogenicity based on analog data. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), and (b)(1)(i)(C). The original SNUR required notification if the chemical substance was used for use other than as described in the PMN. On March 23, 2005, EPA received a SNUN, S–05–3, for the chemical substance describing

uses different than those in the PMN. Based on the activities described in this SNUN, a TSCA section 5(e) consent order was issued for the SNUN submitter under sections 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) based on a finding that the substance may present an unreasonable risk of injury to human health. On October 26, 2010, EPA received a SNUN, S–11–4, for a new use, which was as a solvent for inkjet printer ink. The SNUN submitter also submitted a chromosome aberration study, a mouse lymphoma assay and a combined repeated dose study with reproductive and developmental toxicity. Based on the test data for the chemical substance which was submitted with S–11–4, EPA continues to have concerns for liver toxicity and kidney toxicity for exposed workers and consumers. In response to S–11–4, EPA allowed the new use and modified the consent order accordingly, while continuing to protect against any unreasonable risks of injury to human health. The modified consent order requires:

1. Workers to use personal protective equipment to prevent dermal exposure.

2. Establishment and use of a hazard communication program, including human health, environmental hazard precautionary statements on each label and the Material Safety Data Sheet (MSDS).

3. Not manufacture the substance in the United States.

4. Not use the substance in consumer products.

5. Limit the percent concentration of the substance to 10% or less in final products whose use involves an application method that generates a vapor, mist, or aerosol, except for commercial/professional inkjet printing in a commercial (excluding retail) print shop.

The proposed SNUR designates as a significant new use the absence of these protective measures when using the substance for any use other than as described in the PMN.

*Recommended testing:* EPA has determined that the results of a two-year chronic toxicity study (OPPTS Test Guideline 870.4100) via the dermal and inhalation routes would help characterize the health effects of the PMN substance.

*CFR citation:* 40 CFR 721.532.

**PMN Number P–98–1275 and SNUN Number S–11–10**

*Chemical name:* Aluminosilicates, phospho-.

*CAS number:* 201167–69–3.

**Federal Register** *publication date and reference:* December 26, 2000 (65 FR 81386) (FRL–6592–8).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance for the PMN and the SNUN is as a catalyst. A consent order was issued for the PMN under section 5(e)(1)(A)(i) and section 5(e)(1)(A)(ii)(I) of TSCA based on a finding that the substance may present an unreasonable risk of injury to human health. The original SNUR, based on the requirements in the TSCA section 5(e) consent order, required notification if the PMN substance was used without the respiratory protection described in the SNUR (*i.e.,* a National Institute of Occupational Safety and Health (NIOSH) respirator with an Assigned Protection Factor (APF) of 2000), the hazard communication program described in the SNUR was not used, or the aggregate production volume in the consent order was exceeded. Upon receipt and evaluation of the 90-day inhalation study required in the consent order, EPA continues to find that the substance may present an unreasonable risk of lung effects and cancer, although at a higher dose/effect level. Based on this finding, EPA modified the consent order to remove the production volume limit and reduce the required protection level for the respirator to an APF of 50. On June 14, 2011, EPA received a SNUN, S–11–10, for the chemical substance to use a respirator with an APF of 50 and to exceed the production volume limit. EPA permitted the new uses for the same reasons it modified the consent order. The proposed SNUR designates as a ''significant new use'' the absence of the respiratory protection and hazard communication measures in the modified consent order.

*Recommended testing:* EPA has determined that the results of a two-year two-species oral carcinogenicity study (OPPTS Test Guideline 870.4200) would help characterize the health effects of the PMN substance.

*CFR citation:* 40 CFR 721.633.

**PMN Number P–00–7 and SNUN Numbers S–05–1, S–06–4, S–07–3, and S–07–5**

*Chemical name:* D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt.

*CAS number:* 125005–87–0.

**Federal Register** *publication date and reference:* December 17, 2003 (68 FR 70155) (FRL–7307–3).

*Basis for the modified significant new use rule:* The uses of the chemical substance as described in the PMN are as an oilfield drilling fluid, an oilfield spacer fluid, in oilfield cementing, in cementitious packaged products, in concrete applications, and in foam applications. Based on structural analogues and submitted test data, EPA identified concerns for lung effects from inhalation exposure to the chemical substance. The original SNUR was issued based on meeting the concern criteria at § 721.170(b)(3)(i) and (b)(3)(ii). The original SNUR required notification if the chemical substance was used for any use other than those described in PMN. EPA received SNUN S–05–1 on December 1, 2004, S–06–4 on February 28, 2006, S–07–3 on June 5, 2007, and S–07–5 on July 17, 2007. Each SNUN described different uses for the chemical substance than those described in the PMN: S–05–1 described use as a sealant, S–06–4 described a generic use in pipeline transmission systems, S–07–3 described any uses other than those already allowed in the SNUR where less than 5 percent of the chemical substance consists of particles below 10 microns, and S–07–05 described a generic use in a commercial dry wash additive. As with the PMN, the Agency in its review of the SNUNs found that significant inhalation exposure remains unlikely when used as described in the SNUNs, and accordingly, EPA has not determined that the proposed manufacturing, processing, and use of the chemical substance may present an unreasonable risk. EPA has determined, however, that use of the chemical substance where more than 5 percent of the chemical substance contains particles below 10 microns may cause significant health effects. Based on this information, the chemical substance meets the concern criteria at § 721.170(b)(3)(i) and (b)(3)(ii). Based on these findings EPA is proposing to modify the SNUR to remove the notification requirement for specific end uses and instead require notification where more than 5 percent of the chemical substance consists of particles below 10 microns.

*Recommended testing:* EPA has determined that the 90-day inhalation toxicity study with a 60-day holding period (OPPTS Test Guideline 870.3465) would help to characterize the human health effects of the PMN substance. Attention should be given to the lungs, including histopathology of the lungs (inflammation, epithelial hyperplasia, and fibrosis), (HAL) analysis for markers of lung injury, and lung burden analysis for clearance of the test material (EPA–748–R–96–001). The neurotoxicity components and examination of organs other than the

lungs are not required in the 90-day study.

*CFR citation:* 40 CFR 721.2076.

**PMN Number P–95–169 and SNUN Numbers S–08–7 and S–14–1**

*Chemical name:* 2-Propen-1-one, 1-(4-morpholinyl)-.

*CAS number:* 5117–12–4.

**Federal Register** *publication date and reference:* Jan. 5, 2000 (65 FR 354) (FRL–6055–2), amended May 13, 2011 (76 FR 27910) (FRL–8871–5).

*Basis for the modified significant new use rule:* The use for P–95–169 is as a diluent for ultraviolet and electron beam curable resins for coatings, inks, and curable adhesives, and the use for S–14–1 is as a monomer for use in ultraviolet ink jet applications. The generic (non-confidential) use for S–08–7 is a contained use in energy production. A consent order for the PMN was issued under sections 5(e)(1)(A)(i) and 5(e)(l)(A)(ii)(I) of TSCA based on a finding that the chemical substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Agency issued a TSCA section 5(e) consent order which became effective on November 27, 1998. The order required the use of dermal personal protective equipment (including gloves demonstrated to be impervious) and respiratory personal protective equipment (including a NIOSH-approved respirator); required establishment of a hazard communication program; prohibited domestic manufacturing; prohibited processing and use activities in non-enclosed processes; established maximum production volume limits for submission of required testing; established waste disposal practices (including restrictions for no release to surface waters and requirement of disposal only in a Resource Conservation Recovery Act ((RCRA) hazardous waste landfill); and prohibited use of the chemical substance involving an application method that generates a vapor, mist, or aerosol.

A SNUR was issued for this chemical substance on January 5, 2000. The SNUR designated as a ''significant new use'' the absence of the protective measures required in the consent order.

Subsequent to issuance of the SNUR, the PMN submitter completed the following studies under the terms of the TSCA section 5(e) consent order: An *in vivo* mouse micronucleus test, a 90-day oral toxicity study in rats, and a reproductive toxicity screening study in rats. The results of the micronucleus test were negative. Based on the results of the 90-day study, the Agency established a no observed adverse effect level (NOAEL) of 20 milligram/kilogram/day (mg/kg/day) for neurotoxicity. Further, based on the results of the reproductive toxicity screening study, a NOAEL of 75 mg/kg/day (highest dose tested) was established for reproductive effects. From these data, the Agency calculated Margins of Exposure (MOEs) for predicted workplace exposures.

Based on these new data, concerns remained for possible effects to the liver, testes, kidney, and blood from dermal exposure. However, EPA no longer had substantial human health concerns for mutagenicity and neurotoxicity. In addition, Agency concerns for carcinogenicity by inhalation were reduced, but were further mitigated by retaining the original consent order prohibition of industrial processing and use in a non-enclosed process and any use application methods that generate a vapor, mist, or aerosol form of the PMN substance.

In addition, to account for data received on analogous substances since the initial PMN was submitted and to address Agency environmental concerns, a re-review of the environmental toxicity profile for the chemical substance was conducted. The results of this evaluation indicated a low concern for chronic aquatic toxicity. Therefore, EPA could no longer make a ''may present unreasonable risk'' finding for releases of the PMN substance to surface waters. As a result of this review, EPA issued a modified TSCA section 5(e) consent order which became effective on May 9, 2006. The modified order removed requirements for respiratory protection, waived further required trigger testing, removed the restriction on domestic manufacture, and removed waste disposal restrictions. Pursuant to § 721.185(a)(5), the Agency examined new information and reexamined the test data and other information supporting its finding under section 5(e)(1)(A)(ii)(I) of TSCA, and concluded that a rational basis no longer existed to support findings that certain activities involving the substance may present an unreasonable risk of injury to human health and the environment required under section 5(e)(1)(A) of TSCA.

To protect against the remaining potential risks, the modified consent order:

- Requires the use of dermal personal protective equipment (including gloves demonstrated to be impervious).
- Requires establishment of a hazard communication program.
- Prohibits processing and use activities in non-enclosed processes.
- Prohibits the use of the chemical substance involving an application method that generates a vapor, mist, or aerosol.

On June 27, 2008, the Agency received a SNUN, S–08–7, for the subject chemical substance. The significant new use identified in the notice was release to water for the generic (non-confidential) use of ''contained use in energy production''. The 90-day review period for the SNUN expired on October 2, 2008 with EPA not taking action on the ''significant new use'' of release of the substance to water.

On May 13, 2011, EPA issued a modified SNUR based on and consistent with the provisions in the underlying modified consent order which no longer included release to water as a significant new use. In addition, EPA included, in the regulatory text, clarifying language for those forms of the PMN substance which are exempt from the provisions of the proposed SNUR. The SNUR does not apply to quantities of the PMN substance after it has been completely reacted (cured) because the PMN substance will no longer exist.

On October 21, 2013, EPA received a second SNUN, S–14–1, for the subject chemical substance. The significant new use identified in the notice was processing and use in a non-enclosed process as a monomer for use in ultraviolet ink jet applications. The 90-day review period for the SNUN expired on March 13, 2014, with EPA not taking action on the significant new use of processing and use in a non-enclosed process as a monomer for use in ultraviolet ink jet applications. When evaluating this new use, EPA also evaluated potential environmental releases. Based on a new review of test data on the chemical substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 100 ppb of the chemical substance in surface waters. As described in the PMN and SNUNs, releases of the substance are not expected to result in surface water concentrations that exceed 100 ppb. EPA has determined, however, that any use of the substance resulting in surface waters concentrations exceeding 100 ppb may result in significant adverse environmental effects. Based on this information, the chemical substance meets the concern criteria at § 721.170 (b)(4)(i). The proposed SNUR designates as a ''significant new use'' the absence of the protective measures required in the modified consent order, any water releases during manufacturing, processing, and use that exceed 100

ppb, or use other than as a monomer for use in ultraviolet ink jet applications unless the chemical substance is processed and used in an enclosed process.

*Recommended testing:* EPA has determined that the results of the combined repeated dose toxicity with the reproductive/developmental toxicity screening test (OPPTS Test Guideline 870.3650) would help further characterize the human health effects of the PMN substance. The modified TSCA section 5(e) consent order does not require submission of the aforementioned information at any specified time or production volume. However, the order's restrictions on manufacturing, processing, distribution in commerce, use and disposal of the chemical substance will remain in effect until the order is modified or revoked by EPA based on submission of that or other relevant information.

*CFR citation:* 40 CFR 721.5185.

**PMN Numbers P–88–2179 and P–89–0539 and SNUN Number S–08–3**

*Chemical name:* Oxirane, 2,2′-(1,6-hexanediylbis(oxymethylene))bis-.

*CAS number:* 16096–31–4.

**Federal Register** *publication date and reference:* April 25, 1991 (56 FR 19228).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance in the PMNs and the SNUN is in coatings and as a diluent. A consent order was issued under sections 5(e)(1)(A)(i) and 5(e)(l)(A)(ii)(I) of TSCA based on a finding that the chemical substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Agency issued a TSCA section 5(e) consent order which became effective on October 12, 1990. The order required the use of dermal personal protective equipment including impervious gloves and respiratory personal protective equipment including a NIOSH-approved respirator; required establishment of a hazard communication program; prohibited non-industrial use; established maximum production volume limits for submission of required testing; established requirements for release to surface waters during manufacturing and allowed no release to surface waters during processing and use. On February 4, 2008, EPA received a SNUN, S–08–3, for the chemical substance. The significant new use identified in the notice was a non-industrial use. The 90-day review period for the SNUN expired on October 2, 2008, with EPA not taking action on the ''significant new use'' of the industrial use described in the SNUN. The proposed SNUR designates as a ''significant new use'' any non-industrial use other than as described in the SNUN and retains the other significant new uses which are the absence of the other protective measures required in the consent order.

*Recommended testing:* EPA has determined that the results of a 90-day oral subchronic study with special attention given to the pathology of the reproductive organs (OPPTS Test Guideline 870.3100), a two-year two-species oral carcinogenicity study (OPPTS Test Guideline 870.4200), a fish acute toxicity test (OPPTS Test Guideline 850.1075), an aquatic invertebrate acute toxicity text (OPPTS Test Guideline 850.1010) and an algal toxicity test (OCSPP Test Guideline 850.4500) would help further characterize the human health and environmental effects of the PMN substance. The consent order requires the PMN submitter to conduct the 90-day oral toxicity test (OPPTS Test Guideline 870.3100) before exceeding the confidential production limit in the consent order.

*CFR citation:* 40 CFR 721.5575.

**PMN Number P–95–638 and SNUN Numbers P–97–79 and S–06–8**

*Chemical name:* Pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro.

*CAS number:* 138495–42–8.

**Federal Register** *publication date and reference:* January 22, 1998 (63 FR 3394) (FRL–5720–3).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance for the PMN is as a carrier fluid and for the two SNUNs the generic (non-confidential) use is as test media. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(4)(i). The original SNUR required notification if the chemical substance was used for uses other than described in the PMN or the first SNUN P–97–79 (at that time SNUNs were designated with a ''P'' number; later submissions received an ''S'' designation). On February 4, 2008, EPA received a second SNUN, S–06–8, for the subject chemical substance. The significant new use identified in S–06–8 was the specific confidential use described in the notice. The 90-day review period for the SNUN expired on July 17, 2006, with EPA not taking action on the significant new use described in the SNUN. The proposed SNUR designates as a significant new use, any use other than the uses described in the PMN and the SNUNs.

*Recommended testing:* None.

*CFR citation:* 40 CFR 721.5645.

**PMN Number P–00–1220 and SNUN Number S–07–2**

*Chemical name:* Phenol-biphenyl polymer condensate (generic).

*CAS number:* Claimed confidential.

**Federal Register** *publication date and reference:* August 20, 1998 (63 FR 44562) (FRL–5788–7).

*Basis for the modified significant new use rule:* The use of the chemical substance for the PMN is in electric molding and for the SNUN is as a component in photoresist manufacture. The original SNUR was issued based on meeting the concern criteria at § 721.170(b)(4)(ii). The original SNUR required notification if the PMN substance was released to water. On January 8, 2007, EPA received SNUN, S–07–2, for the chemical substance describing releases to water. The 90-day review period for the SNUN expired with the Agency not taking action on the significant new uses described in the SNUN because the water releases did not exceed 1 ppb, the Agency's surface water concentration of concern for adverse effects of the substance to aquatic organisms. The PMN submitter subsequently submitted a fish early-life stage ecotoxicity study for the chemical substance. Based on this submitted study and structural analogy to phenols, EPA is still concerned that toxicity to aquatic organisms may occur at a concentration of 5 ppb in surface waters. Because EPA finds that the chemical substance is not released to surface waters above 5 ppb as described in the PMN and SNUN, EPA has not determined that the proposed manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance may cause significant adverse environmental effects. Based on this the substance meets the concern criteria at § 721(b)(4)(i) and (b)(4)(ii). Based on these findings, EPA is proposing to modify the SNUR to require notification if water releases exceed 5 ppb in surface waters.

*Recommended testing:* EPA has determined that an aquatic invertebrate acute toxicity text (OPPTS Test Guideline 850.1010) and an algal toxicity test (OCSPP Test Guideline 850.4500) would help further characterize the environmental effects of the chemical substance.

*CFR citation:* 40 CFR 721.5713.

**PMN Number P–01–320 and SNUN Numbers S–04–2 and S–11–1**

*Chemical name:* Propane,1,1,1,2,2,3,3-heptafluoro-3-methoxy-.

*CAS number:* 375–03–1.

**Federal Register** *publication date and reference:* December 17, 2003 (68 FR 70155) (FRL–7307–3).

*Basis for the modified significant new use rule:* The use of the chemical substance for the PMN is as a heat transfer fluid and a refrigerant. The use for S–04–2 is for aerosol spray cleaning. The use for S–11–1 is for flush cleaning, foam blowing, deposition coatings, histology baths, and vapor degreasing. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii). The original SNUR required notification if the chemical substance was used other than as a heat transfer fluid or refrigerant, or if the annual production volume exceeded 100,000 kilograms. On March 29, 2004, EPA received SNUN, S–04–2, for the chemical substance describing a new use of aerosol spray cleaning for industrial and commercial use. The 90-day review period for the SNUN expired on June 26, 2004 with EPA not taking action on the significant new use of aerosol spray cleaning for industrial and commercial use. On January 4, 2011, EPA received a SNUN, S–11–1, for the chemical substance describing new uses of flush cleaning, foam blowing, deposition coatings, histology baths, and vapor degreasing and exceeding an annual production volume of 100,000 kilograms. The 90-day review period for S–11–1 expired on September 23, 2011 with EPA not taking action on the significant new uses described in the SNUN. EPA continues to identify health concerns for liver and kidney toxicity based on submitted test data on the chemical substance and cardiac sensitization and developmental toxicity based on analog data. For the uses described in the PMN and SNUNs, significant occupational exposure is not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use will present an unreasonable risk. EPA has determined, however, that any uses of the substance other than those described in the PMN and SNUNs may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii). The proposed SNUR modification designates as a ''significant new use'' any use other than the uses described in the PMN and SNUNs. The proposed SNUR modification no longer designates the significant new use of exceeding an annual production volume of 100,000 kilograms.

*Recommended testing:* EPA has determined that the results of a 90-day oral subchronic study (OPPTS Test Guideline 870.3100) would help to characterize the human health effects of the PMN substance.

*CFR citation:* 40 CFR 721.8145.

**PMN Number P–01–781**

*Chemical name:* Silane, triethoxy[3-oxiranylmethoxy)propyl]-.

*CAS number:* 2602–34–8.

**Federal Register** *publication date and reference:* Dec. 17, 2003 (68 FR 70155) (FRL–7307–3).

*Basis for the modified significant new use rule:* The original SNUR was issued resulting in listing the incorrect CAS number as 2602–34–2 for the chemical substance in the Code of Federal Regulations. The proposed SNUR modification is designating the correct CAS number of 2602–34–8. The original findings and requirements of the SNUR are the same.

*CFR citation:* 40 CFR 721.9501.

**PMN Number P–00–1132 and SNUN Number S–11–5**

*Chemical name:* Siloxanes and silicones, aminoalkyl, fluorooctyl, hydroxy-terminated salt (generic).

*CAS number:* Claimed confidential.

**Federal Register** *publication date and reference:* March 28, 2003 (68 FR 15061) (FRL–6758–7).

*Basis for the modified significant new use rule:* The use of the chemical substance for the PMN is in anti-graffiti systems and for the SNUN is as a surface treatment and additive for coatings, adhesives, sealants, paste, insulation and textiles for porous, non-porous, ceramic, metal, glass, plastic, wood and leather surfaces; and a surface treatment agent for inorganic filler particles. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(3)(ii). The original SNUR required notification if the chemical substance was used for use other than described in PMN or for an application that generates a vapor, mist, or aerosol. On January 5, 2011, EPA received a SNUN, S–11–5, for the chemical substance describing uses different than those in the PMN. EPA also reviewed a 90-day inhalation study that was submitted for the substance in the SNUN. The results of the study demonstrated a Lowest Observed Adverse Effect Level (LOAEL) of 30 milligram/cubic meter ($mg/m^3$) for lung effects. The 90-day review period for the SNUN expired with the Agency not taking action on the significant new uses described in the SNUN. Since EPA continues to find that significant worker exposure is unlikely when used as described in the PMN and SNUN, EPA has not determined that the proposed manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance or applications that generate a vapor, mist, or aerosol could result in exposures which may cause serious health effects. Based on this information the substance meets the concern criteria at § 721(b)(3)(ii). Based on these findings, EPA is proposing to modify the SNUR to require notification for any uses other than described in the PMN and the SNUN.

*Recommended Testing:* EPA has determined that the results of a decomposition kinetics by thermo gravimeter (ASTM Test Guideline E1641), a compositional analysis by thermo gravimeter (ASTM Test Guideline E1131), and a laboratory burn test by a protocol to be agreed upon by EPA and the company conducting the study, would help to further characterize the environmental fate of the PMN substance.

*CFR citation:* 40 CFR 721.9502.

**PMN Numbers P–97–296, P–97–297, P–97–298, and P–97–299 and SNUN Numbers S–03–10, S–03–11, S–03–12, and S–03–13**

*Chemical name:* Benzenesulfonic acid, mono $C_{10-16}$ -alkyl derivs., compds. with 2-propen-1-amine (PMN P–97–296 and SNUN S–03–10) and Alkyl benzene sulfonic acids and alkyl sulfates, amine salts (PMN P–97–297/298/299 and SNUN S–03–11/12/13).

*CAS number:* 195008–77–6 (PMN P–97–296 and SNUN S–03–10) and

Claimed confidential (PMN P–97–297/298/299 and SNUN S–03–11/12/13).

**Federal Register** *publication date and reference:* August 20, 1998 (63 FR 44562) (FRL–5788–7).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substances for the PMNs and the SNUNs is as a processing aid. The original SNUR was issued based on meeting the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii). The original SNUR required notification if the PMN substances were released to water. On March 4, 2003, EPA received SNUNs S–03–10, S–03–11, S–03–12, and S–03–13 for the chemical substances describing releases to water. The 90-day review period for the SNUNs expired with EPA not taking action on the significant new uses described in the SNUNs because the water releases did not exceed 30 ppb. Based on submitted data and structural analogy to anionic surfactants, EPA is still concerned that toxicity to aquatic organisms may occur at a concentration of 30 ppb in surface waters. Because EPA finds that the substances are not

released to surface waters above 30 ppb as described in the PMN and SNUN, EPA has not determined that the proposed manufacturing, processing, and use of the substances may present an unreasonable risk. EPA has determined, however, that other uses of the substances may cause significant adverse environmental effects. Based on this the substances meet the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii). Based on these findings EPA is proposing to modify the SNUR to require notification if water releases exceed 30 ppb in surface waters.

*Recommended testing:* EPA has determined that a fish acute toxicity test (OPPTS Test Guideline 850.1075), an aquatic invertebrate acute toxicity text (OPPTS Test Guideline 850.1010) and an algal toxicity test (OCSPP Test Guideline 850.4500) would help further characterize the human health and environmental effects of the PMN substance.

*CFR citation:* 40 CFR 721.9595.

**PMN Number P–90–226 and SNUN Numbers P–96–1408, S–08–6, S–09–4, and S–13–49**

*Chemical name:* Titanate [$Ti_6O_{13}$ (2-)], dipotassium.

*CAS number:* 12056–51–8.

**Federal Register** *publication date and reference:* August 13, 1991 (56 FR 40204).

*Basis for the modified significant new use rule:* The generic use of the chemical substance is as a friction material. A consent order was issued under sections 5(e)(1)(A)(i) and 5(e)(l)(A)(ii)(I) of TSCA based on a finding that the chemical substance may present an unreasonable risk of injury to human health. To protect against these risks, EPA issued a TSCA section 5(e) consent order which became effective on February 21, 1991. The order required the establishment of a hazard communication program; prohibited domestic manufacturing; prohibited non-industrial use; established maximum production volume limits for submission of required testing; prohibited manufacture other than by the manufacturing method in P–90–226; and required the bulk density measurements of the PMN substance in the pure form to be less than 0.4 gram/cubic centimeter ($g/cm^3$). A SNUR was issued for this chemical substance on August 13, 1991. The SNUR designated as a ''significant new use'' the absence of the protective measures required in the consent order. On July 15, 1996, EPA received a SNUN, P–96–1408 (at that time SNUNs were designated with a ''P'' number; later submissions received an ''S'' designation); on June 23, 2008, EPA received S–08–6; on March 30, 2009, EPA received S–09–4; and on July 17, 2013, EPA received S–13–49 for the chemical substance. The significant new use for each SNUN was a manufacturing method other than described in P–90–226. EPA took no action during the 90-day review periods for the SNUNs and allowed the significant new uses because EPA determined that none of the manufacturing processes produced respirable acicular fibers with an average aspect ratio of less than 5, and as a result were not considered by EPA to pose an unreasonable risk of lung toxicity to workers. In addition, a 90-day inhalation study was submitted by the PMN submitter under the terms of the TSCA section 5(e) consent order and an intratracheal instillation study submitted by the submitter of S–09–4 demonstrated no evidence of fibrosis in test animals. The proposed SNUR modification designates as a significant new use any domestic manufacture, non-industrial use, any manufacturing process other than described in the PMN and the SNUNs, and any manufacture that produces respirable, acicular fibers with an average aspect ratio greater than 5. The proposed SNUR modification no longer designates establishment of a hazard communication program or exceeding an aggregate production volume limit as a significant new use.

*Recommended testing:* EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) and a carcinogenicity test (OPPTS Test Guideline 870.4200) via the inhalation route would help characterize the potential human health effects of the chemical substance from alternate methods of manufacture.

*CFR citation:* 40 CFR 721.9675.

**PMN Number P–93–1649 and SNUN Numbers S–04–3 and S–11–3**

*Chemical name:* 1,3-Dimethyl-2-imidazolidinone.

*CAS number:* 80–73–9.

**Federal Register** *publication date and reference:* August 30, 1995 (60 FR 45072) (FRL–4926–2).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance for the PMN is as a process raw material and for the SNUNs is as a printing ink ingredient. The consent order was issued under sections 5(e)(1)(A)(i) and 5(e)(l)(A)(ii)(I) of TSCA based on a finding that the chemical substance may present an unreasonable risk of injury to human health. To protect against these risks, EPA issued a TSCA section 5(e) consent order which became effective on August 25, 1994. The order required the use of dermal personal protective equipment (including gloves demonstrated to be impervious) and required establishment of a hazard communication program; prohibited domestic manufacture; prohibited non-industrial uses; and established maximum production volume limits for submission of required testing. The SNUR issued for this chemical substance on August 30, 1995, designated as a significant new use the absence of the protective measures required in the consent order. On August 16, 2004, EPA received S–04–3 and on October 21, 2010, EPA received S–11–3 for the chemical substance. The significant new use for both SNUNs was a non-industrial use. The 90-day review period for both SNUNs expired with the Agency not taking action on the significant new uses described in the SNUNs. The PMN submitter conducted a dermal developmental toxicity study and a 90-day dermal subchronic study on the PMN substance. The results of the developmental study was a maternal chronic toxicity NOAEL of 10 mg/kg/day and a development toxicity NOAEL of 100 mg/kg/day. The results of the 90-day dermal study was a NOAEL of 500 mg/kg/day. Because EPA continues to find that dermal exposures may cause an unreasonable risk of human health effects, EPA is proposing to modify the SNUR to allow the commercial use (specific use claimed confidential) as described in the SNUNs but is retaining all other significant new uses and requirements in the SNUR.

*Recommended testing:* None.

*CFR citation:* 40 CFR 721.9892.

**PMN Number P–00–1121**

*Chemical name:* Manganese strontium oxide ($MnSrO_3$).

*CAS number:* 12163–45–0.

**Federal Register** *publication date and reference:* March 29, 2007 (72 FR 14681) (FRL–7699–5).

*Basis for the modified significant new use rule:* The generic (non-confidential) use of the chemical substance is as a pigment. A consent order was issued under sections 5(e)(1)(A)(i) and 5(e)(l)(A)(ii)(I) of TSCA based on a finding that the chemical substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the order required establishment of a hazard communication program; established maximum aggregate volume limits for submission of required testing; limited release to surface waters; and prohibited manufacture, process, or use of the PMN substance if the particle size is less than

10 microns. EPA received a 96-hour toxicity test with rainbow trout for the chemical substance. No mortality was observed at concentrations up to the highest concentration tested of 16,000 milligram/Liter (mg/L). Based on these test results, EPA modified the consent order to remove the aggregate volume limit and the surface water release limits. The modified consent order retains the hazard communication requirements and the particle size limitations to continue to prevent any unreasonable risk of injury to human health. The proposed SNUR modification designates as a significant new use the absence of the protective measures in the modified consent order.

*Recommended testing:* EPA has determined that a 90-day inhalation toxicity study with a 60-day holding period (OPPTS Test Guideline 870.3465) and a two-year inhalation carcinogenicity study (OPPTS Test Guideline 870.4200) would help to characterize the human health effects of the PMN substance.

*CFR citation:* 40 CFR 721.10008.

**PMN Number P–07–601 and SNUN Number S–14–11**

*Chemical name:* 1-Propene, 2,3,3,3-tetrafluoro-.

*CAS number:* 754–12–1.

**Federal Register** *publication date and reference:* October 27, 2010 (75 FR 65987) (FRL–8846–8) and November 1, 2013 (78 FR 65570) (FRL–9901–97).

*Basis for modification of the SNUR:* The use of the chemical substance for the PMN was as a refrigerant in motor vehicle air conditioning systems in new passenger cars and vehicles and the use for the SNUN was as a refrigerant for stationary refrigeration and stationary air conditioning. The original SNUR was issued based on meeting the concern criteria at § 721.170. The original SNUR required notification if the chemical substance was used for uses other than as described in the PMN. On May 12, 2014 EPA received a SNUN, S–14–11, for the chemical substance describing uses different than those in the PMN. The 90-day review period for the SNUN expired with EPA not taking action on the significant new uses described in the SNUN. Based on toxicity test data conducted on the PMN substance, EPA is still concerned that toxicity to humans may occur at inhalation exposures of 1,900 ppm. Because EPA finds that exposures from uses described in either the PMN or the SNUN do not result in human exposures that cause an unreasonable risk to human health, EPA has not determined that the proposed manufacturing, processing, and use of the substance, including certain commercial, and consumer uses of the substance, may cause significant adverse health effects. Based on this the substance meets the concern criteria at § 721.170. Based on these findings, EPA is proposing to modify the SNUR to allow the uses described in S–14–11.

*CFR citation:* 40 CFR 721.10182.

**PMN Numbers P–10–486 and P–10–487**

*Chemical name:* Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C12–13-branched and linear alkyl ethers, sodium salts (P–10–486) and Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C14–15-branched and linear alkyl ethers, sodium salts (P–10–487).

*CAS number:* 958238–81–8 (P–10–486) and 958238–82–9 (P–10–487).

**Federal Register** *publication date and reference:* April 4, 2012 (77 FR 20296) (FRL–9333–3).

*Basis for the modified significant new use rule:* The PMNs state that the use of these substances will be for downhole injection for enhanced oil recovery. Based on structure activity relationship analysis of test data on analogous anionic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 28 ppb for P10–486 and 4 ppb for P10–487 in surface waters. The order was issued under TSCA sections 5(e)(1)(A)(i), (e)(1)(A)(ii)(I), and (e)(1)(A)(ii)(II) based on a finding that these substances may present an unreasonable risk of injury to the environment and will be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities. To protect against these risks, the Agency issued a TSCA section 5(e) consent order which became effective on July 22, 2011. To protect against the risk, the order requires certain hazard communication requirements, specific disposal requirements for processing and use, and prohibits releases from manufacture of the PMN substances resulting in surface water concentrations exceeding 28 ppb for P–10–486 and 4 ppb for P–10–487. A SNUR was issued for this chemical substance on April 4, 2012. The SNUR designated as a ''significant new use'' the absence of any of these measures required in the consent order.

EPA had evaluated the results of a combined biodegradation and aquatic toxicity test for P–10–486 during PMN review. The test was submitted as part of the PMN submissions. During the review, EPA accepted the data as valid for purposes of ascertaining the environmental fate of the PMN substances (the overall rate of ready biodegradation), but not for purposes of determining potential environmental toxicity of the transformation products to aquatic organisms. Subsequent to issuance of the SNUR, and based on discussions with the Company and other PMN submitters, EPA re-evaluated the data and determined that the data could be used to evaluate the aquatic toxicity of the PMN transformation products. The combined biodegradation/ecological toxicity testing demonstrated that, subsequent to the biodegradation portion of the combined study, no further ecologically toxic substances remained from the P–10–486 parent substance. EPA also believes the results of the test data for P–10–486 apply to the structurally analogous P–10–487 substance. Based on this evaluation EPA did not find that the PMN substances present an unreasonable risk to the environment or human health or will be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities based on activities described in the PMN. As a result EPA revoked the consent order. EPA has determined, however, that other uses of the substances may cause significant adverse environmental effects. Based on this information, the chemical substances meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii). Based on these findings EPA is proposing to modify the SNUR to require notification of any use of the substances without disposal by incineration or injection into a Class I or II waste disposal well; release to water without prior biological treatment (activated sludge or equivalent) plus clarification; or non-industrial use.

*Recommended testing:* EPA has determined that the results of a fish acute toxicity test, freshwater (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) would help characterize the environmental effects of the PMN substance.

*CFR citation:* 40 CFR 721.10283 and 721.10284.

**PMN Numbers P–10–58, P–10–59, P–10–60, and P–10–184**

*Chemical names:* Partially fluorinated alcohol substituted glycols (generic).

*CAS numbers:* Not available.

**Federal Register** *publication date and reference:* September 11, 2013 (78 FR 55632) (FRL–9398–7).

*Basis for the modified significant new use rule:* The PMNs state that the

generic (non-confidential) uses of P–10–58 and P–10–59 will be as intermediates in the manufacture of P–10–60, and the generic use of P–10–60 and P–10–184 will be as a surface active agent or surfactant. EPA has concerns for potential incineration or other decomposition products of the PMN substances. These perfluorinated decomposition products may be released to the environment from incomplete incineration of the PMN substances at low temperatures. EPA has preliminary evidence, including data on some fluorinated polymers, which suggests that, under some conditions, the PMN substances could degrade in the environment. EPA has concerns that these degradation products will persist in the environment, could bioaccumulate or biomagnify, and could be toxic to people, mammals, and birds. These concerns are based on data on analogous chemical substances, including perfluorooctanoic acid (PFOA) and other perfluorinated alkyls, including the presumed environmental degradant. The orders were issued under TSCA sections 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II), based on a finding that these substances may present an unreasonable risk of injury to the environment and human health, the substances may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substances and their potential degradation products. To protect against these risks, the consent order for P–10–58/59/60 requires manufacture (which includes import) of the PMN substances according to the chemical synthesis and composition section of the TSCA section 5(e) consent order, including analysis, reporting, and limitations of maximum impurity levels of certain fluorinated impurities, restricts the use of P–10–58 and P–10–59 as intermediates to make P–10–60, and submission of testing on the PMN substance P–10–60 at five identified aggregate manufacture volumes. A SNUR was issued for these chemical substances on September 11, 2013 designating as significant new uses the absence of these measures. To protect against potential risks, the consent order for P–10–184 requires manufacture of the PMN substance according to the chemical synthesis and composition section of the TSCA section 5(e) consent order, including analysis, reporting, and limitations of maximum impurity levels of certain fluorinated impurities and manufacture of P–10–184 only when the mean number of moles of the ethoxy group is between 3 and 11 or the average number molecular weight is between 496 and 848 daltons based on the amounts of raw materials charged to the reactor. EPA is modifying the SNUR to add P–10–184 because it is the same chemical substance as P–10–60 and to make the SNUR requirements consistent with both consent orders by proposing to add a significant new use that requires reporting if P–10–60/P–10–184 are manufactured *other than* when the mean number of moles of the ethoxy group is between 3 and 11 or the average number molecular weight is between 496 and 848 daltons.

*Recommended testing:* EPA has determined that the results of certain fate and physical/chemical property testing identified in the TSCA section 5(e) consent orders would help characterize possible effects of the PMN substances and their degradation products. The TSCA section 5(e) consent order for P–10–58/59/60 contains five production volume limits. The PMN submitter has agreed not to exceed the confidential production volume limits without performing the specified testing on PMN substance P–10–60. Additional testing is included in the preambles to the TSCA section 5(e) consent orders but this testing is not required at any specified time or production volume. However, the TSCA section 5(e) consent order restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMN substances will remain in effect until the TSCA section 5(e) consent orders are modified or revoked by EPA based on submission of that or other relevant information.

*CFR citation:* 40 CFR 721.10515.

## V. Rationale for the Proposed Rule

Pursuant to § 721.185 and as described in Unit IV, this proposed rule includes 23 chemical substances where EPA determined, based on new information, there is no need to require additional notice from persons who propose to engage in identical or similar activities, or a rational basis no longer exists for the findings that activities involving the substance may present an unreasonable risk of injury to human health or the environment required under section 5(e)(1)(A) of the Act.

This proposed rule also includes a chemical substance, P–01–781, where EPA is modifying the chemical identity information.

## VI. Applicability of the Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing. As discussed in the **Federal Register** issue of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule.

Thus, any persons who begin commercial manufacture or processing activities with the chemical substances that are not currently a significant new use under the current rule but which would be regulated as a ''significant new use'' if this proposed rule is finalized, must cease any such activity as of the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

## VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and

to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In this case, EPA recommends persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.* ASTM International standards are available at *http://www.astm.org/Standard/index.shtml.*

The recommended testing specified in Unit IV. of the proposed rule may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

## VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

## IX. Economic Analysis

EPA evaluated the potential costs of SNUN requirements for potential manufacturers and processors of the chemical substances in the proposed rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2014–0649.

## X. Statutory and Executive Order Reviews

### *A. Executive Order 12866*

This proposed action would modify SNURs for 24 chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

### *B. Paperwork Reduction Act (PRA)*

According to PRA, 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 that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

### *C. Regulatory Flexibility Act (RFA)*

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This proposed rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

### *D. Unfunded Mandates Reform Act (UMRA)*

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204,

or 205 of the UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

*E. Executive Order 13132*

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''*Federalism''* (64 FR 43255, August 10, 1999).

*F. Executive Order 13175*

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''*Consultation and Coordination with Indian Tribal Governments''* (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

*G. Executive Order 13045*

This action is not subject to Executive Order 13045, entitled ''*Protection of Children from Environmental Health Risks and Safety Risks''* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

*H. Executive Order 13211*

This action is not subject to Executive Order 13211, entitled ''*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

*J. Executive Order 12898*

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations''* (59 FR 7629, February 16, 1994).

**List of Subjects in 40 CFR Part 721**

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 1, 2015.

**Maria J. Doa,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

## PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.522 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.522 Oxirane, methyl-, polymer with oxirane, mono (3,5,5,-trimethylhexyl) ether.**

(a) * * * (1) The chemical substance identified as oxirane, methyl-, polymer with oxirane, mono (3,5,5,-trimethylhexyl) ether (PMN P–99–669, SNUN S–09–1, and SNUN S–13–29; CAS No. 204336–40–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is use other than as a wetting agent, dispersing agent and defoaming/deaerating agent in waterborne coatings, inks, and paints, water based adhesives, and ultraviolet curable coatings; wetting agent in water miscible metalworking fluids, powdered construction additives for use in cementitious mortars, grouts and tile adhesives, and in liquid admixtures for concrete; and a substrate wetting and anticratering additive for ultraviolet curable inkjet ink.

* * * * *

■ 3. Amend § 721.532 as follows:
■ a. Revise the section heading.
■ b. Revise paragraph (a)(1).
■ c. Revise paragraph (a)(2)(i).
■ d. Add paragraph (a)(3).
■ e. Revise paragraph (b)(1).
The revisions and addition read as follows:

**§ 721.532 1-Butanol, 3-methoxy-3-methyl-, acetate.**

(a) * * * (1) The chemical substance identified as 1-butanol, 3-methoxy-3-methyl-, acetate (PMN P–00–618; SNUN S–05–03; and SNUN S–11–4; CAS No. 103429–90–9) is subject to reporting under this section for the significant new uses described in paragraphs (a)(2) and (a)(3) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. The significant new use is any use other than the use described in P–00–618.

* * * * *

(3) The significant new uses for any use other than the use described in P–00–618:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3)(i), (b) (concentration set at 0.1 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. Butyl rubber gloves with a minimum thickness of 16.6 mils or Silver shield gloves with a minimum thickness of 2.7 mils have been tested in accordance with the American Society for Testing Materials (ASTM) F739 method and found by EPA to satisfy the consent orders and § 721.63(a)(2)(i) requirements for dermal protection to 100 percent chemical substance. Silver Shield gloves with a minimum thickness of 2.7 mils have been tested in accordance with the American Society for Testing Materials (ASTM) F739 method and found by EPA to satisfy the consent orders and § 721.63(a)(2)(i) requirements for dermal protection for paint formulations where concentrations of the chemical substance is 10% or less. Gloves and other dermal protection may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b) (concentration set at 0.1 percent), (c), (d), (f), (g)(1)(iv), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (o), and any application method that generates a vapor, mist, or aerosol when the percent concentration of the SNUN substance in the final product exceeds 10%.

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

* * * * *

■ 4. Amend § 721.633 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
■ c. Remove paragraph (a)(2)(iii).
■ d. Revise paragraph (b)(1).
The revisions read as follows:

**§ 721.633 Aluminosilicates, phospho-.**

(a) * * *. (1) The chemical substance identified as aluminosilicates, phospho- (PMN P–98–1275 and SNUN S–11–10; CAS No. 201167–69–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following NIOSH-certified respirators with an APF of at least 50 meet the requirements of § 721.63(a)(4): NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters; NIOSH-certified powered air-purifying respirator equipped with a tight-fitting full facepiece and high efficiency particulate air (HEPA) filters; NIOSH-certified supplied-air respirator operated in positive pressure demand or continuous flow mode and equipped with a hood, or helmet or tight-fitting facepiece. As an alternative to the respiratory requirements listed here, a manufacturer or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the TSCA section 5(e) consent order for these substances. The NCEL is 0.1 mg/$m^3$ as an 8-hour time weighted average verified by actual monitoring data.

* * * * *

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (f), (g), and (h) are applicable to manufacturers and processors of this substance.

* * * * *

■ 5. Amend § 721.2076 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.2076 D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt.**

(a) * * *. (1) The chemical substance identified as D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt (PMN P–00–7; SNUN S–05–1; SNUN S–06–4; SNUN S–07–03; and SNUN S–07–5; CAS No. 125005–87–0) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 The significant new use is any use other than manufacture of the substance where greater than 5 percent of the chemical substance consists of particle sizes below 10 microns.

* * * * *

■ 6. Amend § 721.5185 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(iii).
■ c. Add paragraph (a)(2)(iv).
■ d. Revise paragraph (b)(1).
The revisions and additions read as follows:

**§ 721.5185 2-Propen-1-one, 1-(4-morpholinyl)-.**

(a) * * * (1) The chemical substance identified as 2-Propen-1-one, 1-(4-morpholinyl)- (PMN P–95–169; SNUN S–08–7; and SNUN S–14–1; CAS No. 5117–12–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured) because 2-Propen-1-one, 1-(4-morpholinyl)- will no longer exist.

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1). It is a significant new use to use the chemical substance for any use other than as a monomer for use in ultraviolet ink jet applications unless the chemical substance is processed and used in an enclosed process.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 100).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this chemical substance.

* * * * *

■ 7. Amend § 721.5575 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(iii).
The revisions read as follows:

**§ 721.5575 Oxirane, 2,2′-(1,6-hexanediylbis (oxymethylene)) bis-.**

(a) * * * (1) The chemical substance identified as oxirane, 2,2′-(1,6-hexanediylbis(oxymethylene))bis- (PMN P–88–2179; PMN P–89–539; and SNUN S–08–3; CAS No. 16096–31–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). A significant new use of the chemical substance is any non-industrial use other than the commercial use described in S–08–3.

* * * * *

■ 8. Amend § 721.5645 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.5645 Pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro.**

(a) * * * (1) The chemical substance identified as pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro (PMN P–95–638, SNUN P–97–79, and SNUN S–06–8; CAS No. 138495–42–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the substance other than the uses as described in P–95–638, P–97–79, or S–06–8.

* * * * *

■ 9. Amend § 721.5713 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.5713 Phenol—biphenyl polymer condensate (generic).**

(a) * * * (1) The chemical substance identified generically as a phenol—biphenyl polymer condensate (PMN P–00–1220 and S–07–2) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Release to water.* Requirements as specified § 721.90(a)(4), (b)(4), and (c)(4) (N = 5).

* * * * *

■ 10. Amend § 721.8145 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.8145 Propane,1,1,1,2,2,3,3-heptafluoro-3-methoxy-.**

(a) * * * (1) The chemical substance identified as propane,1,1,1,2,2,3,3-heptafluoro-3-methoxy- (PMN P–01–320; SNUN S–04–2; and SNUN 11–1; CAS No. 375–03–1) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the chemical substance other than as a heating transfer fluid, refrigerant, flush cleaning, foam blowing, deposition coatings, histology baths, vapor degreasing, and industrial and commercial aerosol spray cleaning.

* * * * *

■ 11. Amend § 721.9501 by revising paragraph (a)(1) to read as follows:

**§ 721.9501 Silane, triethoxy[3-oxiranylmethoxy)propyl]-.**

(a) * * * (1) The chemical substance identified as silane, triethoxy[3-oxiranylmethoxy)propyl]- (PMN P–01–781; CAS No. 2602–34–8) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

* * * * *

■ 12. Amend § 721.9502 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.9502 Siloxanes and silicones, aminoalkyl, fluorooctyl, hydroxy-terminated salt (generic).**

(a) * * * (1) The chemical substance identified generically as siloxanes and silicones, aminoalkyl, fluorooctyl, hydroxy-terminated salt (PMN P–00–1132 and SNUN S–11–5) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1). A significant new use is any use of the chemical substance other than in graffiti systems, as surface treatment and additive for coatings, adhesives, sealants, paste, insulation and textiles for porous, non-porous, ceramic, metal, glass, plastic, wood and leather surfaces or a surface treatment agent for inorganic filler particles.

* * * * *

■ 13. Amend § 721.9595 as follows:
■ a. Revise the section heading.
■ b. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.9595 Benzenesulfonic acid, mono C-$_{10–16}$ -alkyl derivs., compounds with 2-propen-1-amine and Alkyl benzene sulfonic acids and alkyl sulfates, amine salts.**

(a) * * * (1) The chemical substances identified as benzenesulfonic acid, mono C-$_{10–16}$ -alkyl derivs., compds. with 2-propen-1-amine (PMN P–97–296 and SNUN S–03–10; CAS No. 195008–77–6) and the chemical substances identified generically as alkyl benzene sulfonic acids and alkyl sulfates, amine salts (PMNs P–97–297/298/299 and SNUNs S–03–11/12/13) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) N = 30.

* * * * *

■ 14. Amend § 721.9675 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraphs (a)(2)(i) and (a)(2)(ii).
■ c. Revise paragraph (b)(1).
The revisions read as follows:

**§ 721.9675 Titanate [$Ti_6O_{13}$ (2-)], dipotassium.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as titanate [$Ti_6O_{13}$ (2-)], dipotassium (PMN P–90–0226; SNUNs P–96–1408, S–08–6, S–09–4, and S–13–49; CAS No. 12056–51–8)) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f) and (l). In addition, a significant new use of the substance is importation of the chemical substance if:

(A) Manufactured by other than the method described in premanufacture notice P–90–226 and significant new use notices P–96–1408, S–08–6, S–09–4, and S–13–49.

(B) Manufactured producing respirable, acicular fibers with an average aspect ratio of greater than 5. The average aspect ratio is defined as the ratio of average length to average diameter.

(ii) [Reserved]

(b) * * *

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers and processors of this substance as specified in § 721.125(a), (b), (c) and (i).

* * * * *

■ 15. Amend § 721.9892 as follows:
■ a. Revise the section heading.
■ b. Revise paragraph (a)(1).
■ c. Revise paragraph (a)(2)(iii).
The revisions read as follows:

**§ 721.9892 1,3-Dimethyl-2-imidazolidinone.**

(a) * * * (1) The chemical substance identified as 1,3-Dimethyl-2-imidazolidinone (PMN P–93–1649, SNUN S–04–3 and S–11–3; CAS No. 80–73–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). A significant new use is non-industrial use other than the commercial uses described in the S–04–3 and S–11–3.

* * * * *

■ 16. Amend § 721.10008 as follows:
■ a. Revise paragraph (a)(2)(ii).
■ b. Remove paragraph (a)(2)(iii).
■ c. Revise paragraph (b)(1).
■ b. Remove paragraph (b)(3).
The revisions read as follows:

**§ 721.10008 Manganese strontium oxide ($MnSrO_3$).**

(a) * * *

(2) * * *

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture, processing, or use of the PMN substance if the particle size is less than 10 microns).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers and processors of this substance.

* * * * *

■ 17. Amend § 721.10182 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
The revisions read as follows:

**§ 721.10182 1-Propene, 2,3,3,3-tetrafluoro-.**

(a) * * *

(1) The chemical substance identified as 1-propene, 2,3,3,3-tetrafluoro- (PMN P–07–601 and SNUN S–14–11; CAS No. 754–12–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* A significant new use is:

(A) Use other than as a refrigerant: In motor vehicle air conditioning systems in new passenger cars and vehicles (*i.e.,* as defined in 40 CFR 82.32(c) and (d)), in stationary refrigeration, or in stationary air conditioning.

(B) Section 721.80(m) (commercial use other than: In passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle original equipment manufacturer (OEM), in stationary refrigeration, or in stationary air conditioning).

(C) Section 721.80(o) (use in consumer products other than products used to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle OEM).

* * * * *

■ 18. Amend § 721.10283 as follows:
■ a. Revise paragraph (a)(2)(i).
■ b. Revise paragraph (a)(2)(ii).
■ c. Revise paragraph (a)(2)(iii).
■ d. Remove paragraph (a)(2)(iv).
■ e. Revise paragraph (b)(1).

The revisions read as follows:

**§ 721.10283 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C12–13-branched and linear alkyl ethers, sodium salts.**

(a) * * *

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(ii) Disposal. Requirements as specified in § 721.85. A significant new of the substances is any method of disposal of a waste stream containing the PMN substances other than by incineration or by injection into a Class I or II waste disposal well.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(ii) Disposal. Requirements as specified in § 721.85. A significant new of the substances is any method of disposal of a waste stream containing the PMN substances other than by incineration or by injection into a Class I or II waste disposal well.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

■ 19. Amend § 721.10284 as follows:
■ a. Revise paragraph (a)(2)(i).
■ b. Revise paragraph (a)(2)(ii).
■ c. Revise paragraph (a)(2)(iii).
■ d. Remove paragraph (a)(2)(iv).
■ e. Revise paragraph (b)(1).

The revisions read as follows:

**§ 721.10284 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C14–15-branched and linear alkyl ethers, sodium salts.**

(a) * * *

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(ii) *Disposal.* Requirements as specified in § 721.85. A significant new of the substances is any method of disposal of a waste stream containing the PMN substances other than by incineration or by injection into a Class I or II waste disposal well.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

■ 20. Amend § 721.10515 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).

The revisions read as follows:

**§ 721.10515 Partially fluorinated alcohol substituted glycols (generic).**

(a) * * *

(1) The chemical substances identified generically as partially fluorinated alcohol substituted glycols (PMNs P–10–58, P–10–59, P–10–60, and P–10–184) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture of the PMN substances according to the chemical synthesis and composition sections of the TSCA section 5(e) consent order, including analysis, reporting, and limitations of maximum impurity levels of certain fluorinated impurities; manufacture and import of P–10–60/P–10–184 other than when the mean number of moles of the ethoxy group is between 3 and 11 or the average number molecular weight is between 496 and 848 daltons based on the amounts of raw materials charged to the reactor; manufacture and import of P–10–58 and P–10–59 only as intermediates for the manufacture of P–10–60), and (q).

* * * * *

[FR Doc. 2015–08090 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R2–ES–2014–0008; 4500030113]**

**RIN 1018–BA32**

## Endangered and Threatened Wildlife and Plants; 4(d) Rule for the Georgetown Salamander

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Revised proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are amending our proposed rule under authority of section 4(d) of the Endangered Species Act of 1973, as amended (Act), that provides measures that are necessary and advisable to provide for the conservation of the Georgetown salamander (*Eurycea naufragia*), a species that occurs in Texas. We are seeking public comments on this revised proposed rule. We also announce the availability of a draft environmental assessment of this revised proposed rule.

**DATES:** We will consider comments received or postmarked on or before May 11, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see Public Comments, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** *Document availability:* You may obtain copies of the original proposed rule, this revised proposed rule, and the draft environmental assessment at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2014–0008, or by mail from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written comments:* You may submit comments on this revised proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R2–ES–2014–0008, which is the docket number for this rulemaking. Then click on the Search button. When you have located the correct document, you may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2014–0008; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275

Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send comments only by one of the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section, below, for more information).

**FOR FURTHER INFORMATION CONTACT:** Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd, Suite 200, Austin, TX 78758; telephone 512–490–0057; facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Public Comments

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we request comments or suggestions on this revised proposed rule. We particularly seek comments concerning:

(1) Whether the measures outlined in this revised proposed rule are necessary and advisable for the conservation and management of the Georgetown salamander;

(2) The effectiveness of the adaptive management component incorporated within the measures outlined in this revised proposed rule; and

(3) Additional provisions the Service may wish to consider for a rule issued under section 4(d) of the Act (16 U.S.C. 1531 *et seq.*) in order to conserve, recover, and manage the Georgetown salamander.

We will consider all comments and information received during our preparation of a final rule. Accordingly, the final rule may differ from this proposal.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES.** We request that you send comments only by the methods described in **ADDRESSES.**

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## Previous Federal Actions

On August 22, 2012, we published a proposed rule to list the Georgetown salamander (*Eurycea naufragia*), Salado salamander (*Eurycea chisholmensis*), Jollyville Plateau salamander (*Eurycea tonkawae*), and Austin blind salamander (*Eurycea waterlooensis*) as endangered species and to designate critical habitat for these species under the Act (77 FR 50768). On February 24, 2014, we published a final determination to list the Georgetown salamander and the Salado salamander as threatened species under the Act (79 FR 10236), and a proposed rule under section 4(d) of the Act (a proposed 4(d) rule) for the Georgetown salamander (79 FR 10077). Please see the final listing determination (79 FR 10236) for additional information concerning previous Federal actions for the Georgetown salamander.

## Background

The Georgetown salamander is entirely aquatic and depends on water from the Edwards Aquifer in sufficient quantity and quality to meet its life-history requirements for survival, growth, and reproduction. Degradation of habitat, in the form of reduced water quality and quantity and disturbance of spring sites, is the main threat to this species. For more information on the Georgetown salamander and its habitat, please refer to the February 24, 2014, final listing determination (79 FR 10236).

The Act does not specify particular prohibitions, or exceptions to those prohibitions, for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as she deems necessary and advisable to provide for the conservation of such species. The Secretary also has the discretion to prohibit by regulation, with respect to any threatened wildlife species, any act prohibited under section 9(a)(1) of the Act. Exercising this discretion, the Service developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened wildlife species. Alternately, for other threatened species, under the authority of section 4(d) of the Act, the Service may develop specific prohibitions and exceptions that are tailored to the specific conservation needs of the species. In such cases, some of the prohibitions and authorizations under 50 CFR 17.31 and 17.32 may be appropriate for the species and incorporated into a rule under section 4(d) of the Act. However, these rules, known as 4(d) rules, will also include provisions that are tailored to the specific conservation needs of the threatened species and may be more or less restrictive than the general provisions at 50 CFR 17.31.

## Provisions of the Revised Proposed 4(d) Rule for the Georgetown Salamander

Under section 4(d) of the Act, the Secretary may publish a rule that modifies the standard protections for threatened species and that contains prohibitions tailored to the conservation of the species and that are determined to be necessary and advisable. Under this revised proposed 4(d) rule, the Service would provide that all of the prohibitions under 50 CFR 17.31 and 17.32 are necessary and advisable and, therefore, apply to the Georgetown salamander, except as noted below. This revised proposed 4(d) rule would not remove or alter in any way the consultation requirements under section 7 of the Act.

On December 20, 2013, the City Council of Georgetown, Texas, approved the Edwards Aquifer Recharge Zone Water Quality Ordinance (Ordinance No. 2013–59). In the February 24, 2014, proposed 4(d) rule (79 FR 10077), the Service proposed that take incidental to activities that are conducted consistent with the conservation measures contained in the ordinance would not be prohibited under the Act. Since we published the proposed 4(d) rule, the City of Georgetown has incorporated, and expanded upon, the ordinance in their Unified Development Code (UDC), which is the primary tool to regulate land development in Georgetown. This revised proposed rule provides greater clarity around the activities that are proposed to be covered.

For activities outside of habitat occupied by the Georgetown salamander, we propose that take of Georgetown salamanders that is incidental to regulated activities that are conducted consistent with the water quality regulations contained in chapter 11.07 of the City of Georgetown Unified Development Code (UDC 11.07) (*https://udc.georgetown.org/*) would not be prohibited under the Act. The water quality regulations in UDC 11.07 were finalized on February 24, 2015. Chapter

11.07 of the UDC describes stream and spring buffers, water quality best management practices, and geologic assessments that are required for property development within the Northern Edwards Aquifer Recharge Zone and the City of Georgetown.

When a property owner submits a development application for a regulated activity on a tract of land located over the Edwards Aquifer Recharge Zone, that individual is required to submit a geologic assessment. The geologic assessment identifies and describes all springs and streams on any subject property, and the UDC establishes buffer zones around identified springs and streams. For springs, the buffer encompasses 50 meters (164 feet) extending from the approximate center of the spring outlet that is identified in a geologic assessment. For streams, the boundaries of the buffer must coincide with either the boundaries of the Federal Emergency Management Agency 1 percent floodplain or a calculated 1 percent floodplain, whichever is smaller. Thus, these stream buffers may vary depending on the size of the stream, but they may be no smaller than 200 feet (61 meters) wide with at least 75 feet (23 meters) from the centerline of the stream. Section 11.07.003 of the UDC states that no ''regulated activities'' may be conducted within the spring and stream buffers. ''Regulated activities'' are defined in Title 30, Texas Administrative Code section 213.3(28) as any construction-related or post-construction activities on the Recharge Zone of the Edwards Aquifer having the potential for polluting the Edwards Aquifer and hydrologically connected surface streams. More specific details on spring and stream buffers can be found in sections 11.07.003A. and B. of the UDC.

In addition to the establishment of these spring and stream buffers, the UDC outlines water quality best management practices designed to minimize sediment runoff, increase the removal of total suspended solids, prevent an increase in flow rates, and ensure spill containment for new or expanded roadways. These regulations in chapter 11.07 of the UDC are designed to reduce water quality degradation that may occur as a result of development. By reducing further water quality degradation that may result from development, these protective measures are also expected to minimize habitat degradation to the Georgetown salamander.

The UDC also outlines exemptions from the requirement to prepare a geologic assessment, the process by which a landowner may request a variance to the spring and stream buffer requirements, and exemptions to the spring and stream buffer requirements of section 11.07.003. Small (less than 5 acres (2 hectares)) single-family and two-family residential developments are exempt from submitting a geologic assessment; however, these developments are required to implement UDC water quality measures. Property owners may request a variance from the spring or stream buffer requirements. For unoccupied habitat, variances will be considered by the City of Georgetown's Planning and Zoning Commission. Properties with a site occupied by the Georgetown salamander are exempt from the spring and stream buffer requirements in chapter 11.07. Rather, UDC Appendix A outlines voluntary conservation measures to be implemented when undertaking regulated activities that occur on a tract of land with an occupied site, or within 984 feet (300 meters) of an occupied site.

For activities involving habitat occupied by the Georgetown salamander, we propose that take of the Georgetown salamander that is incidental to regulated activities that are conducted consistent with the voluntary guidelines described in Appendix A of the UDC will not be prohibited under the Act. Similar to chapter 11.07 of the UDC, the guidelines in Appendix A establish stream and spring buffers and allowable activities within those buffers; however, the measures described in Appendix A create larger, more protective buffers than those that appear in chapter 11 for unoccupied sites. First, Appendix A establishes a ''No-Disturbance Zone'' in the stream or waterway that a spring drains directly into; this zone extends 264 feet (80 meters) upstream and downstream from the approximate center the spring outlet of an occupied site and is bounded by the top of the bank. No regulated activities may occur within the ''No-Disturbance Zone.'' In addition, Appendix A establishes a ''Minimal-Disturbance Zone'' for the subsurface area that drains to the spring(s) at an occupied site; this zone consists of the area within 984 feet (300 meters) of the approximate center of the spring outlet of an occupied site, except those areas within the ''No-Disturbance Zone.'' Most regulated activities are also prohibited in the ''Minimal-Disturbance Zone,'' but single-family developments; limited parks and open space development; and wastewater infrastructure will be allowed. For additional details on the buffers around occupied sites and prohibited actions, please refer to the UDC Appendix A to Chapter 11.

Section 11.07.008 of the UDC also establishes an Adaptive Management Working Group (Working Group) that is responsible for reviewing data on a regular basis and making recommendations for specific changes in the management directions related to the voluntary conservation measures for occupied sites in Appendix A. Adaptive management of preservation of the Georgetown salamander is one of the duties tasked to the Working Group. Therefore, the guidelines described in Appendix A may change over time. Appendix A also indicates that the Working Group is authorized to hear and make recommendations to the Service regarding variances from the voluntary guidelines on a case-by-case basis and as long as the proposed variance will achieve the same level or greater level of water quality benefits and conservation objectives to the Georgetown salamander. The Working Group will also develop an annual report regarding the preservation of the Georgetown salamander, continuous monitoring of the Georgetown salamander, assessment of research priorities, and the effectiveness of the water quality regulations and guidelines. Copies of the UDC 11.07 and Appendix A are available at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2014–0008.

**Proposed Determination**

Section 4(d) of the Act states that ''the Secretary shall issue such regulations as [s]he deems necessary and advisable to provide for the conservation'' of species listed as threatened species. Conservation is defined in the Act to mean ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary.''

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, the Secretary may find that it is necessary and advisable not to include a taking prohibition, or to include a limited taking prohibition. See *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* and 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988), the rule need not address all the threats to the species. As noted by Congress when the

Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. [S]he may, for example, permit taking, but not importation of such species,'' or she may choose to forbid both taking and importation but allow the transportation of such species, as long as the prohibitions, and exceptions to those prohibitions, will ''serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Section 9 prohibitions make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened wildlife in 50 CFR 17.31(a) and (b). For the Georgetown salamander, the Service has determined that a 4(d) rule tailored to its specific conservation needs is appropriate. This revised proposed 4(d) rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except as described below.

Under this revised proposed 4(d) rule, incidental take of the Georgetown salamander will not be considered a violation of section 9 of the Act if the take occurs on privately owned, State, or County land and from regulated activities that are conducted consistent with the water quality protection measures contained in chapter 11.07 and Appendix A of the City of Georgetown Unified Development Code. This revised proposed 4(d) rule refers to the definition of ''regulated activities'' in Title 30, Texas Administrative Code section 213.3(28), which are any construction related or post-construction activities on the recharge zone of the Edwards Aquifer having the potential for polluting the Edwards Aquifer and hydrologically connected surface streams. Our rationale for including this provision is explained in the paragraphs that follow.

The local community in the City of Georgetown and Williamson County has expressed a desire to design and implement a local solution to conserving the natural resources in their county, including water quality and the Georgetown salamander (City of Georgetown Resolution No. 082812–N). Because impervious cover levels within most of the springsheds known to be occupied by the Georgetown salamander are still relatively low, a window of opportunity exists to design and implement measures to protect water quality and, therefore, conserve the salamander. The City and County's approach for accomplishing this conservation goal includes both regulatory and non-regulatory actions, as described below. Regulatory actions include passage of the Edwards Aquifer Recharge Zone Water Quality Ordinance (Ordinance No. 2013–59) by the Georgetown City Council on December 20, 2013, and the revisions to their UDC (chapter 11.07) finalized on February 24, 2015. Their approach also includes nonregulatory actions, such as the technical guidance provided in Appendix A of the UDC, which outlines additional conservation measures to protect water quality and to avoid direct destruction of occupied sites.

Habitat modification, in the form of degraded water quality and quantity and disturbance of spring sites, is the primary threat to the Georgetown salamander. The conservation measures in both chapter 11.07 and Appendix A of the UDC provide a variety of water quality protection measures, such as the creation of buffers around springs and streams where regulated activities are prohibited, designed to lessen impacts to the water quality of springs and streams in the Edwards Aquifer Recharge Zone. Although the UDC addresses water quality, regulating water quantity and groundwater withdrawal is outside the scope of the UDC. The UDC is applied throughout the watersheds that contain the Georgetown salamander. This watershed-level approach works to avoid incremental environmental degradation that may go unnoticed on a small, individual project scale. Through this revised proposed 4(d) rule, we could achieve a greater level of conservation for the Georgetown salamander than we could without it because it encourages implementation of the water quality protective measures that are likely to limit habitat degradation for Georgetown salamanders. The majority of salamanders occur within 164 feet (50 meters) of a spring outlet; this coincides with the spring and stream buffers for unoccupied sites. We also believe the salamander populations exist through underground conduits that may extend 984 feet (300 meters) around cave or spring points; this area coincides with the size of the ''Minimal-Disturbance'' Zones for occupied sites. By limiting development activities within these respective areas, the measures in the UDC 11.07 and Appendix A are expected to limit water quality degradation in these areas that may provide suitable surface or subsurface habitat for the Georgetown salamander regardless of occupancy. In addition, although the areas that provide recharge and the source water for specific areas occupied by the salamander have not been precisely delineated, this watershed-level approach makes it likely that these unknown recharge areas are covered under the UDC. This is because the UDC requires buffers around all springs and streams where regulated activities are prohibited; thus, water quality impacts are expected to be limited.

This watershed-level approach also includes an adaptive management component that will allow the Adaptive Management Working Group (Working Group) to evaluate the response of salamander populations to management actions and quickly respond and recommend adjustments, if necessary, to management strategies to protect water quality consistent with conserving the Georgetown salamander. The UDC formalizes the Working Group with representatives from the City of Georgetown, Williamson County, Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, university scientists, private real estate developers, and the U.S. Fish and Wildlife Service. The role of the Working Group is to:

- Review scientific information to understand the latest science on watershed management practices and the conservation of the Georgetown salamander;
- Recommend support for additional Georgetown salamander scientific studies and oversee a long-term monitoring program to ensure that salamander abundance at monitored locations are stable or improving;
- Conduct and evaluate water quality trend analysis as part of its long-term monitoring program to ensure water quality conditions do not decline and, in turn, result in impacts to salamander abundance; and
- Make recommendations for changes to the UDC Appendix A for occupied sites if scientific and monitoring information indicates that water quality and salamander protection measures need changes to minimize impacts to salamander populations and to attain the goal of species conservation.

While a window of opportunity exists to design and implement conservation measures to conserve the Georgetown salamander, human population levels and development are expected to increase rapidly in Williamson County (Texas State Data Center 2012, pp. 166–167). Therefore, the success of the local community's efforts will depend on this robust adaptive management program designed to monitor and quickly assess the effectiveness of the identified conservation measures and strategies in attaining the goal of species' conservation, and to respond quickly and adapt the measures and strategies as needed to attain the goal. The adaptive management approach will ensure that the water quality protective measures are serving their intended purpose of conserving the Georgetown salamander, thereby providing for the conservation of the species. Adaptive management measures related to UDC 11.07 and Appendix A that are agreed upon by the Working Group and consistent with the goal of preserving the Georgetown salamander would be covered under this revised proposed 4(d) rule.

By not prohibiting incidental take resulting from regulated activities conducted in accordance with the UDC 11.07 and Appendix A, the Service is supporting and encouraging a local solution to conservation of the Georgetown salamander. This revised proposed 4(d) rule would provide the Service the opportunity to work cooperatively, in partnership with the local community and State agencies, on conservation of the Georgetown salamander and the ecosystems on which it depends. Leveraging our conservation capacity with that of the State, local governments, and the conservation community at large may make it possible to attain biological outcomes larger than those we could attain ourselves due to the watershed-scale protection the UDC requires. Further, these local partners are better able to design solutions that minimize socioeconomic impacts, thereby encouraging participation in measures that will protect water quality and conserve the Georgetown salamander. In addition, by not prohibiting incidental take resulting from regulated activities conducted in accordance with UDC 11.07 and Appendix A, the Service is providing a streamlining mechanism for compliance with the Act for those project proponents who comply with the protective measures in the UDC 11.07 and Appendix A and, thus, would be covered by this revised 4(d) rule. Developers who comply with these protective measures outlined in this proposed rule can implement their projects without any potential delay from seeking incidental take coverage from the Service, while also minimizing water quality degradation; this simple approach makes streamlined compliance more enticing for project proponents and is likely to result in increased implementation of water quality protective measures that benefit salamanders than would occur otherwise.

Based on the rationale explained above, the provisions included in this revised proposed 4(d) rule are necessary and advisable to provide for the conservation of the Georgetown salamander. If an activity that may affect the species is not regulated by UDC 11.07 or is not in accordance with the UDC 11.07 and Appendix A, or a person or entity is not in compliance with all terms and conditions of the UDC 11.07 and Appendix A, and the activity would result in an act that would be otherwise prohibited under 50 CFR 17.31, then provisions of 50 CFR 17.31 and 17.32 for threatened species will apply. In such circumstances, the prohibitions of 50 CFR 17.31 would be in effect, and authorization under 50 CFR 17.32 would be required.

In addition, nothing in this revised proposed 4(d) rule affects in any way other provisions of the Act such as the designation of critical habitat under section 4, recovery planning provisions of section 4(f), and consultation requirements under section 7.

**Draft Environmental Assessment**

The Service is conducting a National Environment Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis and has prepared a draft environmental assessment (EA) to address potential impacts of this revised proposed 4(d) rule. The NEPA analysis accomplishes three goals: (1) Determine if any action, or the absence of action, will have significant environmental impacts; (2) identify any unavoidable adverse effects; and (3) provide a basis for a decision on a proposal. The draft EA and this revised proposed 4(d) rule are being made available concurrently; both are available for a 30-day period for public review and comment (see the **DATES** and **ADDRESSES** sections, above). The Service will analyze and consider all substantive comments we receive on both the draft EA and revised proposed 4(d) rule before issuing a final 4(d) rule.

**Peer Review**

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this revised proposed rule. We will send peer reviewers copies of this revised proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the reopening of the public comment period, on our use and interpretation of the science used in developing our revised proposed 4(d) rule.

**Required Determinations**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this revised proposed 4(d) rule in a manner consistent with these requirements.

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996)), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a

substantial number of small entities. 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). Based on the information that is available to us at this time, we certify that this regulation will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

On February 24, 2014 (79 FR 10236), we published the final determination to list the Georgetown salamander as a threatened species. That rule became effective on March 26, 2014. As a result, the Georgetown salamander is currently covered by the full protections of the Act, including the full section 9 prohibitions that make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species in 50 CFR 17.31(a) and (b). This revised proposed 4(d) rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except regulated activities that are conducted consistent with the water quality protective measures contained in Chapter 11.07 and Appendix A of the Unified Development Code, which would result in a less restrictive regulation under the Act, as it pertains to the Georgetown salamander, than would otherwise exist. For the above reasons, we certify that if promulgated, the revised proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or [T]ribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and [T]ribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

(b) This revised proposed 4(d) rule proposes that all prohibitions in 50 CFR 17.31(a) and (b) will apply to the Georgetown salamander, except activities that are conducted consistent with the water quality protection measures contained in Chapter 11.07 and Appendix A of the Unified Development Code, which would result in a less restrictive regulation under the Act, as it pertains to the Georgetown salamander, than would otherwise exist. As a result, we do not believe that this rule would significantly or uniquely affect small governments. Therefore, a Small Government Agency Plan is not required.

*Takings*

In accordance with Executive Order 12630, this proposed rule would not have significant takings implications. We have determined that the rule has no potential takings of private property implications as defined by this Executive Order because this revised proposed 4(d0 rule would result in a less-restrictive regulation under the Endangered Species Act than would otherwise exist. A takings implication assessment is not required.

*Federalism*

In accordance with Executive Order 13132, this revised proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. This proposed rule would not have substantial direct effects on the State, on the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this revised proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Energy Supply, Distribution or Use (Executive Order 13211)*

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking actions that significantly affect energy supply, distribution, and use. For reasons discussed within this proposed rule, we believe that the rule would not have any effect on energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Clarity of the Rule*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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 (42 U.S.C. 4321 et seq.)*

We have prepared a draft environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969. For information on how to obtain a copy of the draft environmental assessment, see **ADDRESSES**, above.

*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; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian 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 determined that there are no known tribal lands within the range of the Georgetown salamander.

**Authors**

The primary authors of this proposed rule are the staff members of the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) and the Southwest Regional Office.

**List of Subjects in 50 CFR Part 17**

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

**Proposed Regulation Promulgation**

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended at 79 FR 10077 (February 24, 2014) 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 § 17.43 by revising paragraph (e)(2), as proposed to be added on February 24, 2014 (79 FR 10077), to read as follows:

**§ 17.43 Special rules—amphibians.**

* * * * *

(e) * * *

(2) *Exemptions from prohibitions.* Incidental take of the Georgetown salamander will not be considered a violation of section 9 of the Act if the take occurs on privately owned, State, or county land from regulated activities that are conducted consistent with the water quality protection measures contained in chapter 11.07 and Appendix A of the City of Georgetown (Texas) Unified Development Code (UDC) dated February 24, 2015.

* * * * *

Dated: March 31, 2015.

**Robert Dreher,**

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

[FR Doc. 2015–08093 Filed 4–8–15; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 140819687–5314–01]**

**RIN 0648–BE40**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement management measures described in Framework Amendment 2 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (Framework Amendment 2), as prepared and submitted by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils). If implemented, this proposed rule would remove the unlimited commercial trip limit for Spanish mackerel in Federal waters off the east coast of Florida on weekdays beginning December 1 of each year. Since the trip limit system has been in place, fishery conditions and regulations have changed. This proposed rule intends to modify the current trip limit system to better fit the current fishery conditions and catch limits for Atlantic migratory group Spanish mackerel in the southern zone, while increasing social and economic benefits of the CMP fishery.

**DATES:** NMFS must receive written comments on the proposed rule by May 11, 2015.

**ADDRESSES:** You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2014–0136'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0136,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South St., Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Framework Amendment 2 to the FMP, which includes an environmental assessment and a regulatory impact review, is available from *www.regulations.gov* or the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Karla Gore, NMFS Southeast Regional

Office, telephone: 727–824–5305, or email: *karla.gore@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The CMP fishery of the South Atlantic and Gulf of Mexico (Gulf) includes Spanish mackerel and is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Background**

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

*Management Measure Contained in This Proposed Rule*

This proposed rule would modify the commercial trip limit system for Atlantic migratory group Spanish mackerel. Since the current trip limit regime has been in place, changes in fishery conditions, such as an increase of the commercial annual catch limit (ACL), have necessitated modifications to some elements of the current trip limit system.

Currently, the commercial trip limit for Atlantic migratory group Spanish mackerel in Federal waters off the eastern coast of Florida is 3,500 lb (1,588 kg) from the start of the fishing year on March 1 through November 30. Starting December 1, there is no trip limit on weekdays, and the trip limit is 1,500 lb (680 kg) on weekends. There is no trip limit on weekdays until 75 percent of the adjusted quota (set at 250,000 lb (113,400 kg) below the commercial ACL (adjusted quota)) is landed, after which the trip limit is 1,500 lb (680 kg) every day. When 100 percent of the adjusted quota is reached, the trip limit is reduced to 500 lb (227 kg) until the end of the fishing year or until the full quota is met or projected to be met. The adjusted quota provides a buffer to help prevent the commercial sector from exceeding the commercial ACL. North of a line extending offshore from the state boundary of Georgia and Florida, the trip limit in Federal waters is 3,500 lb (1,588 kg) year-round.

The lack of a commercial trip limit for Atlantic migratory group Spanish mackerel in Federal waters off the eastern coast of Florida on weekdays beginning December 1 may contribute to early closures. Therefore, this proposed rule would establish a trip limit of 3,500 lb (1,588 kg) for Spanish mackerel in Federal waters offshore of South Carolina, Georgia, and eastern Florida, which is the area recently established by the final rule implementing Amendment 20B to the FMP as the southern zone (80 FR 4216, January 27, 2015). When 75 percent of the adjusted southern zone quota (2,417,330 lb (1,096,482 kg)) is met or projected to be met, the trip limit would be reduced to 1,500 lb (680 kg). When 100 percent of the adjusted southern zone quota is met or projected to be met, the trip limit would be reduced to 500 lb (227 kg) until the end of the fishing year or until the southern zone commercial quota is met or projected to be met, at which time the commercial sector in the southern zone would be closed to harvest of Spanish mackerel. The modified system of trip limits described above would remove the unlimited weekday trip limit to control harvest more effectively.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The objective of this proposed rule is to respond to changing fishery characteristics for the Atlantic migratory group Spanish mackerel component of the CMP fishery, reduce the complexity of the commercial trip limit system for this component, and increase social and economic benefits while ensuring resource protection. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

If implemented, NMFS expects this proposed rule to directly affect all commercial fishing vessels that harvest Atlantic migratory group Spanish mackerel. A Federal commercial permit is required to harvest Spanish mackerel in the Atlantic exclusive economic zone (EEZ) in excess of the bag limit and to sell these species. On May 6, 2014, 1,729 vessels possessed a valid Federal commercial Spanish mackerel permit. A valid permit is a permit that has not expired and may be actively fished. Because the Federal commercial Spanish mackerel permit is an open access permit, expired permits are not renewed; if a permit expires before renewal, a new permit would be issued (if applied for) instead of renewal of the expired permit. The Federal commercial Spanish mackerel permit allows fishermen to harvest commercial quantities of Atlantic and Gulf migratory group Spanish mackerel in the Atlantic and the Gulf EEZ. Over the 2007–2008 through 2011–2012 fishing years (March through February), an average of 387 vessels per year recorded harvests of Atlantic migratory group Spanish mackerel. More recent data on vessel identification and harvest revenues from all fishing activity by these vessels are not available. Therefore, NMFS expects this proposed rule would affect an estimated 387 commercial fishing vessels per year.

NMFS has not identified any other small entities that this proposed rule would be expected to directly affect.

The SBA has established size criteria for all major industry sectors in the U.S., including commercial fish harvesters. A business involved in commercial fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. The estimated average annual gross revenue from all fishing activity by a commercial vessel that harvests Atlantic migratory group Spanish mackerel is approximately $32,100 (2013 dollars). Because the average annual revenue estimate provided above is significantly less than the SBA revenue threshold for this sector, all commercial vessels expected to be directly affected by this proposed rule are believed to be small business entities.

This proposed rule would not require any new reporting, record-keeping, or other compliance requirements associated with reporting or record-keeping that may require professional skills.

If implemented, NMFS expects the effects of this proposed rule to range from no economic effects to a small

increase in revenue to directly affected fishing vessels. Analysis of the economic effects of the proposed rule was conducted with and without 2012–2013 harvest data, which is the most recent final data available. The commercial harvest of Atlantic migratory group Spanish mackerel in 2012–2013 was approximately 3.15 million pounds (mp), compared to harvests in excess of 4 mp in the previous three fishing years. Commercial harvests of Atlantic migratory group Spanish mackerel have shown a cyclical harvest pattern of high, medium, and low harvests on approximately a three-year cycle. As a result, removal of data for the low harvest in 2012–2013 from the analysis may capture the potential effects of the proposed rule under high and low harvest rates.

Based on data from the 2003–2004 through 2012–2013 fishing years, *i.e.,* inclusive of 2012–2013 data, the proposed rule would be expected to result in a gain in revenue to all directly affected vessels combined of approximately $74,000 (2013 dollars), or approximately $190 per vessel. If data from the 2012–2013 fishing year are excluded from the analysis, the proposed rule would be expected to result in the same total harvest and revenue as the status quo. Although the actual effects may be between these estimates, neither harvest scenario would be expected to result in a reduction in revenue, or profit, to any directly affected small entities as a result of the proposed rule. Instead, this proposed rule would be expected to have a small beneficial to no economic effect on the affected small entities. As a result, this proposed rule, if implemented, would not be expected to have a significant economic effect on a substantial number of small entities and an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 622**

Annual catch limit, Fisheries, Fishing, Gulf of Mexico, Quotas, South Atlantic, Spanish mackerel.

Dated: April 2, 2015.

**Eileen Sobeck,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.385, paragraphs (b)(1) and (2) are revised to read as follows:

**§ 622.385 Commercial trip limits.**

* * * * *

(b) * * *

(1) *Atlantic migratory group.* The following trip limits apply to vessels for which commercial permits for Spanish mackerel have been issued, as required under § 622.370(a)(3).

(i) Northern zone. Spanish mackerel in or from the EEZ may not be possessed on board or landed in a day from a vessel for which a permit for Spanish mackerel has been issued, as required under § 622.370(a)(3), in amounts exceeding 3,500 lb (1,588 kg).

(ii) Southern zone. Spanish mackerel in or from the EEZ may not be possessed on board or landed in a day from a vessel for which a permit for Spanish mackerel has been issued, as required under § 622.370(a)(3)—

(A) From March 1 until 75 percent of the adjusted quota for the southern zone has been reached or is projected to be reached, in amounts exceeding 3,500 lb (1,588 kg).

(B) After 75 percent of the adjusted quota for the southern zone has been reached or is projected to be reached, in amounts exceeding 1,500 lb (680 kg).

(C) After 100 percent of the adjusted quota for the southern zone has been reached or is projected to be reached, and until the end of the fishing year or the southern zone's quota has been reached or projected to be reached, in amounts exceeding 500 lb (227 kg). See § 622.384(e) for limitations regarding Atlantic migratory group Spanish mackerel after the southern zone's quota is reached.

(2) For the purpose of paragraph (b)(1)(ii) of this section, the adjusted quota for the southern zone is 2,417,330 lb (1,096,482 kg). The adjusted quota for the southern zone is the quota for the Atlantic migratory group Spanish mackerel southern zone reduced by an amount calculated to allow continued harvest of Atlantic migratory group Spanish mackerel at the rate of 500 lb (227 kg) per vessel per day for the remainder of the fishing year after the adjusted quota is reached. Total commercial harvest in the southern zone is still subject to the southern zone quota and accountability measures. By filing a notification with the Office of the Federal Register, the Assistant Administrator will announce when 75 percent and 100 percent of the adjusted quota are reached or is projected to be reached.

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[FR Doc. 2015–08069 Filed 4–8–15; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register
Vol. 80, No. 68
Thursday, April 9, 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

### Agricultural Marketing Service

**[Doc. No. AMS–NOP–15–0005; NOP–15–04]**

### National Organic Standards Board (NOSB): Call for Nominations

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

**ACTION:** Notice; call for nominations.

**SUMMARY:** The National Organic Standards Board (NOSB) was established to assist in the development of standards for substances to be used in organic production and to advise the Secretary on the implementation of the Organic Foods Production Act of 1990 (OFPA). Through this Notice, The USDA is requesting nominations to fill five (5) upcoming vacancies on the NOSB. The positions are as follows: Farmers/growers (2), consumer/public interest advocates (2), and a USDA Accredited Certifying Agent (1). The Secretary of Agriculture will appoint one person to each of these five positions to serve a 5-year term of office that will commence on January 24, 2016, and end January 23, 2021.

**DATES:** Written nominations must be postmarked on or before May 15, 2015.

**ADDRESSES:** Nomination applications are to be mailed to Rita Meade, USDA–AMS–NOP, 1400 Independence Avenue SW., Room 2648–S., Ag Stop 0268, Washington, DC 20250; or electronically sent via Email to: *Rita.Meade@ams.usda.gov.* Electronic submittals by email are preferred.

**FOR FURTHER INFORMATION CONTACT:** Michelle Arsenault, (202) 720–0081; Email: *Michelle.Arsenault@ams.usda.gov;* or Rita Meade, (202) 260–8636; Email: *Rita.Meade@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The OFPA of 1990, as amended (7 U.S.C. Section 6501 *et seq.*), requires the Secretary to establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods. The OFPA includes the requirement that the Secretary establish an NOSB in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 *et seq.*). The purpose of the NOSB is to assist in the development of a proposed National List of Allowed and Prohibited Substances and to advise the Secretary on the implementation of the OFPA.

The NOSB is composed of 15 members; including 4 organic producers, 2 organic handlers, a retailer, 3 environmentalists/resource conservationists, 3 public/consumer representatives, a scientist, and a certifying agent. Through this Notice, USDA is seeking nominations to fill the following five (5) positions: Farmers/growers (2), consumer/public interest advocates (2), and a USDA Accredited Certifying Agent (1). As per the OFPA, individuals seeking appointment to the NOSB at this time must: Own or operate an organic farming operation; represent public interest or consumer interest groups; and/or be a certifying agent as identified under section 6515 of this title.

Selection criteria include such factors as: Understanding of organic principles and practical experience in the organic community; demonstrated experience in the development of public policy such as participation on public or private advisory boards, boards of directors or other comparable organizations; participation in standards development or involvement in educational outreach activities; a commitment to the integrity of the organic food and fiber industry; the ability to evaluate technical information and to fully participate in Board deliberation and recommendations; and the willingness to commit the time and energy necessary to assume Board duties; demonstrated experience and interest in organic production; organic certification; support of consumer and public interest organizations; demonstrated experience with respect to agricultural products produced and handled on certified organic farms; and such other factors as may be appropriate for specific positions.

To nominate yourself or someone else, please submit: A resume, a cover letter, and a Form AD–755, which can be accessed at: *www.ocio.usda.gov/forms/doc/AD-755.pdf.* Resumes must be no longer than 5 pages, and include at the beginning a summary of the following information: Current and past organization affiliations; areas of expertise; education; career positions held; any other notable positions held. You may also submit a list of endorsements or letters of recommendation, if desired. Resume and completed requested background information are required for a nominee to receive consideration for appointment by the Secretary.

If USDA receives a request under the Freedom of Information Act (FOIA) (5 U.S.C. 552), for records relating to NOSB nominations, your application materials may be released to the requester. Prior to the release of the information, personally identifiable information protected by the FIOA Privacy Act will be redacted.

Nominations are open to all individuals without regard to race, color, religion, gender, national origin, age, mental or physical disability, marital status, or sexual orientation. To ensure that the recommendations of the NOSB take into account the needs of the diverse groups that are served by the Department, membership on the NOSB shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The information collection requirements concerning the nomination process have been previously cleared by the Office of Management and Budget (OMB) under OMB Control No. 0505–0001.

Dated: April 6, 2015.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2015–08160 Filed 4–8–15; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Document No. AMS–LPS–15–0001]**

### 2015 Rates Charged for AMS Services

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

**ACTION:** Notice.

**SUMMARY:** The Agricultural Marketing Service (AMS) is announcing the 2015

rates it will charge voluntary grading, inspection, certification, auditing and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, and cotton and tobacco. The 2015 regular, overtime, holiday, and laboratory services rates will be applied at the beginning of the crop year, fiscal year or as required by law (June 1 for cotton programs) depending on the commodity. This action established the rates for user-funded programs based on costs incurred by AMS.

**DATES:** April 10, 2015.

**FOR FURTHER INFORMATION CONTACT:** Sonia Jimenez, AMS, U.S. Department of Agriculture, Room 3069–S, 1400 Independence Ave. SW., Washington, DC 20250; telephone (202) 720–5115, fax (202) 720–8477; email *sonia.jimenez@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The Agricultural Marketing Act of 1946, as amended, (AMA)(7 U.S.C. 1621–1627), provides for the collection of fees to cover costs of various inspection, grading, certification or auditing services covering many agricultural commodities and products. The AMA also provides for the recovery of costs incurred in providing laboratory services. The Cotton Statistics and Estimates Act (7 U.S.C. 471–476) and the U.S. Cotton Standards Act (7 U.S.C. 51–65) provide for classification of cotton and development of cotton standards materials necessary for cotton classification. The Cotton Futures Act (7 U.S.C. 15b) provides for futures certification services and the Tobacco Inspection Act (7 U.S.C. 511–511s) provides for tobacco inspection and grading. These Acts also provide for the recovery of costs associated with these services.

On November 13, 2014, The Department of Agriculture (Department) published in the **Federal Register** a final rule that established standardized formulas for calculating the fees charged by AMS user-funded programs (79 FR 67313).

This notice announces the fee rates for voluntary grading, inspection, certification, auditing and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, and cotton and tobacco on a per-hour rate and, in some instances, the equivalent per-unit cost. The per-unit cost is provided to facilitate understanding of the costs associated with the service to the industries that historically used unit-cost basis for payment. The fee rates will be effective at the beginning of the fiscal year, crop year, or as required by specific laws (June 1 for cotton programs).

The rates reflect direct and indirect costs of providing services. Direct costs include the cost of salaries, employee benefits, and if applicable, travel and some operating costs. Indirect or overhead costs include the cost of Program and Agency activities supporting the services provided to the industry.

These services include the grading, inspection or certification of quality factors in accordance with established U.S. Grade Standards; audits or accreditation according to International Organization for Standardization (ISO) standards and/or Hazard Analysis and Critical Control Point (HACCP) principles; and other marketing claims. The quality grades serve as a basis for market prices and reflect the value of agricultural commodities to both producers and consumers. AMS' grading and quality verification and certification, audit and accreditation, plant process and equipment verification, and laboratory approval services are voluntary tools paid by the users on a fee-for-service basis. The agriculture industry can use these tools to promote and communicate the quality of agricultural commodities to consumers. Laboratory services are provided for analytic testing, including but not limited to chemical, microbiological, biomolecular, and physical analyses. AMS is required by statute to recover the costs associated with these services.

As required by the Cotton Statistics and Estimates Act (7 U.S.C. 471–476), consultations regarding the establishment of the fee for cotton classification with U.S. cotton industry representatives were held between January 2014 and the present. Representatives of all segments of the cotton industry, including producers, ginners, bale storage facility operators, merchants, cooperatives, and textile manufacturers were informed of the fees during various industry-sponsored forums.

**Rates Calculations**

AMS calculated the rate for services, per hour per program employee using the following formulas (a per-unit base is included for programs that charge services based on a per-unit base):

(1) *Regular rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours for the previous year, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

All rates are per-hour except when a per-unit cost is noted. The specific amounts in each rate calculation are available upon request from the specific AMS program.

## 2015 RATES

**Cotton Fees**

**7 CFR Part 27—Cotton Classification Under Cotton Futures Legislation**

Subpart A—Regulations; §§ 27.80–27.90 Costs of Classifications and Micronaire

2015 RATES—Continued

| | | | | | |
|---|---|---|---|---|---|
| | | | | | |
| **Cotton Standardization** | | | | | |
| | Regular | Overtime | Holiday | Includes travel costs in rate | Start date |
| Certification for Futures Contract (Grading services for samples submitted by CCC-licensed samplers). | $3.50/bale | | | X | June 1, 2015. |
| Transfer of Certification Data to New Owner or Certified Warehouse (Electronic transfer performed). | $0.20/bale or $5.00 per page minimum | | | X | June 1, 2015. |
| **7 CFR Part 28—Cotton Classing, Testing, and Standards**<br>Subpart A—Regulations Under the United States Cotton Standards Act; §§ 28.115–28.126 Fees and Costs<br>Subpart D—Cotton Classification and Market News Service for Producers; § 28.909 Costs; § 28.910 Classification of Samples and Issuance of Classification Data; § 28.911 Review Classification. | | | | | |
| **Cotton Grading** | | | | | |
| Form 1: Grading Services for Producers (submitted by licensed sampler). | $2.20/bale | | | X | June 1, 2015. |
| Form 1 Review (new sample submitted by licensed sampler) ..... | $2.20/bale | | | X | June 1, 2015. |
| Form A Determinations (sample submitted by licensed warehouse) | $2.00/bale | | | X | June 1, 2015. |
| Form C Determinations (sample submitted by non-licensed entity; bale sampled under USDA supervision). | $2.00/bale | | | ..... | June 1, 2015. |
| Form D Determination (sample submitted by owner or agent; classification represents sample only). | Instrument and Manual Grade: $2.00/bale; Instrument Grade Only: $1.75/bale | | | X | June 1, 2015. |
| Foreign Growth Classification (sample of foreign growth cotton submitted by owner or agent; classification represents sample only). | Instrument and Manual Grade: $2.00/bale; Instrument Grade Only: $1.75/bale | | | X | June 1, 2015. |
| Arbitration (comparison of a sample to the official standards or a sample type). | Instrument and Manual Grade: $4.00/bale; Instrument Grade Only: $2.70/bale; Manual Grade Only: $2.20/bale | | | X | June 1, 2015. |
| Practical Cotton Classing Exam (for non-USDA employees) ..... | Exam: $105/applicant; Reexamination: $85/applicant | | | X | June 1, 2015. |
| Special Sample Handling (return of samples per request) ..... | $0.50/sample | | | X | June 1, 2015. |
| Electronic Copy of Classification Record ..... | $0.05/bale ($5.00/month minimum with any records received) | | | X | June 1, 2015. |
| Form A Rewrite (reissuance of Form 1, Form A, or Futures Certification data or combination). | $0.15/bale or $5.00/page | | | X | June 1, 2015. |
| Form R (reissuance of Form 1 classification only) ..... | $0.15/bale or $5.00/page minimum | | | X | June 1, 2015. |
| International Instrument Level Assessment ..... | $4.00/sample | | | X | June 1, 2015. |
| **Dairy Fees** | | | | | |
| **7 CFR Part 58—Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products**<br>Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products; §§ 58.38–58.46 Fees and Charges | | | | | |
| Continuous Resident Grading Service ..... | $76.00 | $114.00 | $152.00 | X | Oct 1, 2015. |
| Non-resident and Intermittent Grading Service ..... | 82.00 | 123.00 | 164.00 | X | Oct 1, 2015. |
| Non-resident Services 6 p.m.–6 a.m. (10 percent night differential) | 90.20 | 135.30 | 180.40 | X | Oct 1, 2015. |
| State Graders ..... | 82.00 | 123.00 | 164.00 | X | Oct 1, 2015. |
| Equipment Review ..... | 82.00 | 123.00 | 164.00 | X | Oct 1, 2015. |

2015 RATES—Continued

| | | | | | |
|---|---|---|---|---|---|
| | | | | | |
| Fax Charge | 4.00 | N/A | N/A | ..... | Oct 1, 2015. |
| Derogation Application | 123.00 | N/A | N/A | ..... | Oct 1, 2015. |
| **Fruit and Vegetable Fees** | | | | | |
| **7 CFR Part 51—Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)**<br>Subpart A—Regulations; §§ 51.37–51.44 Schedule of Fees and Charges at Destination Markets § 51.45 Schedule of Fees and Charges at Shipping Point Areas | | | | | |
| Quality and Condition Inspections for Whole Lots | $151.00 per lot | | | ..... | Oct 1, 2015. |
| Condition—Only Inspections for Whole Lots | $125.00 per lot | | | ..... | Oct 1, 2015. |
| Quality and Condition or Condition—Only Inspections for Additional Lots of the Same Product. | $69.00 per lot | | | ..... | Oct 1, 2015. |
| Dockside Inspections—Each package weighing <30 lbs | $0.038 per pkg. | | | ..... | Oct 1, 2015. |
| Dockside Inspections—Each package weighing >30 lbs | $0.059 per pkg. | | | ..... | Oct 1, 2015. |
| Charge per Individual Product for Dockside Inspection | $151.00 per lot | | | ..... | Oct 1, 2015. |
| Charge per Each Additional Lot of the Same Product | $69.00 per lot | | | ..... | Oct 1, 2015. |
| Inspections for All Hourly Work | $74.00 | $112.00 | $148.00 | ..... | Oct 1, 2015. |
| Audit Services | $92.00 | | | [1] X | Oct 1, 2015. |
| **7 CFR Part 52—Processed Fruits and Vegetables, Processed Products Thereof, and Other Processed Food Products**<br>Subpart—Regulations Governing Inspection and Certification; §§ 52.41–52.51 Fees and Charges | | | | | |
| Lot Inspections | $62.00 | $93.00 | $124.00 | X | Oct 1, 2015. |
| In-plant Inspections Under Annual Contract (year-round) | 49.00 | 73.50 | 98.00 | X | Oct 1, 2015. |
| Additional Graders (in-plant) or Less Than Year-Round | 65.00 | 97.50 | 130.00 | X | Oct 1, 2015. |
| Audit Services | 92.00 | | | [1] X | Oct 1, 2015. |
| **Meat and Livestock Fees** | | | | | |
| **7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards)**<br>Subpart A—Regulations; §§ 54.27–54.28 Charges for Service | | | | | |
| Commitment Grading | $61.00 | $78.00 | $122.00 | X | Oct 1, 2015. |
| Non-commitment Grading | 71.00 | 78.00 | 122.00 | ..... | Oct 1, 2015. |
| Night Differential (6 p.m.–6 a.m.) | 78.00 | N/A | 122.00 | ..... | Oct 1, 2015. |
| **7 CFR Part 62—Livestock, Meat and Other Agricultural Commodities (Quality Systems Verification Programs)**<br>Subpart A—Quality Systems Verification Definitions § 62.300 Fees and Other Costs for Service | | | | | |
| Auditing Activities | $108.00 | | | ..... | Oct 1, 2015. |
| **7 CFR Part 75—Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds** | | | | | |
| § 75.41 General | | | | | |
| Laboratory Testing | $52.00 | $78.00 | $104.00 | X | Oct 1, 2015. |
| Administrative Fee | $13.00 per certificate | | | ..... | Oct 1, 2015. |
| **Poultry Fees** | | | | | |
| **7 CFR Part 56—Voluntary Grading of Shell Eggs**<br>Subpart A—Grading of Shell Eggs; §§ 56.45–56.54 Fees and Charges | | | | | |
| **7 CFR Part 70—Voluntary Grading of Poultry and Rabbit Products** | | | | | |

2015 RATES—Continued

| | | | | | |
|---|---|---|---|---|---|
| Subpart A—Grading of Poultry and Rabbit Products; §§ 70.70–70.78 Fees and Charges | | | | | |
| Resident Service (in-plant) | [2] $42.68 | [2] $47.16 | [2] $67.28 | X | Oct 1, 2015. |
| Resident, Night Differential (6 p.m.–6 a.m.) | [2] 45.16 | [2] 49.60 | [2] 69.76 | X | Oct 1, 2015. |
| Resident, Sunday Differential | [2] 48.80 | [2] 53.28 | N/A | X | Oct 1, 2015. |
| Resident, Sunday and Night Differential | [2] 51.28 | [2] 55.76 | N/A | X | Oct 1, 2015. |
| Fee Service (non-scheduled) | 77.28 | 93.24 | 115.89 | ..... | Oct 1, 2015. |
| Audit Service | 89.20 | 116.08 | 139.89 | ..... | Oct 1, 2015. |
| **Science and Technology Fees** | | | | | |
| **7 CFR Part 91—Services and General Information (Science and Technology)** Subpart I—Fees and Charges; §§ 91.37—91.45 | | | | | |
| Laboratory Testing Services | $88.00 | $103.00 | $118.00 | ..... | Oct 1, 2015. |
| Laboratory Approval Services [3] | 136.00 | 163.00 | 191.00 | X | Jan 1, 2016. |
| **Tobacco Fees** | | | | | |
| **7 CFR Part 29—Tobacco Inspection** Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets; Subpart B—Regulations; §§ 29.123–29.129 Fees and Charges; § 29.500 Fees and charges for inspection and acceptance of imported tobacco Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Non-quota Tobacco Produced and Marketed in Quota Area; § 29.9251 Fees and Charges | | | | | |
| Domestic Permissive Inspection and Certification (re-grading of domestic tobacco for processing plants, retesting of imported tobacco, and grading tobacco for research stations.). | $47.40 | $53.70 | $64.45 | ..... | June 1, 2015. |
| Export Permissive Inspection and Certification (grading of domestic tobacco for manufacturers and dealers for duty drawback consideration). | $0.0025/pound | | | X | June 1, 2015. |
| Grading for Risk Management Agency (for Tobacco Crop Insurance Quality Adjustment determinations). | $0.01/pound | | | X | June 1, 2015. |
| Pesticide Test Sampling (collection of certified tobacco sample and shipment to AMS National Science Laboratory for testing). | $0.0054/kg or $0.0025/pound | | | X | June 1, 2015. |
| Pesticide Retest Sampling (collection of certified tobacco sample from a previously sampled lot for re-testing at the AMS National Science Laboratory; fee includes shipping). | $115.00/sample and $47.40/hour | | | X | June 1, 2015. |
| Standards Course (training by USDA-certified instructor on tobacco grading procedures). | $1,200.00/person | | | ..... | June 1, 2015. |
| Import Inspection and Certification (grading of imported tobacco for manufacturers and dealers). | $0.0154/kg or $0.0070/pound | | | X | June 1, 2015. |

[1] Travel costs outside the United States will be added to the fee, if applicable.
[2] Administrative charges are applied in addition to hourly rates for resident service as specified in Part 56, Subpart A, § 56.52(a)(4); Part 56, Subpart A, § 56.54(a)(2); Part 70, Subpart A, § 70.76(a)(2); Part 70, Subpart A, § 70.77(a)(4) and Part 70, Subpart A, § 70.77(a)(5).
[3] Travel costs outside the United States will be added to the fee, if applicable.

**Authority:** 7 U.S.C. 15b; 7 U.S.C. 473a–b; 7 U.S.C. 55 and 61; 7 U.S.C. 51–65; 7 U.S.C. 471–476; 7 U.S.C. 511, 511s; and 7 U.S.C. 1621–1627.

Dated: April 6, 2015.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2015–08162 Filed 4–8–15; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities: Proposed Collection; Comment Request—School Breakfast Program

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This collection is a revision of a currently approved collection which FNS employs to determine public participation in the School Breakfast Program.

**DATES:** Written comments must be received on or before June 8, 2015.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Lynn Rodgers-Kuperman, Branch Chief, Program Monitoring, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, VA 22302–1594. Comments may also be submitted via fax to the attention of Lynn Rodgers-Kuperman at 703–305–2879 or via email to *lynn.rodgers@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this information collection should be directed to Lynn Rodgers at 703–305–2595.

**SUPPLEMENTARY INFORMATION:**

*Title:* 7 CFR part 220, School Breakfast Program.

*OMB Number:* 0584–0012.

*Expiration Date:* August 31, 2015.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* Section 4 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1773) authorizes the School Breakfast Program (SBP) as a nutrition assistance program and authorizes payments to the States to assist them to initiate, maintain, or expand nonprofit breakfast programs in schools. The provision requires that ''Breakfasts served by schools participating in the School Breakfast Program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.'' This information collection is required to administer and operate this program in accordance with the NSLA (National School Lunch Act). The Program is administered at the State and school food authority (SFA) levels and operations include the submission of applications and agreements, submission and payment of claims, and maintenance of records. The reporting and recordkeeping burden associated with this revision is summarized in the charts below. The difference in burden is mainly due to adjustments, such as the removal of duplicate burden and an increase in schools participating. All of the reporting and recordkeeping requirements associated with the SBP are currently approved by the Office of Management and Budget and are in force. This is a revision of the currently approved information collection.

*Affected Public:* (1) State agencies; (2) School Food Authorities; and (3) schools.

*Number of Respondents:* 110,270 (56 SAs; 20,386 SFAs; 89,828 schools).

*Number of Responses per Respondent:* 10.017493.

*Total Annual Responses:* 1,104,629.

*Reporting time per Response:* 0.226043.

*Estimated Annual Reporting Burden:* 249,694.

*Number of Recordkeepers:* 110,270 (56 SAs; 20,386 SFAs; 89,828 schools).

*Number of Records per Record Keeper:* 295.1368.

*Estimated total Number of Records/ Response to Keep:* 32,544,740.

*Recordkeeping time per Response:* 0.109837.

*Total Estimated Recordkeeping Burden:* 3,574,613.

*Annual Recordkeeping and Reporting Burden:* 3,824,307.

*Current OMB Inventory for Part 220:* 3,924,902.

*Difference (change in burden with this renewal):* (100,595).

See the table below for estimated total annual burden for each type of respondent.

| Affected Public | Est. number of respondents | Est. frequency of responses per respondent | Total annual responses | Est. total hours per response | Est. total burden |
|---|---|---|---|---|---|
| **Reporting** | | | | | |
| State agencies | 56 | 36.3393 | 2,035 | 0.2757 | 561 |
| School Food Authorities | 20,386 | 10.022270 | 204,314 | 0.99954 | 204,219 |
| Schools | 89,828 | 10 | 898,280 | 0.05 | 44,914 |
| Total Estimated Reporting Burden | 110,270 | 10.017493 | 1,104,629 | 0.226043 | 249,694 |
| **Recordkeeping** | | | | | |
| State agencies | 56 | 50 | 2,800 | 0.17976 | 503 |
| School Food Authorities | 20,386 | 10 | 203,860 | 0.083 | 16,920 |

| Affected Public | Est. number of respondents | Est. frequency of responses per respondent | Total annual responses | Est. total hours per response | Est. total burden |
|---|---|---|---|---|---|
| Schools | 89,828 | 360 | 32,338,080 | 0.110 | 3,557,189 |
| Total Estimated Recordkeeping Burden | 110,270 | 295.1368 | 32,544,740 | 0.109837 | 3,574,613 |
| **Total of Reporting and Recordkeeping** | | | | | |
| Reporting | 110,270 | 10.017 | 1,104,629 | 0.226 | 249,694 |
| Recordkeeping | 110,270 | 295.137 | 32,544,740 | 0.109837 | 3,574,613 |
| Total | | | 33,649,369 | | 3,824,307 |

Dated: April 3, 2015.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2015–08091 Filed 4–8–15; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities; Proposed Collection; Comment Request; Supplemental Nutrition Assistance Program, Request for Administrative Review; Food Retailers and Wholesalers

**AGENCY:** Food and Nutrition Service, FNS, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved collection for SNAP, Request for Administrative Review.

**DATES:** Written comments must be received on or before June 8, 2015.

**ADDRESSES:** Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Shanta Swezy, Branch Chief, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 418, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Shanta Swezy at (703) 305–1863 or via email to *rpmdhq-web@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov*, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office and Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Shanta Swezy, (703) 305–2238.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Administrative Review.

*OMB Number:* 0584–0520.

*Expiration Date:* September 30, 2015.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Supplemental Nutrition Assistance Program (SNAP). The Food and Nutrition Act of 2008, as amended, (7 U.S.C. 2011–2036) requires that FNS determine the eligibility of retail food stores and certain food service organizations in order to participate in SNAP. If a food retailer or wholesale food concern is aggrieved by certain administrative action by FNS, that store has the right to file a written request for review of the administrative action with FNS.

*Affected Public:* Business-for-profit: Retail food stores and wholesale food concerns.

*Estimated Number of Respondents:* 1,457.

*Number of Responses per Respondent:* 1.2.

*Estimated Total Annual Response per Respondent:* 1,748.4.

*Estimated Time per Response:* Public reporting burden for this collection of information is estimated to average 0.17 of an hour per response.

*Estimated Total Annual Burden on Respondents:* 297.00 hours.

Dated: April 6, 2015.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2015–08153 Filed 4–8–15; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; National Woodland Owner Survey

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the reinstatement with change for the information collection, National Woodland Owner Survey (NWOS).

**DATES:** Comments must be received in writing on or June 8, 2015 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to Brett Butler, USDA Forest Service, Northern Research Station, 160 Holdsworth Way, Amherst, MA 01003.

Comments also may be submitted via facsimile to 413–545–1860 or by email to *bbutler01@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do

not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at Northern Research Station during normal business hours. Visitors are encouraged to call ahead to 413–545–1387 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *bbutler01@fs.fed.us.*

**FOR FURTHER INFORMATION CONTACT:** Brett Butler, by phone at 413–545–1387. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* National Woodland Owner Survey

*OMB Number:* 0596–0078

*Type of Request:* Reinstatement with change

*Abstract:* There are an estimated 831 million acres of forest and other wooded land across the United States. Of this forest and other wooded land, 58 percent is owned by millions of corporations, families, individuals, tribes, and other private groups with the remaining 42 percent owned by over a thousand different Federal, State, and local government agencies. Understanding the attitudes and behaviors of the owners and managers of the forest and other wooded land is critical for understanding the current and future state of the nation's forests. The Forest Service conducts the NWOS to increase our understanding of:

- Who owns and manages the forest and other wooded lands of the United States;
- Why they own/manage it;
- How they have used it; and
- How they intend to use it.

This information is used by policy analysts, foresters, educators, and researchers to facilitate the planning and implementation of forest policies and programs.

The Forest Service's direction and authority to conduct the NWOS is from the Forest and Range Land Renewable Resources Planning Act of 1974 and the Forest and Range Land Renewable Resources Act of 1978. These Acts assign responsibility for the inventory and assessment of forest and related renewable resources to the Forest Service. Additionally, the importance of an ownership survey in this inventory and assessment process is highlighted in section 253(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 and the recommendations of the Second Blue Ribbon Panel on the Forest Inventory and Analysis program (FIA).

Previous iterations of the NWOS were conducted in 1978, 1993, 2002–2006, and 2011–2013. Approval for the last iteration of the NWOS expired on August 31, 2013. As planned, approval for the information collection was allowed to lapse after 2013 to permit a full assessment of the program that has now been completed. If reinstated, the NWOS will operate for another 3-year cycle.

Information will be collected related to:

- The characteristics of the land holdings;
- Attitudes and perceptions of the owners and managers;
- Resource uses and management activities; and
- Where applicable, landowner demographics.

Separate survey instruments are being developed for families and individuals, corporate, and public ownerships. In addition, the owners in urban areas will be sent a different survey instrument. For the families and individuals, the dominant ownership group of forest and other wooded land, a subset of ownerships will be sent survey instruments addressing the following topics, in addition to the core questions from the base survey instrument:

- Climate change;
- Wildfires;
- Invasive species;
- Land owner values; and
- Decision making.

The NWOS provides widely cited benchmarks for the number, extent, and characteristics of owners of forest and other wooded land in the United States. These results have been used to assess the sustainability of forest resources at national, regional, and State levels; to implement and assess forest-land owner assistance programs; and to answer a variety of questions with topics ranging from fragmentation to the economics of timber production. This is the only effort to collect in-depth information about owners of forest and other wooded land at the national scale. It provides longitudinal data to track ownership trends and broad spatial data to allow for comparisons across regions of the country.

The respondents will be a statistically selected group of individuals, families, American Indian tribes, partnerships, corporations, nonprofit organizations, and other private groups that own forest and other wooded land in the United States in addition to a statistically selected group of Federal, State, and local government agencies that manage forest and other wooded land. A well distributed, random set of sampling points has been established across the country. At each point, remotely sensed data, such as aerial photographs or satellite imagery, will be used to identify forested/wooded points. For the forested/wooded points, public records will be used to identify the owners on record—the names and addresses of the landowners we will contact. The number of owners of forest and other wooded land to be contacted in each State will be a function of the number of owners of forest and other wooded land and the sampling intensity.

The NWOS will utilize a mixed-mode survey technique involving cognitive interviews, focus groups, self-administered questionnaires, and telephone interviews. Cognitive interviews will be used to test the questionnaires. Focus groups will be used to provide more in-depth understanding of the responses and to explore new areas of inquiry.

The implementation of the self-administered survey will involve up to four contacts. First, a pre-notice postcard will be sent to all potential respondents describing this information collection and why the information is being collected. Second, a questionnaire with a cover letter and pre-paid return envelope will be sent to the potential respondents. The cover letter will reiterate the purpose of this information collection and provide the respondents with all legally required information. Third, a reminder will be mailed to thank the respondents and encourage the non-respondents to reply. Those who have yet to respond will be sent a new questionnaire, cover letter, and pre-paid return envelope. Telephone interviews will be used for follow-up with non-respondents. For corporations and public agencies, the primary survey instrument will be electronic, and for all other owners, the primary survey instrument will be paper forms with the

option for completing the survey electronically online.

Forest Service researchers will coordinate all components of this information collection. Forest Service personnel with assistance provided by contractors and cooperators, such as university researchers, will conduct the mail portion of the survey, cognitive interviews, and focus groups. The U.S. Department of Agriculture, National Agricultural Statistics Service will conduct the telephone follow-ups. Data will be compiled and edited by Forest Service personnel with assistance provided by contractors and cooperators as appropriate. Forest Service researchers and cooperators will analyze the collected data. National, regional, and State-level results will be distributed through print and/or electronic media.

This information collection will generate scientifically-based, statically-reliable, up-to-date information about the owners of forest and other wooded land in the United States. The results of these efforts will provide more reliable information on this important and dynamic segment of the United States population; thus facilitating more complete assessments of the country's forest and other wooded land resources and improved planning and implementation of forestry programs on state, regional, and national levels.

*Affected Public:* Individuals and Households, the Private Sector (Businesses and Non-Profit Organizations, and/or State, Local or Tribal Government.

*Estimate of Burden per Response:* 25 minutes for families, individuals, and other private groups with small holdings; 30 minutes for corporations with large holdings; 15 minutes for public agencies.

*Estimated Annual Number of Respondents:* 7,925

*Estimated Annual Number of Responses per Respondent:* 1

*Estimated Total Annual Burden on Respondents:* 3,726

*Comment is Invited:*

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: April 2, 2015.

**Carlos Rodriguez-Franco,**

*Associate Deputy Chief, Research & Development.*

[FR Doc. 2015–08134 Filed 4–8–15; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Understanding Value Trade-offs Regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, Understanding Value Trade-offs regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface.

**DATES:** Comments must be received in writing on or before June 8, 2015 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to José Sánchez, USDA Forest Service, Pacific Southwest Research Station, 4955 Canyon Crest Drive, Riverside, California 92507.

Comments may also be submitted via facsimile to 951–680–1501, or by email to *jsanchez@fs.fed.us*.

The public may inspect comments received at the Pacific Southwest Research Station, during normal business hours. Visitors are encouraged to call ahead to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** José Sánchez, by phone at 951–680–1560. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Understanding Value Trade-offs regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface.

*OMB Number:* 0596–0189.

*Expiration Date of Approval:* August 31, 2015.

*Type of Request:* Extension with revision.

*Abstract:* Forest Service and university researchers will contact recipients of a phone-mail-phone questionnaire and/or online questionnaire to help forest and fire managers understand value trade-offs regarding fire hazard reduction programs in the wildland-urban interface. Through those contacts, researchers will evaluate the responses of Arizona, Colorado, New Mexico, and Texas residents to different scenarios related to fire-hazard reduction programs, determine how effective residents think the programs are, and calculate how much residents would be willing to pay to implement the alternatives presented to them. This information will help researchers provide better information to natural resource, forest, and fire managers when they are contemplating the kind and type of fire-hazard reduction program to implement to achieve forestland management planning objectives.

A random sample of residents are contacted via random-digit dialed telephone calls and asked to participate in the research study and type of questionnaire (paper or online versions). Those agreeing to participate then answer a minimal set of questions to determine pre-existing knowledge of fuels reduction treatments and provide a mailing address, as well as agreeing to a date and time for an in-depth interview related to the mail questionnaire or to provide email address where to send them a link for an online questionnaire. After completion of the in-depth interview or online questionnaire, no further contact with the participants will occur.

A university research-survey center collects the information for mail/online questionnaires. A Forest Service researcher and collaborators at a cooperating university analyze the data collected. Both researchers are experienced in applied economic non-market valuation research and survey research methods.

The Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, as well as many State agencies

with fire protection responsibilities will benefit from this information collection.

At present the Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish & Wildlife Service, and many State agencies with fire protection responsibilities continue an ambitious and costly fuels reduction program for fire risk reduction and will benefit from public opinion on which treatments are most effective or desirable.

*Estimate of Annual Burden:* 40 minutes.

*Type of Respondents:* Members of the public.

*Estimated Annual Number of Respondents:* 1,334.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 659 hours.

**Comment Is Invited**

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: April 2, 2015.

**Carlos Rodriguez-Franco,**

*Associate Deputy Chief, Research & Development.*

[FR Doc. 2015–08128 Filed 4–8–15; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Mississippi Advisory Committee for a Meeting To Hear Testimony on Civil Rights Concerns Relating to Distribution of Federal Child Care Subsidies in Mississippi

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

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Mississippi Advisory Committee (Committee) will hold a meeting on Wednesday, April 29, 2015, at 1:30 p.m. CST for the purpose of hearing testimony on civil rights concerns relating to potential disparities in the distribution of federal child care subsidies in Mississippi on the basis of race or color. The committee previously approved a project proposal on the topic in February and plan to hold the public meeting and gather more testimony on the topic May 13, 2015, in Jackson, MS. The testimony heard during this meeting will be preliminary testimony primarily from academics and national experts to provide background to the Committee on the issues.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–359–3627, conference ID: 5121265. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also invited and welcomed to make statements at the end of the conference call. In addition, members of the public may submit written comments; the comments must be received in the regional office by May 29, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Administrative Assistant, Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records and documents discussed during the meeting for public viewing prior to the meeting and will be available at *http://facadatabase.gov/committee/meetings.aspx?cid=257* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda:

Welcome and Introductions
1:30 p.m. to 1:35 p.m.
Susan Glisson, Chair
Panel Presentations on Childcare Subsidies in MS
1:35 p.m. to 2:30 p.m.
Question and Answer Session with MS Advisory Committee
2:30 p.m. to 2:50 p.m.
Open Comment
2:50 p.m. to 3:00 p.m.
Adjournment
3:00 p.m.

**DATES:** The meeting will be held on Wednesday, April 29, 2015, at 1:30 p.m. CST.

Public Call Information:

Dial: 888–359–3627
Conference ID: 5121265

Dated: April 3, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–08096 Filed 4–8–15; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of National Advisory Council on Innovation and Entrepreneurship Meeting

**AGENCY:** Economic Development Administration, Commerce.

**ACTION:** Notice of an Open Meeting.

**SUMMARY:** The National Advisory Council on Innovation and

Entrepreneurship (NACIE) will hold a teleconference meeting on Wednesday, April 29, 2015, 2:00—3:00 p.m. Eastern Daylight Time (EDT) and will be open to the public. During this time, members will discuss and vote potential committee initiatives on innovation, entrepreneurship, and workforce/talent. The meeting will take place via teleconference.

**DATES:** Wednesday, April 29, 2015, Time: 2:00–3:00 p.m. EDT.

**ADDRESSES:** N/A, Teleconference, Dial-In: 1–877–950–4778, Passcode: 4423486.

**SUPPLEMENTARY INFORMATION:** The Council was chartered on November 10, 2009 to advise the Secretary of Commerce on matters related to innovation and entrepreneurship in the United States. NACIE's overarching focus is recommending transformational policies to the Secretary that will help U.S. communities, businesses, and the workforce become more globally competitive. The Council operates as an independent entity within the Office of Innovation and Entrepreneurship (OIE), which is housed within the U.S. Commerce Department's Economic Development Administration. NACIE members are a diverse and dynamic group of successful entrepreneurs, innovators, and investors, as well as leaders from nonprofit organizations and academia.

The purpose of this meeting is to discuss the Council's planned work initiatives in three focus areas: workforce/talent, entrepreneurship, and innovation. The final agenda will be posted on the NACIE Web site at *http://www.eda.gov/oie/nacie/* prior to the meeting. Any member of the public may submit pertinent questions and comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to the Office of Innovation and Entrepreneurship at the contact information below. Those unable to attend the meetings in person but wishing to listen to the proceedings can do so through a conference call line 1–888–603–9742, passcode: 1962840. Copies of the meeting minutes will be available by request within 90 days of the meeting date.

**FOR FURTHER INFORMATION CONTACT:** Julie Lenzer Kirk, Office of Innovation and Entrepreneurship, Room 70003, 1401 Constitution Avenue NW., Washington, DC 20230; email: *NACIE@doc.gov*; telephone: 202–482–8001; fax: 202–273–4781. Please reference ''NACIE April 29 Meeting'' in the subject line of your correspondence.

Dated: April 3, 2016.

**Julie Lenzer Kirk,**

*Director, Office of Innovation and Entrepreneurship.*

[FR Doc. 2015–08144 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–801]**

### Solid Urea From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on solid urea from the Russian Federation (Russia). The period of review (POR) is July 1, 2013, through June 30, 2014. The review covers one producer/exporter of the subject merchandise, MCC EuroChem (EuroChem). We preliminarily find that EuroChem has not sold subject merchandise at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* April 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Michael Romani or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–1690, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Scope of the Order

The merchandise subject to the order is solid urea. The product is currently classified under the Harmonized Tariff Schedules of the United States (HTSUS) item number 3102.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

#### Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[2] ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 0.00 percent exists for EuroChem for the period July 1, 2013, through June 30, 2014.

#### Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of

[1] *See* memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Solid Urea from the Russian Federation'' dated concurrently with this notice (Preliminary Decision Memorandum), which is hereby adopted by this notice.

[2] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[3] *See* 19 CFR 351.309(d).

the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[5] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. If EuroChem's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). If EuroChem's weighted-average dumping margin continues to be zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [6]

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[7] This clarification will apply to entries of subject merchandise during the POR produced by EuroChem for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate of 64.93 percent [8] if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

**Cash Deposit Requirements**

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of solid urea from Russia entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for EuroChem will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise for the most recently completed segment of this proceeding; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 64.93 percent.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 2, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Preliminary Decision Memorandum**

A. Summary
B. Background
C. Scope of the Order
D. Comparisons to Normal Value
  1. Determination of Comparison Method
  2. Results of the Differential Pricing Analysis
E. Product Comparisons
F. Date of Sale
G. Constructed Export Price
H. Normal Value
  1. Home Market Viability as Comparison Market
  2. Level of Trade
  3. Calculation of Normal Value Based on Comparison Market Prices
I. Currency Conversion Recommendation

[FR Doc. 2015–08207 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–601]**

### Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Notice of Final Results of Changed Circumstances Review

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

**SUMMARY:** On November 21, 2014, the Department of Commerce (the Department) published the preliminary results of the changed circumstances review (CCR) of the antidumping duty (AD) order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC).[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* For these final results, as in the *Preliminary Results,* we determine that: (1) Shanghai General Bearing Co., Ltd. (SGBC/SKF) is the successor-in-interest to a company of the same name (hereinafter known as SGBC), a producer/exporter of TRBs revoked from

[4] *Id.,* and 19 CFR 351.303 (for general filing requirements).

[5] *See* 19 CFR 351.310(c).

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[7] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[8] The all-others rate established in *Urea From the Union of Soviet Socialist Republics; Final Determination of Sales at Less Than Fair Value,* 52 FR 19557 (May 26, 1987).

[9] *Id.*

[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Notice of Preliminary Results of Changed Circumstances Review and Extension of the Final Results,* 79 FR 69424 (November 21, 2014) (*Preliminary Results*).

the AD order on TRBs from the PRC in 1997; [2] and (2) merchandise from SGBC/SKF is not subject to the AD order on TRBs from the PRC.

**DATES:** *Effective:* August 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Stephen Banea, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0656.

**SUPPLEMENTARY INFORMATION:**

## Background

On June 15, 1987, the Department published in the **Federal Register** the AD order on TRBs from the PRC.[3] On February 11, 1997, the Department revoked the order on TRBs from the PRC with respect to merchandise produced and exported by SGBC, effective as of June 1, 1994.[4]

Effective August 1, 2012, the majority shareholder of SGBC merged with AB SKF (SKF) and, as a result of the merger, SGBC became part of the SKF Group. On February 13, 2013, SGBC/SKF requested that the Department conduct a CCR pursuant to 19 CFR 351.221(c)(3)(ii) to determine whether it is the successor-in-interest to SGBC as it existed prior to its affiliation with SKF, and on June 28, 2013, the Department published in the **Federal Register** a notice initiating a CCR to address this question.[5]

On November 21, 2014, the Department published in the **Federal Register** the notice of preliminary results of this CCR.[6] In the *Preliminary Results,* we provided all interested parties with an opportunity to comment and request a public hearing regarding our preliminary finding that SGBC/SKF is the successor-in-interest to SGBC; at that time, we also extended the final results in this CCR.[7]

On December 12, 2014, SGBC/SKF and Stemco LP (Stemco), a U.S. manufacturer and importer of TRBs from the PRC, submitted case briefs. On December 19, 2014, SGBC/SKF submitted a rebuttal brief. On January 16, 2015, the Department held a public hearing at the request of Stemco. On January 29, 2015, we extended the final results in this CCR to no later than April 1, 2015.[8]

## Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.0050, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115 and, 8708.99.8180. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this CCR are addressed in the Issues and Decision Memorandum,[9] which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's AD and Countervailing Duty (CVD) Centralized Electronic Service System (ACCESS).[10] ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Issues and Decision Memorandum on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

## Final Results of Changed Circumstances Review

In the *Preliminary Results,* we found SGBC/SKF to be the successor-in-interest to SGBC because the information on the record indicated that SGBC/SKF continued to operate as essentially the same entity that was effectively revoked from the order as of June 1, 1994. In reaching this determination, we considered changes in SGBC's operations covering the period from revocation through August 1, 2012, with respect to several factors, including the following: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. After analyzing the comments received, and for the reasons stated in the *Preliminary Results* and discussed further in the Issues and Decision Memorandum, we continue to find that SGBC/SKF is the successor-in-interest to SGBC. As a result of this determination, we find that SGBC/SKF is entitled to SGBC's revoked status. Consequently, the Department will apply this determination retroactively and will instruct U.S. Customs and Border Protection to liquidate, without regard to antidumping duties, all unliquidated entries entered, or withdrawn from warehouse on or after August 1, 2012, the date of SGBC/SKF's accession into the SKF Group, in accordance with past practice.[11]

## Notification

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or

[2] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order,* 62 FR 6189 (February 11, 1997) (*SGBC Revocation*).

[3] *See Antidumping Duty Order: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China,* 52 FR 22667 (June 15, 1987).

[4] *See SGBC Revocation,* 62 FR at 6214.

[5] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review,* 78 FR 38943 (June 28, 2013).

[6] *See Preliminary Results,* 79 FR at 69424–25.

[7] *Id.* at 69425.

[8] *See* letter from Irene Darzenta Tzafolias, Acting Director, Office II, AD/CVD Operations, to SGBC/SKF, dated January 29, 2015.

[9] *See* the memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance entitled, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Changed Circumstances Review Requested by Shanghai General Bearing Co, Ltd.: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China,'' dated concurrently with this notice (Issues and Decision Memorandum).

[10] On November 24, 2014, Enforcement and Compliance changed the name of the Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.*

The final rule changing the references in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

[11] *See, e.g., Stainless Steel Wire Rod from Italy: Notice of Final Results of Changed Circumstances Antidumping Duty Review,* 71 FR 24643 (April 26, 2006) (where the Department applied the changed circumstances determination retroactively because the company in question was excluded from the AD order).

destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(b)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: April 1, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

**List of Topics Discussed in the Issues and Decision Memorandum**

Summary
Background
Scope of the Order
Discussion of the Issues
1. The Time Period Examined
2. Whether the Department Should Distinguish Between Incremental vs. Rapid Changes
3. Changes to the Four Factors Considered in Successor-in-Interest Determinations Recommendation

[FR Doc. 2015–08222 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–405–803]**

### Purified Carboxymethylcellulose From Finland; Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

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

**SUMMARY:** In response to a request from Ashland Specialty Ingredients, a division of Hercules Inc., (Petitioner), and CP Kelco Oy (CP Kelco), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Finland. The period of review (POR) is July 1, 2013, through June 30, 2014. The review covers one respondent, CP Kelco. We preliminarily find that sales of the subject merchandise by CP Kelco have not been made at prices below normal value (NV) during the POR. We invite interested parties to comment on these preliminary results.

**DATES:** *Effective Date:* April 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4475 or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

### Scope of the Order

The merchandise covered by the order is all purified CMC, sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00.[1]

### Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

### Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margin for the period July 1, 2013, through June 30, 2014.

| Exporter/manufacturer | Margin (percent) |
|---|---|
| CP Kelco Oy | 0.00 |

### Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4] Case and rebuttal briefs should be filed using ACCESS.[5] An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the date the document is due.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by the Departments electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[6] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any

[1] For a full description of the scope of the order, *see* the memorandum from Gary Taverman, Associate Deputy Assistant Secretary Enforcement & Compliance, to Paul Piquado, Assistant Secretary for Enforcement & Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Purified Carboxymethylcellulose from Finland'' (Preliminary Decision Memorandum), which is dated concurrently with this notice, and is hereby incorporated by reference. A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix I of this notice.

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.309(c)(2) and (d)(2).

[5] *See* 19 CFR 351.303.

[6] *See* 19 CFR 351.310(c).

written briefs, within 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If CP Kelco's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). If CP Kelco's weighted-average dumping margin is zero or *de minimis* in the final results of review, or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to dumping margins.[7]

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[8] This clarification will apply to entries of subject merchandise during the POR produced by CP Kelco for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

**Cash Deposit Requirements**

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for CP Kelco Oy will be the rate established in the final results of this administrative review except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.65 percent, the all-others rate established in the less-than-fair-value investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 2, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement & Compliance.*

## Appendix I

**List of Topics Discussed in the Preliminary Decision Memorandum**

Summary
Background
Scope of The Order
Methodology
  Fair Value Comparisons
  Product Comparisons
  Determination of Comparison Margins
  Results of Differential Pricing Analysis
  Date of Sale
  U.S. Price
  Export Price
  Constructed Export Price
  U.S. Sample Sales
  Normal Value
  Home Market Viability as Comparison Market
  Calculation of NV Based On Comparison Market Prices
  Home Market Sample Sales
  Cost of Production Analysis
  Level of Trade Analysis
  CEP Offset
  Calculation of Normal Value Based on Constructed Value
  Currency Conversion
Conclusion

[FR Doc. 2015–08210 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[8] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden,* 70 FR 39734 (July 11, 2005).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–827]**

### Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review

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

**SUMMARY:** On February 26, 2015, the Department of Commerce (the Department) published the notice of initiation and the preliminary results of the changed circumstances review (CCR) of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC), in which the Department preliminarily determined that Beijing FILA Dixon Stationery Co., Ltd.[1] (Beijing Dixon), as currently structured under its new business license, is the successor-in-interest to Beijing Dixon.[2] For these final results, the Department continues to find that Beijing Dixon is the successor-in-interest to Beijing Dixon as that entity existed at the time the Department revoked the order [3] with respect to Beijing Dixon.[4] Accordingly, the *Revocation* of the antidumping duty *Order* with respect to Beijing Dixon continues to apply to Beijing Dixon as currenly structured.

**DATES:** *Effective:* April 9, 2015.

[1] A/k/a Beijing Dixon Ticonderoga Stationery Company, Ltd., and Beijing Dixon Stationery Company.

[2] *See Certain Cased Pencils from the People's Republic of China: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 80 FR 10457 (February 26, 2015) (*Preliminary Results*) and accompanying memorandum, ''Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China: Decision Memorandum for Preliminary Results of Antidumping Duty Changed Circumstances Review Requested by the Dixon Ticonderoga Companies'' dated February 18, 2015 (Preliminary Decision Memorandum).

[3] *See Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China,* 59 FR 66909 (December 28, 1994) *(Order).*

[4] *See Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part; 2010–2011,* 78 FR 42932 (July 18, 2013) (*Revocation*) and accompanying issues and decision memorandum (IDM).

**FOR FURTHER INFORMATION CONTACT:** Sergio Balbontin, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6478.

**SUPPLEMENTARY INFORMATION:**

## Background

On December 28, 1994, the Department published the *Order* on pencils from the PRC.[5] On July 18, 2013, the Department revoked the *Order* on pencils from the PRC with respect to pencils exported by Beijing Dixon.[6]

On November 27, 2014, Beijing Dixon requsted that the Department conduct a CCR pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.221, to determine whether it is the successor-in-interest to Beijing Dixon for purposes of the Order.[7] On February 26, 2015, the Department concurrently initiated and published the *Preliminary Results* of the CCR of the antidumping duty *Order* on pencils exported by Beijing Dixon.[8] We invited comments from interested parties, but no party commented on the *Preliminary Results* or requested a hearing. This CCR is being conducted in accordance with section pursuant to section 751(b) of the Act, 19 CFR 351.216, and 19 CFR 351.221(c)(3).

## Scope of the Order

The merchandise subject to the order includes pencils from the PRC. Pencils are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.1010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.[9]

## Final Results of Changed Circumstances Review

Because no interested parties submitted comments on the Department's *Preliminary Results,* and because there is no other information or evidence on the record that calls into question the *Preliminary Results,* the Department adopts the reasoning and findings of fact outlined in the *Prelilminary Results* and Preliminary Decision Memorandum, and determines that Beijing Dixon is the successor-in-interest to Beijing Dixon at the time of the *Revocation*.[10]

## Application of the Revocation of the Order

As explained in the *Preliminary Resuts* and the Preliminary Decision Memorandum, the *Revocation* of the antidumping duty *Order* with respect to Beijing Dixon, as that entity existed at the time of *Revocation,* continues to apply to Beijing Dixon as currenly structured.

## Instructions to U.S. Customs and Border Protection

As a result of this determination, the Department finds that entries of subject merchandise exported by Beijing Dixon as currently structured should receive the same antidumping duty treatment with respect to cased pencils as its predecessor-in-interest. Accordingly, the Department will continue to instruct U.S. Customs and Border Protection to liquidate entries for Beijing Dixon without regard to antidumping duties.

## Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. *See* 19 CFR 351.305(a)(3). Failure to comply with the regulations and the terms of an APO is a sanctionable violation. *See* 19 CFR part 354.

These final results of administrative review are issued and published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(e).

Dated: April 3, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–08221 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[5] *See Order.*

[6] *See Revocation* and accompanying IDM.

[7] *See* letter from Beijing Dixon to the Department dated November 27, 2014, ''Request for Changed Circumstances Review pursuant to 19 CFR 351.216 on behalf of Dixon Ticonderoga Company.''

[8] *See Prelilminary Results* and Preliminary Decision Memorandum.

[9] For a complete description of the scope of the *Order, see* Preliminary Decision Memorandum at 4.

[10] *See Preliminary Results,* 80 FR at 10457.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Pacific Islands Region Coral Reef Ecosystems Permit Form

**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 June 8, 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 Walter Ikehara, (808) 725–5175 or *Walter.Ikehara@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This request is for extension of a current information collection.

National Marine Fisheries Service (NMFS) requires, as codified under 50 CFR part 665, any person (1) fishing for, taking, retaining, or using a vessel to fish for Western Pacific coral reef ecosystem management unit species in the designated low-use Marine Protected Areas, (2) fishing for any of these species using gear not specifically allowed in the regulations, or (3) fishing for, taking, or retaining any Potentially Harvested Coral Reef Taxa in the coral reef ecosystem regulatory area, to obtain and carry a permit. A receiving vessel owner must also have a transshipment permit for at-sea transshipment of coral reef ecosystem management unit species. The permit application form provides basic information about the permit applicant, vessel, fishing gear and method, target species, projected fishing effort, *etc.,* for use by NMFS and the Western Pacific Fishery Management Council in determining eligibility for permit issuance. The

information is important for understanding the nature of the fishery and provides a link to participants. It also aids in the enforcement of Fishery Ecosystem Plan measures.

**II. Method of Collection**

Information is submitted to NMFS, in the form of paper permit application forms.

**III. Data**

*OMB Number:* 0648–0463.

*Form Number:* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Business or other for-profit organizations; individuals or households.

*Estimated Number of Respondents:* 12.

*Estimated Time per Response:* 2 hours per special permit application, 10 minutes per transshipment permit.

*Estimated Total Annual Burden Hours:* 31.

*Estimated Total Annual Cost to Public:* $100 in recordkeeping/reporting costs.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 3, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–08094 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD892**

### Mid-Atlantic Fishery Management Council (MAFMC); Fisheries of the Northeastern United States; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) River Herring and Shad (RH/S) Advisory Panel (AP) will meet to develop recommendations for the 2016–18 RH/S Cap on the Atlantic mackerel fishery and provide general input on RH/S conservation.

**DATES:** The meeting will be Friday, April 24, 2015 at 10:30 a.m.

**ADDRESSES:** The meeting will be held via webinar, but anyone can also attend at the Council office address (see below). The webinar link is: *http://mafmc.adobeconnect.com/2015rhsap/.* Please call the Council at least 24 hours in advance if you wish to attend at the Council office.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on webinar access and any background materials.

**SUPPLEMENTARY INFORMATION:** The Council's River Herring and Shad (RH/S) Advisory Panel (AP) will meet to develop recommendations for the 2016–18 RH/S Cap on the Atlantic mackerel fishery and provide general input on RH/S conservation. There will also be time for public questions and comments. The Council will utilize the input from the RH/S AP at the June 2015 Council meeting when setting the 2016–18 RH/S Cap on the Atlantic mackerel fishery and discussing RH/S conservation.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: April 6, 2015.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2015–08173 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Permitting, Vessel Identification, and Reporting Requirements for the Pelagic Squid Jig Fishery in the Western Pacific Region

**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 June 8, 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 Walter Ikehara, (808) 725–5175 or *Walter.Ikehara@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This request is for extension of a currently approved information collection.

Federal regulations at Title 50, Part 665, of the Code of Federal Regulations require that owners of vessels fishing for, or landing, pelagic squid in the western Pacific region obtain a permit from NOAA Fisheries Service (NMFS). In addition, the regulations require vessel operators to report fishing activity and harvest on daily logbooks and mark their vessels for identification.

The information collected is used to identify participants in the fishery,

document fishing activities and landings, determine the conditions of the stocks, assess the effectiveness of management measures, evaluate the benefits and costs of changes in management measures, and monitor and respond to accidental takes of protected species, including seabirds, turtles, and marine mammals.

Vessel owners must identify their vessels to assist in aerial and at-sea enforcement of fishing regulations.

**II. Method of Collection**

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

**III. Data**

*OMB Control Number:* 0648–0589.

*Form Number:* None.

*Type of Review:* Regular submission (extension of a currently approved collection).

*Affected Public:* Individuals or household; business or other for-profit organizations.

*Estimated Number of Respondents:* 30.

*Estimated Time per Response:* Permit applications, 30 minutes; permit appeal, 2 hours; logbooks, 15 minutes; vessel identification, 45 minutes.

*Estimated Total Annual Burden Hours:* 265 hours.

*Estimated Total Annual Cost to Public:* $2,190 in fees/mailing/reporting/identification 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: April 3, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–08095 Filed 4–8–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal Nos. 15–12]**

### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, DoD.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 15–12 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: April 6, 2015.

**Aaron Siegel,**

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

**BILLING CODE 5001–06–P**

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAR 30 2015

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-12, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $81 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

for J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 15–12

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea.

(ii) *Total Estimated Value:*

| | |
|---|---|
| Major Defense Equipment .... | $81 million |
| Other ..... | $ 0 million |
| TOTAL ..... | $81 million |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 400 AGM–114R1 Hellfire II Semi-Active Laser Missiles with containers, 100 ATM–114Q Air Training Missiles, and 12 M36E8 Hellfire II Captive Air Training Missiles.

(iv) *Military Department:* Army (ZCF, Amendment #3)

(v) *Prior Related Cases, if any:* FMS case ZCF–$1.6B–2May13

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 30 March 2015

* as defined in Section 47(6) of the Arms Export Control Act

*Policy Justification*

*Korea—AGM–114R1 Hellfire Missiles*

The Republic of Korea (ROK) has requested a possible sale of 400 AGM–114R1 Hellfire II Semi-Active Laser Missiles with containers, 100 ATM–114Q Air Training Missiles, and 12 M36E8 Hellfire II Captive Air Training Missiles. The estimated cost is $81 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by meeting the legitimate security and defense needs of an ally and partner nation. The ROK is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in that region. It is vital to the U.S. national interest to assist our Korean ally in developing and maintaining a strong and ready self-defense capability.

The ROK intends to use these Hellfire missiles to supplement its existing missile capability and current weapon inventory. This sale will contribute to the ROK's force modernization goals and enhance interoperability with U.S. forces. The ROK will use this enhanced capability to strengthen its homeland defense and deter regional threats. The ROK is capable of absorbing and maintaining these missiles in its inventory.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation in Orlando, Florida. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require any additional U.S. Government or U.S. contractor personnel in Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–12

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AGM–114R Hellfire II Air-to-Ground Missile with container is used against heavy and light armored targets, thin skinned vehicles, urban structures, bunkers, caves and personnel. The missile is Inertial Measurement Unit (IMU) based, with a variable delay fuse, improved safety and reliability. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is Secret; the highest level that must be disclosed for production, maintenance, or training is Confidential.

2. The ATM–114Q Air Training Missile with mass stimulant warhead replicates the shape, aerodynamic properties, weight, center-of-gravity, and moment-of-inertia properties of a Hellfire II missile. The practice missile can be launched in a training environment simulating a tactical engagement without destroying the target. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is Secret; the highest level that must be disclosed for maintenance, or training is Confidential.

3. The M36E8 Captive Air Training Missile (CATM) consists of a functional guidance section coupled to an inert missile bus and is used for flight training but cannot be launched. The missile has an operational semi-active laser seeker that can search for and lock-on to laser-designated targets. The CATM functions as a tactical missile (without launch capability) during captive carry on the aircraft, making it suitable for training the aircrew in simulated Hellfire missile target acquisition and lock. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is Secret; the highest level that must be disclosed for production, maintenance, or training is Confidential.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2015–08166 Filed 4–8–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC15–109–000.

*Applicants:* Bicent Power LLC, Tanner Street Generation, LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Bicent Power LLC, et al.

*Filed Date:* 4/1/15.

*Accession Number:* 20150401–5734.

*Comments Due:* 5 p.m. ET 4/22/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15–710–002.

*Applicants:* Arizona Public Service Company.

*Description:* Tariff Amendment per 35.17(b): Service Agreement No. 341—Revised Exhibit A to be effective 1/1/2015.

*Filed Date:* 4/2/15.

*Accession Number:* 20150402–5201.

*Comments Due:* 5 p.m. ET 4/23/15.

*Docket Numbers:* ER15–1080–001.

*Applicants:* Beethoven Wind, LLC.

*Description:* Tariff Amendment per 35.17(b): Amendment to new to be effective 2/27/2015.

*Filed Date:* 4/2/15.

*Accession Number:* 20150402–5236.

*Comments Due:* 5 p.m. ET 4/13/15.

*Docket Numbers:* ER15–1430–000.

*Applicants:* Appalachian Power Company.

*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): Reactive Supply and Voltage Control Amendment to be effective 6/1/2015.

*Filed Date:* 4/1/15.

*Accession Number:* 20150401–5488.

*Comments Due:* 5 p.m. ET 4/22/15.

*Docket Numbers:* ER15–1431–000.

*Applicants:* Public Service Company of Colorado.

*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–01_PSCo–THRM–IA–114–0.0.0—Filing to be effective 6/1/2015.

*Filed Date:* 4/1/15.

*Accession Number:* 20150401–5492.

*Comments Due:* 5 p.m. ET 4/22/15.

*Docket Numbers:* ER15–1432–000.

*Applicants:* AEP Generation Resources Inc.

*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): Reactive Supply and Voltage Control Amendment to be effective 6/1/2015.

*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5493.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1433–000.
*Applicants:* Public Service Company of New Mexico.
*Description:* Application of Public Service Company of New Mexico for 2015 Transmission Formula Rate for Post-Retirement Benefits Other than Pensions.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5505.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1434–000.
*Applicants:* ISO New England Inc., Emera Maine.
*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): Emera Maine—Schedule 20A and 21 to be effective 6/1/2015.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5519.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1435–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–01 Perfect Unit Adjustment Filing to be effective 6/1/2015.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5529.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1436–000.
*Applicants:* Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Entergy Gulf States Louisiana, L.L.C.
*Description:* Baseline eTariff Filing per 35.1: OpCos Tax—Pension Costs 205 Filing 4–1–2015 to be effective 12/31/9998.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5588.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1437–000.
*Applicants:* Entergy Texas, Inc., Entergy Gulf States Louisiana, L.L.C.
*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): EGSL–ETI Acquisition Adjustment to be effective 12/31/9998.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5609.
*Comments Due:* 5 p.m. ET 4/22/15.
*Docket Numbers:* ER15–1438–000.
*Applicants:* Southern California Edison Company.
*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): GIA and Distribution Service Agmt with SunEdison Standard Ave. Santa Ana Project to be effective 4/3/2015.
*Filed Date:* 4/2/15.
*Accession Number:* 20150402–5001.
*Comments Due:* 5 p.m. ET 4/23/15.
*Docket Numbers:* ER15–1439–000.
*Applicants:* Southern California Edison Company.
*Description:* Tariff Withdrawal per 35.15: Cancellation GIAs for Boomer Solar 8 LLC and Boomer Solar 14 LLC to be effective 4/8/2015.
*Filed Date:* 4/2/15.
*Accession Number:* 20150402–5002.
*Comments Due:* 5 p.m. ET 4/23/15.
*Docket Numbers:* ER15–1440–000.
*Applicants:* Midcontinent Independent System Operator, Inc., Cleco Power LLC.
*Description:* Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–02_Cleco Power—City of Alexandria, LA JPZ Agreement to be effective 12/1/2014.
*Filed Date:* 4/2/15.
*Accession Number:* 20150402–5147.
*Comments Due:* 5 p.m. ET 4/23/15.
*Docket Numbers:* ER15–1441–000.
*Applicants:* NorthWestern Corporation.
*Description:* Tariff Withdrawal per 35.15: Notices of Cancellation and Termination—Service Agreements to be effective 4/3/2015.
*Filed Date:* 4/2/15.
*Accession Number:* 20150402–5184.
*Comments Due:* 5 p.m. ET 4/23/15.
*Docket Numbers:* ER15–1442–000.
*Applicants:* Municipal Energy of PA, LLC.
*Description:* Initial rate filing per 35.12 Market-Based Rate Tariff Application to be effective 5/1/2015.
*Filed Date:* 4/2/15.
*Accession Number:* 20150402–5199.
*Comments Due:* 5 p.m. ET 4/23/15.

Take notice that the Commission received the following land acquisition reports:

*Docket Numbers:* LA15–1–000.
*Applicants:* Lea Power Partners, LLC.
*Description:* Quarterly Land Acquisition Report of Lea Power Partners, LLC.
*Filed Date:* 4/1/15.
*Accession Number:* 20150401–5732.
*Comments Due:* 5 p.m. ET 4/22/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 2, 2015.

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

*Deputy Secretary.*

[FR Doc. 2015–08092 Filed 4–8–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 9925–91–OGC]**

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of Proposed Consent Decree; Request for Public Comment

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by Bill Green (''Plaintiff''): *Bill Green* v. *McCarthy,* No. 4:14-cv-05093–TOR (E.D. WA). On September 10, 2014, Plaintiff filed this complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA'' or ''the Agency''), failed to perform a non-discretionary duty to grant or deny within 60 days two petitions submitted by Plaintiff. In his petitions, Plaintiff requested that EPA object to a CAA title V permit issued by the Washington State Department of Ecology to the United States Department of Energy, for purposes of operating the Hanford Site in Benton County, Washington. The proposed consent decree would establish a deadline for EPA to respond to these petitions.

**DATES:** Written comments on the proposed consent decree must be received by May 11, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA–HQ–OGC–2015–0253, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday,

excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Skinner-Thompson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–0291; email address: *skinner-thompson.jonathan@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit filed by Plaintiff seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign a response to the petitions by May 29, 2015. The proposed consent decree also provides for the possibility that circumstances beyond EPA's reasonable control could delay compliance with the May 29, 2015 deadline, and provides a framework for extending that deadline. In addition, the proposed consent decree also enumerates Plaintiff's right to seek costs of litigation, including reasonable attorneys' fees, and provides that payment of those costs will constitute a full and complete settlement of all of Plaintiff's costs in connection with this litigation.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

## II. Additional Information About Commenting on the Proposed Consent Decree

### *A. How can I get a copy of the proposed consent decree?*

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2015–0253) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

### *B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: April 1, 2015.

**Lorie J. Schmidt,**

*Associate General Counsel.*

[FR Doc. 2015–08177 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2015–0002; FRL–9925–89–OECA]**

## Inquiry To Learn Whether Businesses Assert Business Confidentiality Claims Regarding Waste Import and Export

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

**ACTION:** Notice; request for comment.

**SUMMARY:** The Environmental Protection Agency (EPA) receives from time to time Freedom of Information Act (FOIA) requests for documentation received or issued by EPA or data contained in EPA database systems pertaining to the export and import of Resource Conservation and Recovery Act (RCRA) hazardous waste from/to the United States, the export of cathode ray tubes (CRTs) and spent lead acid batteries (SLABs) from the United States, and the export and import of RCRA universal

waste from/to the United States. These documents and data may identify or reference multiple parties, and describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. The purpose of this notice is to inform ''affected businesses'' about the documents or data sought by these types of FOIA requests in order to provide the businesses with the opportunity to assert claims that any of the information sought that pertains to them is entitled to treatment as confidential business information (CBI), and to send comments to EPA supporting their claims for such treatment. Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted to EPA any document at issue pursuant to applicable RCRA regulatory requirements and did not assert a CBI claim as to information that pertains to that business in connection with the document at the time of its submission; they have waived their right to do so at a later time. Nevertheless, other businesses identified or referenced in the documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

**DATES:** Comments must be received on or before May 11, 2015. The period for submission of comments may be extended if, before the comments are due, you make a request for an extension of the comment period and it is approved by the EPA legal office. Except in extraordinary circumstances, the EPA legal office will not approve such an extension without the consent of any person whose request for release of the information under the FOIA is pending.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2015–0002, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: kreisler.eva@epa.gov.*
- *Address:* Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OECA–2015–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Instructions about how to submit comments claimed as CBI are given later in this notice.

The *http://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 *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Please include your name and other contact information with any disk or CD–ROM you submit by mail. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the docket for this notice is (202) 566–1752.

**FOR FURTHER INFORMATION CONTACT:** Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8186; email address: *kreisler.eva@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Today's notice relates to any documents or data in the following areas: (1) Export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subparts E and H; (2) import of RCRA hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subparts F and H; (3) transit of RCRA hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subpart H, through the United States and foreign countries; (4) export of cathode ray tubes, during calendar year 2014 or before, under 40 CFR part 261, subpart E; (5) exports of non-crushed spent lead acid batteries with intact casings, during calendar year 2014 or before, under 40 CFR part 266 subpart G; (6) export and import of RCRA universal waste, during calendar year 2014 or before, under 40 CFR part 273, subparts B, C, D, and F; (7) submissions from transporters, during calendar year 2014 or before, under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2014 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)3) and 265.71(a)(3).

## I. General Information

EPA has previously published notices similar to this one in the **Federal Register**, the latest one being at 79 FR 7662, February 10, 2014 that address issues similar to those raised by today's notice. The Agency did not receive any comments on the previous notices. Since the publication of the February 10, 2014 the Agency has continued to receive FOIA requests for documents and data contained in EPA's database related to hazardous waste exports and imports.

## II. Issues Covered by This Notice

Specifically, EPA receives FOIA requests from time to time for documentation or data related to

hazardous waste exports and imports that may identify or reference multiple parties, and that describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. This notice informs ''affected businesses,'' [1] which could include, among others, ''transporters,'' [2] and ''consignees,'' [3] of the requests for information in EPA database systems and/or contained in one or more of the following documents: (1) Documents related to the export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subparts E and H, including but not limited to the ''notification of intent to export,'' [4] ''manifests,'' [5] ''annual reports,'' [6] ''EPA acknowledgements of consent,'' [7] ''any subsequent communication withdrawing a prior consent or objection,'' [8] ''responses that neither consent nor object,'' ''exception reports,'' [9] ''transit notifications,'' [10] and ''renotifications''; [11] (2) documents related to the import of hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subparts F and H, including but not limited to notifications of intent to import hazardous waste into the U.S. from foreign countries; (3) documents related to the transit of hazardous waste, during calendar year 2014 or before, under 40 CFR part 262, subpart H, including notifications from U.S. exporters of intent to transit through foreign countries, or notifications from foreign countries of intent to transit through the U.S.; (4) documents related to the export of cathode ray tubes (CRTs), during calendar year 2014 or before, under 40 CFR part 261, subpart E, including but not limited to notifications of intent to export CRTs; (5) documents related to the export of non-crushed spent lead acid batteries (SLABs) with intact casings, during calendar year 2014 or before, under 40 CFR part 266 subpart G, including but not limited to notifications of intent to export SLABs; (6) submissions from transporters under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2014 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)(3) and 265.71(a)(3); and (7) documents related to the export and import of RCRA ''universal waste'' [12] under 40 CFR part 273, subparts B, C, D, and F.

Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted information responsive to a FOIA request, under the authority of 40 CFR parts 260 through 266 and 268, and did not assert a claim of business confidentiality covering any of that information at the time of submission. As set forth in the RCRA regulations at 40 CFR 260.2(b), ''if no such [business confidentiality] claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.'' Thus, for purposes of this notice and as a general matter under 40 CFR 260.2(b), a business that submitted to EPA the documents at issue, pursuant to applicable regulatory requirements, and that failed to assert a claim as to information that pertains to it at the time of submission, cannot later make a business confidentiality claim.[13] Nevertheless, other businesses identified or referenced in the same documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

In addition, EPA may develop its own documents and organize into its database systems information that was originally contained in documents from submitting businesses relating to exports and imports of hazardous waste. If a submitting business fails to assert a CBI claim for the documents it submits to EPA at the time of submission, not only does it waive its right to claim CBI for those documents, but it also waives its right to claim CBI for information in EPA's documents or databases that is based on or derived from the documents that were originally submitted by that business.[14]

In accordance with 40 CFR 2.204(c) and (e), this notice inquires whether any affected business asserts a claim that any of the requested information constitutes CBI, and affords such business an opportunity to comment to EPA on the issue. This notice also informs affected businesses that, if a claim is made, EPA would determine under 40 CFR part 2, subpart B, whether any of the requested information is entitled to business confidential treatment.

*1. Affected Businesses*

EPA's FOIA regulations at 40 CFR 2.204(c)(1) require an EPA office that is responsible for responding to a FOIA request for the release of business information (''EPA office'') to determine which businesses, if any, are affected businesses. ''Affected business'' is defined at 40 CFR 2.201(d) as: With reference to an item of business information, a business which has asserted (and not waived or withdrawn) a business confidentiality claim covering the information, or a business which could be expected to make such a claim if it were aware that disclosure of the information to the public was proposed.

*2. The Purposes of This Notice*

This notice encompasses two distinct steps in the process of communication with affected businesses prior to EPA's making a final determination concerning the business confidentiality of the information at issue: The preliminary inquiry and the notice of opportunity to comment.

a. Inquiry To Learn Whether Affected Businesses (Other Than Those Businesses That Previously Asserted a CBI Claim) Assert Claims Covering any of the Requested Information

Section 2.204(c)(2)(i) provides, in relevant part: If the examination conducted under paragraph (c)(1) of § 2.204 discloses the existence of any business which, although it has not asserted a claim, might be expected to assert a claim if it knew EPA proposed

[1] The term ''affected business'' is defined at 40 CFR 2.201(d), and is set forth in this notice, below.

[2] The term ''transporter'' is defined at 40 CFR 260.10.

[3] The term ''consignee'' is defined, for different purposes, at 40 CFR 262.51 and 262.81(c).

[4] The term ''notification of intent to export'' is described at 40 CFR 262.53.

[5] The term ''manifest'' is defined at 40 CFR 260.10.

[6] The term ''annual reports'' is described at 40 CFR 262.56.

[7] The term ''EPA acknowledgement of consent'' is defined at 40 CFR 262.51.

[8] The requirement to forward to the exporter ''any subsequent communication withdrawing a prior consent or objection'' is found at 42 U.S.C. 6938(e).

[9] The term ''exception reports'' is described at 40 CFR 262.55.

[10] The term ''transit notifications'' is described at 40 CFR 262.53(e).

[11] The term ''renotifications'' is described at 40 CFR 262.53(c).

[12] The term ''universal waste'' is defined at 40 CFR 273.9.

[13] However, businesses having submitted information to EPA relating to the export and import of RCRA universal waste are not subject to 40 CFR 260.2(b) since they submitted information in accordance with 40 CFR part 273, and not parts 260 through 266 and 268, as set forth in 40 CFR 260.2(b). They are therefore affected businesses that could make a claim of CBI at the time of submission or in response to this notice.

[14] With the exception, noted above, of the submission of information relating to the export and import of RCRA universal waste.

to disclose the information, the EPA office shall contact a responsible official of each such business to learn whether the business asserts a claim covering the information.

b. Notice of Opportunity To Submit Comments

Sections 2.204(d)(1)(i) and 2.204(e)(1) of title 40 of the Code of Federal Regulations require that written notice be provided to businesses that have made claims of business confidentiality for any of the information at issue, stating that EPA is determining under 40 CFR part 2, subpart B, whether the information is entitled to business confidential treatment, and affording each business an opportunity to comment as to the reasons why it believes that the information deserves business confidential treatment.

*3. The Use of Publication in the* ***Federal Register***

Section 2.204(e)(1) of title 40 of the Code of Federal Regulations requires that this type of notice be furnished by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact and date of receipt. EPA, however, has determined that in the present circumstances the use of a **Federal Register** notice is a practical and efficient way to contact affected businesses and to furnish the notice of opportunity to submit comments. The Agency's decision to follow this course was made in recognition of the administrative difficulty and impracticality of directly contacting potentially thousands of individual businesses.

*4. Submission of Your Response in the English Language*

All responses to this notice must be in the English language.

*5. The Effect of Failure To Respond to This Notice*

In accordance with 40 CFR 2.204(e)(1) and 2.205(d)(1), EPA will construe your failure to furnish timely comments in response to this notice as a waiver of your business's claim(s) of business confidentiality for any information in the types of documents identified in this notice.

*6. What To Include in Your Comments*

If you believe that any of the information contained in the types of documents which are described in this notice and which are currently, or may become, subject to FOIA requests, is entitled to business confidential treatment, please specify which portions of the information you consider business confidential. Information not specifically identified as subject to a business confidentiality claim may be disclosed to the requestor without further notice to you.

For each item or class of information that you identify as being subject to your claim, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as business confidential, *e.g.,* until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for business confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as business confidential be protected for the time period specified in your answer to question no. 1?

3. What measures have you taken to protect the information claimed as business confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered business confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available data bases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the business confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as business confidential, explain with specificity why and how release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, please explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your business confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you wish to claim any of the information in your response as business confidential, you must mark the response ''BUSINESS CONFIDENTIAL'' or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in, 40 CFR part 2, subpart B. If you fail to claim the information as business confidential, it may be made available to the requestor without further notice to you.

**III. What should I consider as I prepare my comments for EPA?**

1. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or email. Please submit this information by mail to the address identified in the **ADDRESSES** section of today's notice for inclusion in the non-public CBI docket. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2, subpart B. In addition to the submission of one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

Dated: April 1, 2015.

**Susan E. Bromm,**

*Director, Office of Federal Activities.*

[FR Doc. 2015–08064 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0021; FRL–9924–20]**

## Pesticide Product Registration; Receipt of Applications for New Active Ingredients

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

**ACTION:** Notice.

**SUMMARY:** EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

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

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

**FOR FURTHER INFORMATION CONTACT:** Jennifer Mclain, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305–7090; email address: *ADFRNotices@epa.gov.,* Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

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

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

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

### II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *File Symbol:* 707–GEL. *Docket ID Number:* EPA–HQ–OPP–2010–1037. *Applicant:* Rohm and Hass Company, 100 Independence Mall West, Philadelphia, PA 19106. *Product name:* Bioban 557 Antimicrobial. *Active ingredient:* 2-Methyl-1, 2-benzisothiazol-3 (2H)-one at 9%. *Proposed classification/Use:* ATD emulsion products, paints, building materials, adhesives and sealants, ink, textiles, paper coating, functional chemicals, household and I&I, oil process water and recovery system, metalworking fluids. *Contact:* AD.

2. *File Symbol:* 4091–RL. *Docket ID number:* EPA–HQ–OPP–2014–0921. *Applicant:* W.M. Barr & Company, Inc., 6750 Lenox Center Court, Suite 200, Memphis, TN 38115. *Product name:* FG0. *Active ingredient:* Antimicrobial, calcium chloride at 78%. *Proposed classification/Use:* Manufacturing use product. *Contact:* AD.

3. *File Symbol:* 4091–RA. *Docket ID number:* EPA–HQ–OPP–2014–0921. *Applicant:* W.M. Barr & Company, Inc., 6750 Lenox Center Court, Suite 200, Memphis, TN 38115. *Product name:* FG1. *Active ingredient:* Antimicrobial, calcium chloride at 77%. *Proposed classification/Use:* End-use product for use as a moisture absorber in enclosed spaces to retard growth mold, mildew, and bacteria. *Contact:* AD.

4. *File Symbol:* 4091–RT. *Docket ID number:* EPA–HQ–OPP–2014–0921. *Applicant:* W.M. Barr & Company, Inc., 6750 Lenox Center Court, Suite 200, Memphis, TN 38115. *Product name:* FG2. *Active ingredient:* Antimicrobial, calcium chloride at 73%. *Proposed classification/Use:* End-use product for use as a moisture absorber in enclosed spaces to retard growth mold, mildew, and bacteria. *Contact:* AD.

5. *File Symbol:* 4091–RI. *Docket ID number:* EPA–HQ–OPP–2014–0921. *Applicant:* W.M. Barr & Company, Inc., 6750 Lenox Center Court, Suite 200, Memphis, TN 38115. *Product name:* FG3. *Active ingredient:* Antimicrobial, calcium chloride at 58%. *Proposed classification/Use:* End-use product for use as a moisture absorber in enclosed spaces to retard growth mold, mildew, and bacteria. *Contact:* AD.

6. *File Symbo*l: 71512–ET. *Docket ID number:* EPA–HQ–OPP–2014–0679. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Product name:* Technical Cyclaniliprole Insecticide. *Active ingredient:* Insecticide Cyclaniliprole at 96.4%. *Proposed classification/Use:* Pome fruit (Crop Group 11–11), tree nuts (Crop Group 14–12), stone fruit (Crop Group 12–12), fruiting vegetables (Crop Group 8–10), cucurbit vegetables

(Crop Group 9), small fruit vine climbing Crop Subgroup including grapes (Crop Subgroup 13–07F), proposed Crop Subgroup 4–14A; leafy green subgroup, proposed Crop Subgroup 4–14B; brassica leafy greens subgroup, proposed Crop Subgroup 22B; leaf petiole vegetable subgroup, proposed Crop Group 5–14; brassica head and stem vegetables, and import tolerance for tea. *Contact:* RD.

7. *File Symbol:* 71512–EA. *Docket ID number:* EPA–HQ–OPP–2014–0679. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Product names:* Cyclaniliprole 50 SL Insecticide. *Active ingredient:* Insecticide Cyclaniliprole at 4.55%. *Proposed classification/Use:* Pome fruit (Crop Group 11–11), tree nuts (Crop Group 14–12), stone fruit (Crop Group 12–12), fruiting vegetables (Crop Group 8–10), cucurbit vegetables (Crop Group 9), small fruit vine climbing Crop Subgroup including grapes (Crop Subgroup 13–07F), proposed Crop Subgroup 4–14A; leafy green subgroup, proposed Crop Subgroup 4–14B; brassica leafy greens subgroup, proposed Crop Subgroup 22B; leaf petiole vegetable subgroup, proposed Crop Group 5–14; brassica head and stem vegetables, and import tolerance for tea. *Contact:* RD.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: April 1, 2015.

**Susan Lewis,**

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

[FR Doc. 2015–08211 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9925–98–OA]**

## Announcement of the Board of Directors for the National Environmental Education Foundation

**AGENCY:** Environmental Protection Agency; Office of External Affairs and Environmental Education.

**ACTION:** Notice.

**SUMMARY:** The National Environmental Education and Training Foundation (doing business as The National Environmental Education Foundation or NEEF) was created by Section 10 of Public Law 101–619, the National Environmental Education Act of 1990. It is a private 501(c)(3) non-profit organization established to promote and support education and training as necessary tools to further environmental protection and sustainable, environmentally sound development. It provides the common ground upon which leaders from business and industry, all levels of government, public interest groups, and others can work cooperatively to expand the reach of environmental education and training programs beyond the traditional classroom. The Foundation promotes innovative environmental education and training programs such as environmental education for medical healthcare providers and broadcast meteorologists; it also develops partnerships with government and other organizations to administer projects that promote the development of an environmentally literal public. The Administrator of the U.S. Environmental Protection Agency, as required by the terms of the Act, announces the following appointment to the National Environmental Education Foundation Board of Directors. The appointee is Ms. Jeniffer Harper-Taylor, president of the Siemens Foundation, where she leads one of the nation's preeminent nonprofit organizations dedicated to STEM education.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this Notice of Appointment, please contact Mr. Brian Bond, Senior Advisor to the Administrator for Public Engagement, U.S. EPA 1200 Pennsylvania Ave. NW., Washington, DC 20460. General information concerning NEEF can be found on their Web site at: *http://www.neefusa.org.*

**SUPPLEMENTARY INFORMATION:**

*Additional Considerations:* Great care has been taken to assure that this new appointee not only has the highest degree of expertise and commitment, but also brings to the Board diverse points of view relating to environmental education. This appointment is a four-year term which may be renewed once for an additional four years pending successful re-election by the NEEF nominating committee.

This appointee will join the current Board members which include:

- Decker Anstrom (NEEF Chairman) Former U.S. Ambassador, Retired Chairman, The Weather Channel Companies.
- Diane Wood (NEEF Secretary) President, National Environmental Education Foundation.
- Carlos Alcazar, Founder and Chairman, Culture ONE World.
- Megan Reilly Cayten, Co-Founder and Chief Executive Officer, Catrinka, LLC.
- David M. Kiser, Vice President, Environment, Health, Safety and Sustainability, International Paper.
- Wonya Lucas, President, Lucas Strategic Consulting.
- Shannon Schuyler, Principal, Corporate Responsibility Leader, PricewaterhouseCoopers (PwC).
- Jacqueline M. Thomas, Vice President of Corporate Responsibility, Toyota Motor Sales USA Inc.
- Raul Perea-Henze, MD, MPH, Managing Director, HORUS Advisors, Washington, DC.
- George Basile, Ph.D., Professor, School of Sustainability, Arizona State University, Tempe, AZ.

*Background:* Section 10(a) of the National Environmental Education Act of 1990 mandates a National Environmental Education Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States. The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

The Foundation develops, supports, and/or operates programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

The Foundation has a governing Board of Directors (hereafter referred to in this section as 'the Board'), which consists of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board oversees the activities of the Foundation and assures that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of the Act. The membership of the Board, to the extent practicable, represents diverse points of view relating to environmental education and training. Members of the Board are appointed by the Administrator of the Environmental Protection Agency.

Within 90 days of the date of the enactment of the National Environmental Education Act, and as appropriate thereafter, the Administrator will publish in the **Federal Register** an announcement of appointments of Directors of the Board. Such appointments become final and effective 90 days after publication in the **Federal Register**. The directors are appointed for terms of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

Dated: April 2, 2015.

**Gina McCarthy,**

*Administrator.*

**Jeniffer Harper-Taylor**

As President of the Siemens Foundation, Ms. Harper-Taylor leads one of the nation's preeminent nonprofit organizations dedicated to STEM education. During more than a decade of service she has impacted students, teachers and schools on a national scale, introducing tens of thousands of young people to opportunities in STEM. Today she oversees an annual investment of more than $7 million in innovative education programs that support, recognize and encourage the scientists and engineers of tomorrow.

Ms. Harper-Taylor joined Siemens in 1999 as a university recruitment manager. She then joined the Siemens Foundation as Program Manager in March 2000, subsequently serving as Program Director and Vice President before being named President in March 2010. Throughout her tenure she has spearheaded partnerships with such education leaders as the College Board, Discovery Education, the National Science Teachers Association and Oak Ridge Associated Universities to broaden the reach and impact of the Foundation's programs.

Ms. Harper-Taylor is a charter member of the Advisory Board for the Association of Public and Land-grant Universities (APLU) Office for Access and the Advancement of Public Black Universities. She also serves on The Conference Board's Contributions Council, a group dedicated to advancing the practice of corporate philanthropy. Previously, she served as the Diversity Council Chairperson for Siemens Corporation, USA.

Born and raised in Atlanta, Georgia, Ms. Harper-Taylor has played an active role in various community organizations in her hometown, including the Atlanta chapter of Big Brothers and Big Sisters and membership in the NAACP and Urban League. She takes pride in the legacy of Historically Black Colleges and Universities as a graduate of Southern University, Baton Rouge, Louisiana, where she earned her Bachelor's degree.

[FR Doc. 2015–08214 Filed 4–8–15; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice and request for comment.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB to extend for three years the current PRA clearances for information collection requirements contained in the rules and regulations under the Fur Products Labeling Act (''Fur Rules''), 16 CFR 301. This clearance expires on April 30, 2015.

**DATES:** Comments must be received by May 11, 2015.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Fur Rules: FTC File No. P074201'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/furrulespra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the collection of information and supporting documentation should be addressed to Robert M. Frisby, 202–326–2098, or Lemuel Dowdy, 202–326–2981, Attorneys, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW., Room CC–9528, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

*Title:* Rules and Regulations under the Fur Products Labeling Act (''Fur Rules''), 16 CFR part 301.

*OMB Control Number:* 3084–0099.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The Fur Products Labeling Act (''Fur Act'') [1] prohibits the misbranding and false advertising of fur products. The Fur Rules establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Rules. The Rules also provide a procedure for exemption from certain disclosure provisions under the Fur Act.

On January 27, 2015, the Commission sought comment on the information collection requirements in the Fur Rules. 80 FR 4264. No comments were received. As required by OMB regulations, 5 CFR part 1320, the FTC is providing this second opportunity for public comment.

*Likely Respondents:* Retailers, manufacturers, processors, and importers of furs and fur products.

*Frequency of Response:* Third party disclosure; recordkeeping requirement.

*Estimated Annual Hours Burden:* 249,541 hours (64,440 hours for recordkeeping + 185,101 hours for disclosure).

*Recordkeeping:* 64,440 hours [1,230 retailers incur an average recordkeeping burden of about 18 hours per year (22,140 hours total); 90 manufacturers incur an average recordkeeping burden

[1] 15 U.S.C. 69 *et seq.*

of about 60 hours per year (5,400 hours total); and 1,230 importers of furs and fur products incur an average recordkeeping burden of 30 hours per year (36,900 hours total)]

*Disclosure:* 185,101 hours [(107,585 hours for labeling + 28,316 hours for invoices + 49,200 hours for advertising).]

*Estimated annual cost burden:* $4,658,000, rounded to the nearest thousand (solely relating to labor costs).

*Request for Comments*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 11, 2015. Write ''Fur Rules: FTC File No. P074201'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/furrulespra2,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Fur Rules: FTC File No. P074201'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 11, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

**David C. Shonka,**

*Principal Deputy General Counsel.*

[FR Doc. 2015–08151 Filed 4–8–15; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–15IG]**

### Agency Forms Undergoing Paperwork Reduction Act Review; Withdrawal

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice withdrawal.

**SUMMARY:** Due to an information collection request oversight, the Centers for Disease Control and Prevention (CDC) requests immediate publication withdrawal of the 30-Day **Federal Register** Notice (FRN) entitled ''Agency Forms Undergoing Paperwork Reduction Act Review'' concerning the *Public Health Associate Program (PHAP) Alumni Assessment.*

**DATES:** The 30-day FRN published on March 25, 2015 at 80 FR 15791 is withdrawn as of April 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** For further information call (404) 639–7570 or mail comments to CDC, Leroy A. Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

**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. 2015–08139 Filed 4–8–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Food and Drug Administration Science Forum 2015; Public Workshop

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

**ACTION:** Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop entitled ''FDA Science Forum 2015.'' The purpose of the public workshop is to highlight science conducted at the FDA by showcasing how scientific research informs regulatory decision making and to provide a forum for developing collaborations within FDA and with external organizations. The focus of the forum will be the eight FDA Regulatory Science priority areas

(*http://www.fda.gov/ScienceResearch/SpecialTopics/RegulatoryScience/ucm267719.htm*).

*Date and Time:* The public workshop will be held on May 27, 2015, from 8:30 a.m. to 3:45 p.m. and May 28, 2015, from 8:30 a.m. to 4 p.m.

*Location:* The public workshop will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

*Contact Person:* Leslie Wheelock, Office of Scientific Professional Development, Office of the Chief Scientist, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4345, Silver Spring, MD, 301–796–4580, FAX: 301–847–8106, email: *FDASciProDev@fda.hhs.gov.*

*Registration:* Submit your online registration information (including name, title, firm name, address, telephone and email) by May 15, 2015 at: *http://www.fda.gov/scienceresearch/aboutscienceresearchatfda/ucm429403.htm.*

There is no registration fee for the public workshop. Early registration is recommended because seating is limited. There will be no onsite registration.

If you need special accommodations due to a disability, please contact Leslie Wheelock (see *Contact Person*) at least 7 days in advance.

*Webcast:* Please be advised that as soon as possible after the Forum, a webcast and report of the public workshop will be accessible at: *http://www.fda.gov/scienceresearch/aboutscienceresearchatfda/ucm429403.htm.*

**SUPPLEMENTARY INFORMATION:** Each session of the FDA Science Forum will have an expert in the area and presentations by FDA staff.

Dated: April 3, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–08156 Filed 4–8–15; 8:45 am]

**BILLING CODE 4164–01–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/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 grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Outstanding Investigator Award 1.

*Date:* April 29, 2015.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 6W030, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Michael B. Small, Ph.D., Chief, Program and Review Extramural Staff Training Office, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W522, Bethesda, MD 20892, 240–276–6438, *smallm@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Targeted Radionuclide Therapy.

*Date:* May 4, 2015.

*Time:* 10:00 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Thomas M. Vollberg, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W102, Rockville, MD 20850, 240–276–6341, *vollbert@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI R01 Review.

*Date:* May 21, 2015.

*Time:* 1:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W126, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Caron A. Lyman, Ph.D., Chief, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W126, Bethesda, MD 20892–9750, 240–276–6348, *lymanc@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI SPORE Review.

*Date:* June 8–9, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Caterina Bianco, MD, Ph.D., Scientific Review Officer, Research Program Review Branch, Division Of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892–9750, 240–276–6459, *biancoc@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: April 3, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–08131 Filed 4–8–15; 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 Synapses and Circuit Plasticity.

*Date:* April 23, 2015.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Risk, Prevention and Health Behavior AREA Review.

*Date:* May 5, 2015.

*Time:* 2:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

*Contact Person:* John H Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel RFA RM13–006: Pioneer Awards.

*Date:* May 6–8, 2015.

*Time:* 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* James W Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@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: April 3, 2015.

**Carolyn Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–08133 Filed 4–8–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Eye Institute; 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 National Advisory Eye Council.

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 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 Advisory Eye Council.

*Date:* June 4, 2015.

*Open:* 8:30 a.m. to 1:00 p.m.

*Agenda:* Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute programs.

*Place:* National Institutes of Health, Terrace Level Conference Rooms, 5635 Fishers Lane, Bethesda, MD 20892.

*Closed:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Terrace Level Conference Rooms, 5635 Fishers Lane, Bethesda, MD 20892.

*Contact Person:* Anne E Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.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.

Information is also available on the Institute's/Center's home page: *www.nei.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: April 3, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–08129 Filed 4–8–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Loan Repayment 2015.

*Date:* May 4, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

*Contact Person:* Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, Md 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel; UNITING THE PHYSIOLOGY OF AGING BY MEANS OF INNOVATIVE TOOLS.

*Date:* May 13, 2015.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, Md 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 3, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–08132 Filed 4–8–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request: United States and Global Human Influenza Surveillance in at-Risk Settings

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**TO SUBMIT COMMENTS AND FOR FURTHER INFORMATION:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Diane Post, Program Officer, Respiratory Diseases Branch, NIAID, NIH 5601 Fishers Lane, Bethesda, MD or call non-toll-free number at 240–627–3348 or email your request, including your address to: *postd@niaid.nih.gov*.

**DATES:** *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

*Proposed Collection:* United States and Global Human Influenza Surveillance in at-Risk Settings, 0925–NEW, National Institute of Allergies and Infectious Diseases (NIAID), National Institutes of Health (NIH).

*Need and Use of Information Collection:* These studies will identify individuals with or at risk for influenza through focused surveillance in at-risk settings within the United States and internationally, rapidly identify circulating influenza strains to identify those with pandemic potential and create an invaluable bank of human samples from influenza patients to allow the characterization of the determinants of influenza transmission to and among humans, the immune response to influenza, and the basis of severe disease—critical knowledge gaps impacting effectiveness of decision-making around patient care and pandemic preparedness. These studies will provide insight into viral and host determinants that may be contributing to the transmission of influenza, immune response to influenza, and severity of influenza and associated morbidity and mortality.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours for the entire 3 year request are 1,500.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|
| Patients | 500 | 2 | 30/60 | 500 |

Dated: April 3, 2015.

**Dione Washington,**

*Project Clearance Liaison, NIAID, NIH.*

[FR Doc. 2015–08149 Filed 4–8–15; 8:45 am]

**BILLING CODE 4140–01–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, April 30, 2015 08:00 a.m. to April 30, 2015, 06:00 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on March 12, 2015, 80 FR 13012.

The meeting notice is amended to change the meeting title from NCI Omnibus R03 & R21 SEP–12 to Exploratory/Developmental Research Grant Program-Omnibus SEP–12. The meeting is closed to the public.

Dated: April 3, 2015.

**Melanie J. Gray-Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–08130 Filed 4–8–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2015–0006]**

### Notice of Public Meeting on the Proposed Revised Guidelines for Implementing Executive Order 11988, Floodplain Management, as Revised Through the Federal Flood Risk Management Standard

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

**ACTION:** Notice.

**SUMMARY:** This notice is to announce a public meeting to solicit public input on the proposed ''Revised Guidelines for Implementing Executive Order 11988, Floodplain Management.''

**DATES:** The public meeting will be held in Seattle, WA on April 14, 2015, from 1:00 p.m. Pacific Time (PT) to 3:30 p.m. PT.

**ADDRESSES:** The public meeting will be held in Seattle, WA, at the University of Washington Medicine at South Lake Union, Administrative Building C, Orin Smith Auditorium, 850 Republican Street, Seattle, WA 98109.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by April 10.

Due to space constraints of the facility, seating will be limited to 100 participants for the meeting. To reserve a seat in advance for this meeting, please provide a request via email or mail with the contact information of the participant (including name, mailing address, and email address), the meeting(s) to be attended, and include the subject/attention line (or on the envelope if by mail): Reservation Request for FFRMS Meeting. Advance reservations are preferred three (3) business days prior to the meeting to ensure processing, but will be accepted until seating capacity is reached. Unregistered participants will be accepted after all participants with reservations have been accommodated and will be admitted on a first-come, first-serve basis, provided the person capacity is not exceeded. To submit reservations, please email: *FEMA-FFRMS@fema.dhs.gov* or send by mail to the address listed in the **FOR FURTHER INFORMATION CONTACT** caption.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered at the public meeting. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

*Instructions:* All submissions received must include the docket ID FEMA–2015–0006. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

*Docket:* For access to the docket to read comments received, go to *http://www.regulations.gov*, and search for the Docket ID FEMA–2015–0006.

**FOR FURTHER INFORMATION CONTACT:** Bradley Garner, 202–646–3901 or *FEMA–FFRMS@fema.dhs.gov. Mailing Address:* FFRMS, 1800 South Bell Street, Room 627, Arlington, VA 20598–3030. The Web site is *https://www.fema.gov/federal-flood-risk-management-standard-ffrms*.

**SUPPLEMENTARY INFORMATION:** On January 30, 2015, the President signed Executive Order 13690, directing FEMA, on behalf of the Mitigation Framework Leadership Group, to publish for public comment draft revised Floodplain Management Guidelines to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with a new Federal Flood Risk Management Standard. These draft revised Guidelines were developed by the Mitigation Framework Leadership Group in consultation with the Federal Interagency Floodplain Management Task Force. FEMA is publishing this Notice on behalf of the Mitigation Framework Leadership Group, which is chaired by FEMA, to solicit and consider public input on the draft revised Guidelines at a public meeting.

Background information about these topics is available on the FFRMS Web site at *https://www.fema.gov/federal-flood-risk-management-standard-ffrms* or in the docket for this Notice at *www.regulations.gov*, Docket ID FEMA–2015–0006.

The meeting is exempt from the Federal Advisory Committee Act (FACA), as the Mitigation Framework Leadership Group is an intergovernmental committee and falls under the intergovernmental committee exception to FACA, 41 CFR 102–3.40(g).

**Authority:** Executive Order 11988, as amended; Executive Order 13690.

Dated: April 3, 2015.

**Roy Wright,**

*Deputy Associate Administrator for Mitigation, Federal Emergency Management Agency.*

[FR Doc. 2015–08102 Filed 4–8–15; 8:45 am]

**BILLING CODE 9111–47–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMTB07900 15XL1109AF L10100000 PH0000 LXSIANMS0000 MO# 4500078170]**

### Notice of Public Meeting; Western Montana Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Western Montana Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The Western Montana Resource Advisory Council meeting will be held May 19, 2015 in Missoula, Montana. The meeting will begin at 9:00 a.m. with a 30-minute public comment period starting at 11:30 a.m. and will adjourn at 3:00 p.m.

**ADDRESSES:** BLM's Missoula Field Office, 3255 Fort Missoula Road, Missoula, MT.

**FOR FURTHER INFORMATION CONTACT:** David Abrams, Western Montana Resource Advisory Council Coordinator, Butte Field Office, 106 North Parkmont, Butte, MT 59701, 406–533–7617, *dabrams@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This 15-member council advises the Secretary of the Interior through the BLM on a variety of management issues associated with public land management in Montana. During this meeting the council will discuss several topics, including an update on the BLM's Greater Sage-Grouse Planning Strategy, a report from the RAC's Timber Harvest Subgroup, and reports from the BLM's Butte, Missoula and Dillon field offices. All RAC meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

**Authority:** 43 CFR 1784.4–2.

**Richard M. Hotaling,**

*District Manager, Western Montana District.*

[FR Doc. 2015–08141 Filed 4–8–15; 8:45 am]

**BILLING CODE 4310–DN–P**

## DEPARTMENT OF INTERIOR

### National Park Service

**[NPS–NRSS–EQD–SSB–17987; PPWONRADI1, PPMRSNR1Y.AM0000]**

### Proposed Information Collection: Use of iNaturalist by the National Park Service To Record Natural History Observations

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (National Park Service) will ask the Office of Management and Budget (OMB) to approve a new information collection (IC) that will be used by the public to collect and record natural history observations at selected NPS parks and sponsored events. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other federal agencies to take this opportunity to comment on this IC. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** To ensure that your comments on this IC are considered, we must receive them on or before June 8, 2015.

**ADDRESSES:** Direct all written comments on this IC to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–iNAT in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Margaret Beer, National Park Service Inventory and Monitoring Division, 1201 Oakridge Drive, Suite 150, Fort Collins, CO 80525 (mail); *margaret_beer@nps.gov* (email); or: 970–267–2168 (phone).

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The NPS is in the process of developing a partnership with the California Academy of Sciences to use its iNaturalist web-based and mobile applications to digitally record natural history observations during selected NPS parks and sponsored events. This information will be recorded by park visitor participants to help verify and substantiate the presence of wildlife and plant species in over 300 NPS units. Because the parks have no formal mechanism for visitors to contribute natural history observations to our current listings, we are requesting to use iNaturalist as a platform to submit observations that can be used by NPS.

II. Data

*OMB Number:* None. This is a new collection.

*Title:* Use of iNaturalist by the National Park Service to Record Natural History Observations.

*Type of Request:* New.

*Affected Public:* General public, individual households, and non-federal scientists.

*Respondent Obligation:* Voluntary.

*Frequency of Collection:* One-time.

*Estimated Number of Annual Responses:* 2,500 (2,000 public and 500 non-federal scientists).

*Annual Burden Hours:* We estimate the total annual burden for this collection will be 2,083 hours (50 minutes per respondent).

*Estimated Reporting and Recordkeeping* ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

#### III. Request for Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 2, 2015.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2015–08146 Filed 4–8–15; 8:45 am]

**BILLING CODE 4310–EH–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1046 (Second Review)]**

### Tetrahydrofurfuryl Alcohol From China: Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on tetrahydrofurfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### Background

The Commission instituted this review on November 3, 2014 (79 FR 65241) and determined on February 6, 2015 that it would conduct an expedited review (80 FR 10162, February 25, 2015).

The Commission completed and filed its determination in this review on April 6, 2015. The views of the Commission are contained in USITC Publication 4524 (April 2015), entitled *Tetrahydrofurfuryl Alcohol from China: Investigation No. 731–TA–1046 (Second Review).*

By order of the Commission.

Dated: April 6, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–08161 Filed 4–8–15; 8:45 am]

**BILLING CODE 7020–02–P**

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### Submission for OMB Review; Comment Request

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Humanities (NEH) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval as required by the provisions of the Paperwork Reduction Act of 1995.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

**DATES:** Comments on this information collection must be submitted on or before May 11, 2015.

**ADDRESSES:** Mail comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Humanities, Office of Management and Budget, Room 10235, Washington, DC 20503; (202) 395–7316.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joel Schwartz, Chief Guidelines Officer, 400 7th Street SW., Washington, DC 20506; (202) 606–8473; *jschwartz@neh.gov.*

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

*Agency:* National Endowment for the Humanities.

*Title of Proposal:* Generic Clearance Authority for the National Endowment for the Humanities.

*OMB Number:* 3136–0134.

*Frequency of Collection:* On occasion.

*Affected Public:* Applicants to NEH grant programs, reviewers of NEH grant applications, and NEH grantees.

*Total Respondents:* 7,074

*Average Time per Response:* varied according to type of information collection.

*Estimated Total Burden Hours:* 67,105 hours.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* 0.

*Description:* This submission requests approval from OMB for a three year extension of NEH's currently approved generic clearance authority for all NEH information collections other than one-time evaluations, questionnaires and surveys. Generic clearance authority would include approval of forms and instructions for application to NEH grant programs, reporting forms for NEH grantees, panelists and reviewers and for program evaluation purposes.

Copies of this ICR, with applicable supporting documentation, may be obtained by calling Joel Schwartz at (202–606–8473) or may be requested by email to *jschwartz@neh.gov.*

Dated: April 3, 2015.

**Margaret F. Plympton,**

*Deputy Chairman.*

[FR Doc. 2015–08105 Filed 4–8–15; 8:45 am]

**BILLING CODE 7536–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–295 and 50–304; NRC–2015–0087]**

## Zion Solutions, LLC; Zion Nuclear Power Station, Unit Nos. 1 and 2

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment and finding of no significant impact regarding exemptions from specific emergency planning requirements for license nos. DPR–39 and DPR–48, issued to Zion*Solutions,* LLC, for the Zion Nuclear Power Station, Units 1 and 2.

**DATES:** The environmental assessment and finding of no significant impact referenced in this document is available on April 9, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0087 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0087. 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.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- 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.

**FOR FURTHER INFORMATION CONTACT:** John Hickman, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–00001. Telephone: 301–415–3017; email: *John.Hickman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The NRC is considering issuance of exemptions from specific emergency planning (EP) requirements of part 50 of Title 10 of the Code of Federal Regulations (10 CFR) for license nos. DPR–39 and DPR–48, issued to Zion*Solutions,* LLC (ZS, the licensee), for the Zion Nuclear Power Station (ZNPS), Units 1 and 2. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment that follows, the NRC has determined not to prepare an environmental impact statement for the exemptions, and is issuing a finding of no significant impact.

On November 23, 2011, the NRC issued a Final Rule modifying or adding EP requirements in § 50.47, § 50.54, and appendix E of 10 CFR part 50 (76 **Federal Register** (FR) 72560). The EP Final Rule was effective on December 23, 2011, with specific implementation dates for each of the rule changes, varying from the effective date of the Final Rule through December 31, 2015. The EP Final Rule codified certain voluntary protective measures contained in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' and generically applicable requirements similar to those previously imposed by NRC Order EA–02–026, ''Order for Interim Safeguards and Security Compensatory Measures,'' dated February 25, 2002. In addition, the EP Final Rule amended other licensee emergency plan requirements to: (1) Enhance the ability of licensees in

preparing and in taking certain protective actions in the event of a radiological emergency; (2) address, in part, security issues identified after the terrorist events of September 11, 2001; (3) clarify regulations to effect consistent emergency plan implementation among licensees; and (4) modify certain EP requirements to be more effective and efficient. However, the EP Final Rule was only an enhancement to the NRC's regulations and was not necessary for adequate protection. On page 72563 of the **Federal Register** notice for the EP Final Rule, the Commission ''determined that the existing regulatory structure ensures adequate protection of public health and safety and common defense and security.''

**II. Environmental Assessment**

Description of Proposed Action

The proposed action would exempt ZNPS, a 10 CFR part 50 licensee, from certain 10 CFR part 50 EP requirements because ZNPS is a permanently shut-down nuclear facility.

The proposed action is in accordance with the licensee's application dated June 20, 2012, (ADAMS Accession No. ML12173A316).

Need for Proposed Action

ZNPS was shut down on February 21, 1997, and is currently in a permanently shut-down and defueled condition. In a letter dated May 4, 1998, the NRC acknowledged that pursuant to 10 CFR 50.82(a)(2), the 10 CFR part 50 licenses for ZNPS, Units 1 and 2 no longer authorize operation of the reactors, or emplacement or retention of fuel in the reactor vessels. Active decommissioning is currently underway.

The licensee claims that the proposed action is needed because the Final Rule imposed requirements on ZNPS that are not necessary to meet the underlying purpose of the regulations in view of the greatly reduced offsite radiological consequences associated with the current plant status as permanently shut down. The EP program at this facility met the EP requirements in 10 CFR part 50 that were in effect before December 23, 2011, subject to any license amendments or exemptions modifying the EP requirements for the licensee. Thus, compliance with the EP requirements in effect before the effective date of the EP Final Rule demonstrated reasonable assurance that adequate protective measures could be taken in the event of a radiological emergency.

Environmental Impacts of the Proposed Action

The NRC staff evaluated the environmental impacts of the proposed action and concludes that exempting the facility from the emergency planning requirements will not have any adverse environmental impacts. With respect to radiological impacts, the NRC has determined that no credible events at ZNPS would result in doses to the public beyond the owner controlled area boundary that would exceed the U.S. Environmental Protection Agency Protective Actions Guides at the site boundary. The proposed action is wholly procedural and administrative in nature. As such, the proposed action will not: Significantly increase the probability or consequences of radiological accidents, result in any changes to the types of effluents that may be released offsite, and result in any significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any construction activities, renovation of buildings or structures, ground disturbing activities or other alteration to land. The proposed action will not change the site activities and therefore will not result in any changes to the workforce or vehicular traffic. Furthermore, the proposed action is not a type of activity that has the potential to cause effects on historic properties or cultural resources, including traditional cultural properties. In addition the proposed action will not result in any change to non-radiological plant effluents and thus, will have no impact on either air or water quality. As the proposed action is wholly procedural and administrative in nature, the NRC staff has determined that the proposed action will have no effect on listed species or critical habitat. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the exemption request would result in no change in current environmental impacts because there will be no construction or major renovation of any buildings or structures, nor any associated ground disturbing activities. Thus the environmental impacts of the proposed action and no-action alternative are similar. Therefore, the no-action alternative is not further considered.

Conclusion

The NRC staff has concluded that the proposed action will not significantly impact the quality of the human environment, and that the proposed action is the preferred alternative.

Agencies and Persons Consulted

The NRC contacted the Illinois Emergency Management Agency concerning this request. There were no comments, concerns or objections from the State official.

**III. Finding of No Significant Impact**

The NRC staff has prepared this EA as part of its review of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate. In accordance with 10 CFR 51.32(a)(4), this FONSI incorporates the EA set forth in this notice by reference.

Dated at Rockville, Maryland, this 30th day of March 2015.

For the Nuclear Regulatory Commission.

**Larry W. Camper,**

*Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2015–08169 Filed 4–8–15; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Privacy Act of 1974; Computer Matching Program

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice—computer matching between the Office of Personnel Management and the Social Security Administration (Computer Matching Agreement 1018).

**SUMMARY:** In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and

Budget (OMB) Guidelines on the Conduct of Matching Programs (*54 FR 25818* published June 19, 1989), and OMB Circular No. A–130, revised November 28, 2000, ''Management of Federal Information Resources,'' the Office of Personnel Management (OPM) is publishing notice of its new computer matching program with the Social Security Administration (SSA).

**DATES:** OPM 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 begin May 11, 2015 or 40 days after the date of OPM's submission of the letters to Congress and OMB, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. Subsequent matches will run until one of the parties advises the other in writing of its intention to reevaluate, modify and/or terminate the agreement.

**ADDRESSES:** Send comments to Deon Mason, Chief, Business Services, Retirement Services, Office of Personnel Management, Room 3316–G, 1900 E Street NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Bernard A. Wells III on 202–606–2730

**SUPPLEMENTARY INFORMATION:**

**A. General**

The Privacy Act (5 U.S.C. 552a), as amended, establishes the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals 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 individuals.

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. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency for agencies participating in the matching programs;

(2) Obtain the approval of the match agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching;

(5) Verify match findings before reducing, suspending, termination or denying an individual's benefits or payments.

**B. OPM Computer Matches Subject to the Privacy Act**

We have taken action to ensure that all of OPM's computer matching programs comply with the requirements of the Privacy Act, as amended.

**Notice of Computer Matching Program, Office of Personnel Management (OPM) With the Social Security Administration (SSA).**

*A. Participating Agencies*

OPM and SSA.

*B. Purpose of the Matching Program*

The purpose of this agreement is to establish the conditions under which SSA agrees to disclose tax return and/or Social Security benefit information to OPM. The SSA records will be used in redetermining and recomputing the benefits of certain annuitants and survivors whose computations are based, in part, on military service performed after December 1956 under the Civil Service Retirement System (CSRS) and certain annuitants and survivors whose annuity computation under the Federal Employees Retirement System (FERS) have a CSRS component.

*C. Authority for Conducting the Matching Program*

Chapters 83 and 84 of title 5 of the United States Code provide the basis for computing annuities under CSRS and FERS, respectively, and require release of information by SSA to OPM in order to administer data exchanges involving military service performed by an individual after December 31, 1956. The CSRS requirement is codified at section 8332(j) of title 5 of the United States Code; the FERS requirement is codified at section 8422(e)(4) of title 5 of the United States Code. The responsibilities of SSA and OPM with respect to information obtained pursuant to this agreement are also in accordance with the following: the Privacy Act (5 U.S.C. 552a), as amended; section 307 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253), codified at section 8332 Note of title 5 of the United States Code; section 1306(a) of title 42 of the United States Code; and section 6103(1)(11) of title 26 of the United States Code.

*D. Categories of Records and Individuals Covered by the Match*

SSA will disclose data from its MBR file (60–0090, Master Beneficiary Record, SSA/OEEAS) and MEF file (60–0059, Earnings Recording and Self-Employment Income System, SSA/OEEAS) and manually-extracted military wage information from SSA's ''1086'' microfilm file when required (71 FR 1796, January 11, 2006). OPM will provide SSA with an electronic finder file from the OPM system of records published as OPM/Central-1 (Civil Service Retirement and Insurance Records) on October 8, 1999 (64 FR 54930), as amended on March 20, 2008 (73 FR 15013). The system of records involved have routine uses permitting the disclosures needed to conduct this match.

*E. Privacy Safeguards and Security*

The Privacy Act (5 U.S.C. 552a(o)(1)(G)) requires that each matching agreement specify procedures for ensuring the administrative, technical and physical security of the records matched and the results of such programs.

All Federal agencies are subject to: The Federal Information Security Management Act of 2002 (FISMA) (44 U.S.C. 3541 *et seq.*); related OMB circulars and memorandum (*e.g.,* OMB Circular A–130 and OMB M–06–16); National Institute of Science and Technology (NIST) directives; and the Federal Acquisition Regulations (FAR). These laws, circulars, memoranda directives and regulations include requirements for safeguarding Federal information systems and personally identifiable information used in Federal agency business processes, as well as related reporting requirements. OPM and SSA recognize that all laws, circulars, memoranda, directives and regulations relating to the subject of this agreement and published subsequent to the effective date of this agreement must also be implemented if mandated.

FISMA requirements apply to all Federal contractors and organizations or sources that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency. OPM will be responsible for oversight and compliance of their contractors and agents. Both OPM and SSA reserve the right to conduct onsite inspection to monitor compliance with FISMA regulations.

*F. Inclusive Dates of the Match*

The matching program shall become effective upon the signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

U.S. Office of Personnel Management.

**Katherine Archuleta,**

*Director.*

[FR Doc. 2015–08097 Filed 4–8–15; 8:45 am]

**BILLING CODE 6325–38–P**

## POSTAL SERVICE

### Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

**DATES AND TIMES:** March 24, 2015, at 4 p.m.

**PLACE:** Washington, DC, via Teleconference.

**STATUS:** *Committee Votes to Close March 24, 2015, Meeting:* By telephone vote on March 24, 2015, members of the Temporary Emergency Committee of the Board of Governors of the United States Postal Service met and voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Committee determined that no earlier public notice was possible.

**MATTERS CONSIDERED:**

**Tuesday, March 24, 2015, at 4 p.m.**

1. Strategic Issues.
2. Financial Matters.
3. Pricing.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

**Julie S. Moore,**

*Secretary, Board of Governors.*

[FR Doc. 2015–08242 Filed 4–7–15; 11:15 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

**DATES AND TIMES:** March 27, 2015, at 3 p.m.

**PLACE:** Washington DC, via Teleconference.

**STATUS:** Committee Votes to Close March 27, 2015, Meeting: By telephone vote on March 27, 2015, members of the Temporary Emergency Committee of the Board of Governors of the United States Postal Service met and voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Committee determined that no earlier public notice was possible.

**MATTERS CONSIDERED:**

**Friday, March 27, 2015, at 3 p.m.**

1. Strategic Issues.
2. Financial Matters.
3. Pricing.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

**Julie S. Moore,**

*Secretary, Board of Governors.*

[FR Doc. 2015–08241 Filed 4–7–15; 11:15 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### In the Matter of Chatter Box Call Center Ltd., Euro Group of Companies, Inc., and Golden Century Resources Limited; Order of Suspension of Trading

April 7, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chatter Box Call Center Ltd. because it has not filed any periodic reports since the period ended December 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Euro Group of Companies, Inc. because it has not filed any periodic reports since the period ended June 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Golden Century Resources Limited because it has not filed any periodic reports since the period ended March 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. EDT on April 7, 2015, through 11:59 p.m. EDT on April 20, 2015.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–08260 Filed 4–7–15; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74642; File No. SR–NYSE–2014–59]**

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Withdrawal of a Proposed Rule Change, as Modified by Partial Amendment No. 1, Amending Rule 13 and Related Rules Governing Order Types and Modifiers

April 3, 2015.

On November 14, 2014, New York Stock Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Exchange Rule 13 and other Exchange rules governing order types and order modifiers. The proposed rule change was published in the **Federal Register** on December 4, 2014.[3] On December 22, 2014, the Exchange submitted Partial Amendment No. 1 to the Commission.[4] On January 14, 2015, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73703 (December 4, 2014), 79 FR 72039.

[4] The Exchange also submitted a copy of the amendment to the public comment file. *See* letter from Martha Redding, Chief Counsel, New York Stock Exchange, to Kevin M. O'Neill, Deputy Secretary, Commission, dated December 22, 2014.

[5] 15 U.S.C. 78s(b)(2).

the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On February 26, 2014, the Exchange withdrew the proposal SR–NYSE–2014–59.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–08107 Filed 4–8–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### In the Matter of China Education International, Inc., Delta Entertainment Group Inc., and Gulf United Energy, Inc.; Order of Suspension of Trading

April 7, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Education International, Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Delta Entertainment Group Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gulf United Energy, 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. EDT on April 7, 2015, through 11:59 p.m. EDT on April 20, 2015.

[6] *See* Securities Exchange Act Release No. 74051, 80 FR 2983 (Jan. 21, 2015). The Commission designated March 4, 2015, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[7] 17 CFR 200.30–3(a)(12).

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–08259 Filed 4–7–15; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74645; File No. SR–BYX–2015–20]**

### Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 4.3, Record of Written Complaints

April 3, 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 March 26, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 4.3, Record of Written Complaints. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

**Rule 4.3. Record of Written Complaints**

(a) Each Member shall keep and preserve for a period of not less than [five]*four* years a file of all written complaints of customers and action taken by the Member in respect thereof, if any. Further, for the first two years of the [five]*four*-year period, the Member shall keep such file in a place readily accessible to examination or spot checks.

(b) (No change).

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

**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 II.A., II.B., and II.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 filed a proposal to amend Rule 4.3, Record of Written Complaints, to conform with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') for purposes of an agreement between the Exchange and FINRA, as well as to conform Exchange Rule 4.3 with the rules of the EDGX Exchange, Inc. (''EDGX'') and the EDGA Exchange, Inc. (''EDGA'').[5]

Pursuant to Rule 17d–2 under the Act,[6] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (the ''17d–2 Agreement''). The 17d–2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) examination of common members of the Exchange and FINRA for compliance with federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of the Exchange and FINRA for violations of federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common

[5] *See* EDGA and EDGX Rules 4.3. *See also* Securities Exchange Act Release Nos. 70715 (October 15, 2013), 78 FR 64041 (October 18, 2013) (SR–EDGA–2013–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA Rule 4.3, Record of Written Complains, to Conform with Financial Industry Regulatory Authority, Inc. Rule 4513); *and* 70714 (October 15, 2013), 78 FR 64038 (October 18, 2013) (SR–EDGX–2013–39) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGX Rule 4.3, Record of Written Complains, to Conform with Financial Industry Regulatory Authority, Inc. Rule 4513).

[6] 17 CFR 240.17d–2.

members of the Exchange and FINRA with the federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.[7]

The 17d–2 Agreement included a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable. To conform to comparable FINRA rules for purposes of the 17d–2 Agreement, the Exchange proposes to amend Rule 4.3, Record of Written Complaints, to align with FINRA Rule 4513.[8]

Exchange Rule 4.3 currently requires that members of the Exchange (''Members'') keep and preserve written customer complaints[9] for a period of not less than five years, the first two of which must be in a readily accessible place. To take into account FINRA's four-year routine examination cycle for certain members, FINRA Rule 4513 requires that members preserve the customer complaint records for a period of at least four years. Under the 17d–2 Agreement, FINRA examines common members of the Exchange and FINRA for compliance with Exchange Rule 4.3. However, because of the differing retention periods between Exchange Rule 4.3 and FINRA Rule 4513, the 17d–2 Agreement specifically states that FINRA has the regulatory responsibilities for the first four years of Exchange Rule 4.3's five year record retention requirement.

The Exchange, therefore, proposes to decrease the record retention requirements under Rule 4.3 from five to four years. The Exchange believes that amending the record retention requirements for customer complaints to align with FINRA Rule 4513 would help to avoid confusion among Members that are also members of FINRA, EDGA, or EDGX. The Exchange further believes that aligning the Exchange's rules with FINRA Rule 4513 would account for FINRA's four-year routine examination cycle for certain members, which FINRA conducts on the Exchange's behalf under the 17d–2 Agreement ensuring consistent regulation of Members that are also members of FINRA.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(5) of the Act[11] in particular, in that it is 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, and, in general, to protect investors and the public interest, by eliminating unnecessary confusion with respect to the Exchange's rules. The proposed rule change should provide greater harmonization between similar Exchange, EDGA, EDGX and FINRA rules, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. The proposed rule change should foster cooperation and coordination with persons engaged in facilitating transactions in securities and should remove impediments to and perfect the mechanism of a free and open market and a national market system consistent with the requirements of Section 6(b)(5) of the Act.[12]

*(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 because the proposed change would apply to all Members equally.

*(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[13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BYX–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 20549–1090.

All submissions should refer to File No. SR–BYX–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

[7] *See* Securities and Exchange Release No. 58375 (August 13, 2008), 75 FR 51295 (August 19, 2008) (approving File No. 10–198).

[8] *See also* Securities Exchange Act Release No. 63784 (January 27, 2011), 76 FR 5850 (February 2, 2011) (Order Approving Proposed Rule Change); (File No. SR–FINRA–2010–052).

[9] Exchange Rule 4.3(b) defines a ''complaint'' as ''any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of a Member or persons under the control of the Member in connection with (1) the solicitation or execution of any transaction conducted or contemplated to be conducted through the facilities of the Exchange or (2) the disposition of securities or funds of that customer which activities are related to such a transaction.''

[10] *See* 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* 15 U.S.C. 78s(b)(3)(a)(ii).

[14] *See* 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.

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–BYX–2015–20 and should be submitted on or before April 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–08110 Filed 4–8–15; 08:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### In the Matter of AuraSound, Inc., C2C CrowdFunding, Inc., Convenience TV Inc., Global Security Agency Inc., and NewMarket Technology, Inc., Order of Suspension of Trading

April 7, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AuraSound, Inc. because it has not filed any periodic reports since the period ended December 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of C2C CrowdFunding, Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Convenience TV Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global Security Agency Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NewMarket Technology, Inc. because it has not filed any periodic reports since the period ended June 30, 2011.

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. EDT on April 7, 2015, through 11:59 p.m. EDT on April 20, 2015.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–08261 Filed 4–7–15; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74644; File No. SR–NASDAQ–2015–031]**

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Rule 4758

April 3, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 30, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4758 (Order Routing) to (a) explain the treatment of a DOT or DOTI order designated to participate in the closing only; (b) explain the treatment of a LIST order designated to participate in the closing only; and (c) explain the treatment of a LIST order in the after-hours market.[4] The Exchange also proposes to make technical changes to further explain the language of the rule.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at the Exchange's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend subsection (a)(1)(A) of Rule 4758 to: (a) Explain the treatment of a DOT or DOTI order designated to participate in the closing only; (b) explain the treatment of a LIST order designated to participate in the closing only; and (c) explain the treatment of a LIST order in the after-hours market. The Exchange also proposes to make technical changes to further explain the language of the rule.

NASDAQ offers its members optional routing functionality that allows them to use NASDAQ's facilities to access liquidity available on other trading venues. The functionality includes a range of defined routing algorithms—known as strategies—that determine the destinations and pattern of routing. The particular pattern of routing to other venues associated with a particular strategy is referred to in Rule 4758 as the ''System routing table.'' All routing is designed to be conducted in a manner consistent with the requirements of Regulation NMS.

NASDAQ currently offers a set of strategies designed to allow market participants to route orders to the primary market on which a security is listed. NASDAQ is proposing minor

[15] *See* 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For a description of market sessions and hours on the Exchange, *see* Rule 4120(b)(4). DOT, DOTI, and LIST orders are defined below.

changes to these strategies to improve their functioning and make clear the language of the rule. As an example, NASDAQ currently offers the DOT strategy (which includes several variations) as a means of designating an order for routing to the New York Stock Exchange (''NYSE'') or NYSE MKT (formerly NYSE Amex) for participation in their respective opening or closing processes. DOT orders are routed directly to NYSE or NYSE MKT, as appropriate. After attempting to execute in the opening or closing process, if any shares remain unexecuted, DOT orders thereafter check the NASDAQ Market Center System for available shares and behave as SCAN or STGY orders, depending on the designation of the entering firm.[5] DOTI and LIST strategies are discussed below.

The Proposal

First, NASDAQ is proposing to modify the language of subsection (a)(1)(A) of Rule 4758 to make it clear that a DOT order may be designated to participate in the opening only or in the closing only, with different outcomes. Currently, an order entered before the open (or close) that is designated as opening only (or closing only) will likely be cancelled by the destination market after the open (or close) in accordance with its terms and therefore will not return to NASDAQ, even if not executed in full. Similarly, if NASDAQ receives a DOT order after the security has opened (or closed) and the order has been designated to participate in the opening only (or closing only), the order will nevertheless be routed to NYSE or NYSE MKT (which would be expected to reject the order based on its designation as opening only or closing only).[6] Specifically, the Exchange proposes in subsection (a)(1)(A)(i) of Rule 4758 to delete the option of a DOT order being designated to participate in the closing only at the proper time as described below, in which case a closing only order would be expected to be rejected by the destination market and would also be cancelled by NASDAQ if returned by the destination market. The Exchange proposes new language in subsection (a)(1)(A)(i) stating that if a DOT order entered in NYSE or NYSE MKT securities has been designated to participate in the closing only and is entered at 3:45 p.m. Eastern Time or later (or in the case of an early closing, is entered 15 minutes prior to the close or later), the order will be rejected.[7] A DOT order entered in non-NYSE or non-NYSE MKT securities, however, will be treated as a SCAN or STGY order depending on the designation of the firm. The Exchange believes the proposed explanation of how DOT orders will be treated makes the rule clearer and easier to follow, and should serve to minimize any potential confusion regarding its application.[8] The modifications make clear the processing logic for NYSE or NYSE MKT and non- NYSE or non-NYSE MKT orders. The modifications also make clear the processing logic for NYSE or NYSE MKT DOT orders designated to participate in the closing only and entered at 3:45 p.m. Eastern Time or later (or in the case of an early closing, entered 15 minutes prior to the close or later), which would be rejected. Also, the modifications make clear the processing logic for a non-NYSE or NYSE MKT DOT order, which would continue to be treated as SCAN or STGY orders depending on the designation of the firm.

Second, NASDAQ is proposing similar changes to the DOTI routing strategy in subsection (a)(1)(A) of Rule 4758 to make it clear that a DOTI order may be designated to participate in the opening only but not in the closing only under certain circumstances. Currently, DOTI is a routing option for orders that the entering firm wishes to direct to the NYSE or NYSE MKT without them returning to the NASDAQ Market Center. DOTI orders check the System for available shares and then are sent to destinations on the System routing table before being sent to NYSE or NYSE MKT, as appropriate. Alternatively, the member entering the order may opt to have it check the System and then be sent directly to NYSE or NYSE MKT, without routing to destinations on the System routing table.[9] DOTI orders do not return to the NASDAQ Market Center book after routing. Specifically, the Exchange proposes in subsection (a)(1)(A)(ii)a. of Rule 4758 to delete the current option of a DOTI order being designated to participate in the closing only at the proper time as described below, in which case a closing only order would be expected to be rejected by the destination market and would also be cancelled by NASDAQ if returned by the destination market. The Exchange proposes new language in subsection (a)(1)(A)(ii)a. stating that if a DOTI order entered in NYSE or NYSE MKT securities has been designated to participate in the closing only and is entered at 3:45 p.m. Eastern Time or later (or in the case of an early closing, is entered 15 minutes prior to the close or later) it will be rejected.[10] The Exchange believes the proposed explanation of how DOTI orders will be treated makes the rule clearer and easier to follow, and should serve to minimize any potential confusion regarding its application. As is the case with DOT, the modifications make clear the processing logic for NYSE or NYSE MKT DOTI orders designated to participate in the closing only and entered at 3:45 p.m. Eastern Time or later (or in the case of an early closing, entered 15 minutes prior to the close or later), which would be rejected.

Third, NASDAQ is proposing similar changes to the LIST routing strategy in subsection (a)(1)(A) of Rule 4758 to make it clear how a LIST order designated to participate in the closing only will be handled. Currently, LIST is a routing option designed to allow orders to participate in the opening and/or closing process of the primary listing market for a security, and to follow additional routing logic as described below. A LIST order received before the security has opened on its primary listing market will be routed to the primary listing market for participation in that market's opening process. After the security has opened on its primary listing market, unexecuted shares will be returned to the NASDAQ system; the order would be returned only to the extent that the order has not been designated opening only and has not

[5] STGY is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the applicable System routing table. If shares remain un-executed after routing, they are posted on the NASDAQ book. Once the order is on the book, if the order is subsequently locked or crossed by another accessible market center, the System routes the order to the locking or crossing market center. SCAN behaves similarly, but once the order is on the NASDAQ book, the System will not route the order to a locking or crossing market center. Although both options are described in Rule 4758 as variations of the DOT strategy, NASDAQ's system specifications refer to the SCAN option as either ''DOTA'' or ''DOTD'' and refer to the STGY option as ''DOTM.''

[6] In the event that an opening or closing only order was returned to NASDAQ after the time of the open or close on the destination market, NASDAQ would cancel the order.

[7] NYSE and NYSE MKT rules do not permit the entry of on close orders after 3:45 p.m. Eastern Time unless they are offsetting an imbalance. Since the Exchange is a pass through for these purposes and does not read imbalances, the System is set to reject at the 3:45 p.m. Eastern Time cut-off or later (or in the case of an early closing, to reject 15 minutes prior to the close or later), so that the Exchange is in synch with the rules of NYSE and NYSE MKT. As discussed, the Exchange adds language to ensure that the noted orders are rejected if there is an early market close. This is similar for DOT, DOTI, and LIST.

[8] For additional explanation and clarity in subsection (a)(1)(A)(i), the Exchange proposes to add the phrase ''if applicable'' following ''after attempting to execute in the opening or closing process.''

[9] This option is referred to in system specifications as ''DOTZ''.

[10] *See also* supra note 6.

been fully executed, rejected, or cancelled by the destination market. Thereafter, the order will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. Any remaining shares will be posted on the book. As with DOT and DOTI, if a LIST order is received by NASDAQ before the destination market is able to receive orders for its opening process, the order will be held until such time as the destination market can receive it. The Exchange specifically proposes new language in subsection (a)(1)(A)(x) to state that for NYSE and NYSE MKT securities, LIST orders that have been designated to participate in the closing only and are entered at the 3:45 p.m. Eastern Time cut-off or later (or in the case of an early closing, are entered 15 minutes prior to the close or later), will be rejected. This is the same as DOT and DOTI. Currently, the provision in subsection (a)(1)(A)(x) governing a LIST order that has been designated to participate in the closing only and is entered after the security has closed states that the order will nevertheless be routed to the primary listing market. The Exchange proposes to add language stating ''unless the primary market for the security is NYSE or NYSE MKT.'' [11] Accordingly, if a LIST order has been designated to participate in the closing only and is entered after the security has closed and the primary market for the security is other than NYSE or NYSE MKT, the order will nevertheless be routed to the primary listing market. Currently, subsection (a)(1)(A)(x) states that LIST Orders received after market close that have not been designated as closing only will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. The Exchange proposes to add language regarding such LIST orders, stating ''and are eligible, based on the orders' time-in force,[12] to participate in the after-hours market.'' Accordingly, LIST Orders received after market close that have not been designated as closing only and are eligible, based on the orders' time-in force, to participate in the after-hours market will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. Any remaining shares will be posted to the NASDAQ book. This additional language explains the processing logic if a LIST order is received after market close and is not designated to participate in the closing only.

By way of housekeeping, the Exchange also proposes additional explanatory language in respect of LIST orders. First, where currently Rule 4758(a)(1)(A)(x) states that two minutes before market close, all LIST orders on the book ''will route'' to the security's primary listing market for participation in its closing process, the Exchange proposes to say ''will begin routing'' in recognition of the fact that the sheer volume of orders will not allow all orders to route at exactly the same time. Second, where currently Rule 4758(a)(1)(A)(x) states that after the security has closed on the primary listing market, a LIST order that has not been designated as ''a closing only order'' and that has not been fully executed, rejected, or cancelled by the market to which it was routed will be returned to the NASDAQ System, the Exchange proposes to state ''a closing only or MDAY order'' in recognition of the time in force of a MDAY order.[13]

The Exchange believes that these proposed explanatory changes are non-controversial and are consistent with the Act.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[14] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

NASDAQ believes that the changes will make clear to market participants that they may not designate DOT and DOTI orders to participate in the closing only of a primary listing venue under certain circumstances. In addition, NASDAQ proposes to clearly explain to market participants how orders designated to participate in the closing only and are entered at 3:45 p.m. Eastern Time or later (or in the case of an early closing, are entered 15 minutes prior to the close or later) will be handled. Collectively, the changes discussed in the proposal facilitate transactions in securities and perfect the mechanism of a free and open market and a national market system by providing NASDAQ members with greater explanation regarding the routing of their orders. The Exchange believes the changes make clear the language to Rule 4758 and make it easier to follow, and should serve to minimize any potential confusion regarding its application. The majority of the changes are explanatory, and some are technical in nature.

As noted, the Exchange believes that the changes proposed are explanatory and non-controversial in nature.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will have any impact on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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

[11] Based on its designation as closing only, this type of eligible LIST order will nevertheless be routed to the primary listing market; based on its designation as closing only, such an order would be expected to be rejected by the destination market, and would also be cancelled by NASDAQ if returned by the destination market. Rule 4758(a)(1)(A)(x). If the primary market for the security is NYSE or NYSE MKT, the order will be rejected because the cutoff is at 3:45 p.m. Eastern Time or later (or in the case of an early closing, is at 15 minutes prior to the close or later). *See also* supra note 6.

[12] For example, orders with a time in force that is valid for extended hours trading.

[13] ''Market Hours Day'' or ''MDAY'' shall mean for orders so designated, that if after entry into the System, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution until 4:00 p.m. Eastern Time, unless canceled by the entering party, after which it shall be returned to the entering party. MDAY Orders shall be available for entry from 4:00 a.m. until 4:00 p.m. Eastern Time and for potential execution from 9:30 a.m. until 4:00 p.m. Eastern Time. Rule 4751(h)(6).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(ii) of the Act[16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–031 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–NASDAQ–2015–031. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2015–031 and should be submitted on or before April 30, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–08109 Filed 4–8–15; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 15 U.S.C. 78s(b)(3)(a)(ii).

[17] 17 CFR 240.19b–4(f)(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.

[18] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74643; File No. SR–NYSEMKT–2014–95]**

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Withdrawal of a Proposed Rule Change, as Modified by Partial Amendment No. 1 and Partial Amendment No. 2, Amending Rule 13—Equities and Related Rules Governing Order Types and Modifiers

April 3, 2015.

On October 31, 2014, NYSE MKT LLC (''NYSE MKT'' or ''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 13—Equities and other related Exchange rules governing order types and order modifiers. The proposed rule change was published in the **Federal Register** on November 20, 2014.[3] On November 14, 2014, the Exchange submitted Partial Amendment No. 1 to the Commission.[4] On December 22, 2014, the Exchange submitted Partial Amendment No. 2 to the Commission. On December 22, 2014, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On February 18, 2015, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to disapprove the proposed rule changes.[7]

On February 26, 2014, the Exchange withdrew the proposal SR–NYSEMKT–2014–95.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–08108 Filed 4–8–15; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73593 (Nov. 14, 2014), 79 FR 69153 (''Notice'').

[4] The Exchange also submitted a copy of the amendment to the public comment file. *See* Letter from Sudhir Bhattacharyya, Vice President, New York Stock Exchange, to Kevin M. O'Neill, Deputy Secretary, Commission (Nov. 14, 2014).

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 73913, 79 FR 78531 (Dec. 30, 2014).

[7] *See* Securities Exchange Act Release No. 74298, 80 FR 9770 (Feb. 24, 2015).

[8] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

**[Docket No: SSA–2015–0019]**

### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB); Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA); Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401

Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0015].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 8, 2015. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Disability Report–Adult—20 CFR 404.1512 and 416.912—0960–0579. State Disability Determination Services (DDS) use the SSA–3368 and its electronic versions to determine if adult disability applicants' impairments are severe, and, if so, how the impairments affect the applicants' ability to work. This determination dictates whether the DDSs and SSA will find the applicant disabled and entitled to Supplement Security Income (SSI) payments. The respondents are applicants for Title II disability benefits or Title XVI SSI payments.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–3368 (Paper form) | 7,571 | 1 | 90 | 11,357 |
| Electronic Disability Collection System (EDCS) | 2,484,231 | 1 | 90 | 3,726,346 |
| i3368 (Internet) | 1,060,360 | 1 | 90 | 1,590,540 |
| Totals | 3,552,162 | | | 5,328,243 |

2. Representative Payment Policies Regulation—20 CFR 404.2011(a)(1), 404.2025, 416.611(a)(1), 416.625—0960–0679. Per 20 CFR 404.2011 and 20 CFR 416.611 of the Code of Federal Regulations, if SSA determines it may cause substantial harm for Title II or Title XVI recipients to receive their payments directly, recipients may dispute that decision. To do so, recipients provide SSA with information the agency uses to re-evaluate its determination. In addition, our regulations state that after SSA selects a representative payee to receive benefits on a recipient's behalf, the payees provide SSA with information on their continuing relationship and responsibility for the recipients, and explain how they use the recipients' payments. Sections 20 CFR 404.2025 and 20 CFR 416.625 of the Code of Federal Regulations provide a process to follow up with the representative payee to verify payee performance. The respondents are Title II and Title XVI recipients, and their representative payees.

Type of Request: Extension of an OMB-approved information collection.

| CFR citation | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| 404.2011(a)(1); 416.611(a)(1) | 250 | 1 | 15 | 63 |
| 404.2025; 416.625 | 3,000 | 1 | 6 | 300 |
| Totals | 3,250 | | | 363 |

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than May 11, 2015. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Certification by Religious Group—20 CFR 404.1075—0960–0093. SSA is responsible for determining whether religious groups meet the qualifications exempting certain members and sects from payment of Self-Employment Contribution Act taxes under the Internal Revenue Code, Section 1402(g). SSA sends Form SSA–1458, Certification by Religious Group, to a group's authorized spokesperson to complete and verify organizational members meet or continue to meet the criteria for exemption. The respondents are spokespersons for religious groups or sects.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–1458 | 180 | 1 | 15 | 45 |

2. Request for Reconsideration—Disability Cessation—20 CFR 404.909, 416.1409—0960-0349. When SSA determines that claimants' disabilities ceased or are no longer sufficiently disabling, these claimants may ask SSA to reconsider that determination. SSA uses Form SSA–789–U4 to arrange for a hearing or to prepare a decision based on the evidence of record. Specifically, claimants or their representatives use Form SSA–789–U4 to: (1) ask SSA to

reconsider a determination; (2) indicate if they wish to appear at a disability hearing; (3) submit any additional information or evidence for use in the reconsidered determination; and (4) indicate if they will need an interpreter for the hearing. The respondents are applicants or claimants for Social Security benefits or SSI payments.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated Total Annual Burden (hours) |
|---|---|---|---|---|
| SSA–789–U4 | 30,000 | 1 | 13 | 6,500 |

3. Prohibition of Payment of SSI Benefits to Fugitive Felons and Parole/Probation Violators—20 CFR 416.708(o)—0960-0617. Section 1611(e)(4) of the Social Security Act precludes eligibility for SSI payments for certain fugitives and probation/parole violators. Regulations at 20 CFR 416.708(o) require individuals applying for or receiving SSI to report to SSA that: (1) They are fleeing to avoid prosecution for a crime; (2) they are fleeing to avoid custody or confinement after conviction of a crime; or (3) they are violating a condition of probation or parole. SSA uses the information we receive to deny eligibility, or suspend recipients' SSI payments. The respondents are SSI applicants and recipients, or representative payees of SSI applicants and recipients, who are reporting their status as a fugitive felon or probation/parole violator.

Type of Request: Extension of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| Modernized SSI Claims System | 1,000 | 1 | 1 | 17 |

4. Identifying Information for Possible Direct Payment of Authorized Fees—0960–0730. SSA collects information from claimants' appointed representatives on Form SSA–1695 to: (1) Process and facilitate direct payment of authorized fees; (2) issue a Form 1099–MISC, if applicable; and (3) establish a link between each claim for benefits and the data we collect on the SSA–1699 for our appointed representative database. The respondents are attorneys and other individuals who represent claimants for benefits before SSA.

Type of Request: Revision of an OMB approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–1695 | 10,000 | 40 | 10 | 66,667 |

5. Request for Business Entity Taxpayer Information—0960–0731. Law firms or other business entities must complete Form SSA–1694, Request for Business Entity Taxpayer Information, if they wish to serve as appointed representatives and receive direct payment of fees from SSA. SSA uses the information to issue a Form 1099–MISC. SSA also uses the information to allow business entities to designate individuals to serve as entity administrators authorized to perform certain administrative duties on their behalf, such as providing bank account information, maintaining entity information, and updating individual affiliations. Respondents are law firms or other business entities with attorneys or other qualified individuals as partners or employees who represent claimants before SSA.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–1694—Paper Version | 1,000 | 1 | 10 | 167 |
| SSA–1694—Business Services Online Submission | 1,000 | 1 | 10 | 167 |
| Totals | 2,000 | ..... | ..... | 334 |

6. Request to Pay Civil Monetary by Installment Agreement—20 CFR 498—0960–0776. When SSA imposes a civil monetary penalty (CMP) on individuals for various fraudulent conduct related to SSA-administrated programs, those individuals may request to pay the CMP through benefit withholding, or an installment agreement. To negotiate a monthly payment amount, fair to both the individual and the agency, SSA needs financial information from the individual. The agency uses Form SSA–640 to obtain the information necessary to determine a monthly installment

repayment rate for individuals owing a CMP. The respondents are recipients of Social Security benefits and non-entitled individuals who must repay a CMP to the agency and choose to do so using an installment plan.

Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) |
|---|---|---|---|---|
| SSA–640 | 400 | 1 | 120 | 800 |

Dated: April 6, 2015.

**Faye I. Lipsky,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 2015–08165 Filed 4–8–15; 8:45 am]

**BILLING CODE 4191–02–P**

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2014–0053]**

### Social Security Ruling, SSR 15–1p; Titles II and XVI: Evaluating Cases Involving Interstitial Cystitis (IC); Correction

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Ruling; Correction.

**SUMMARY:** The Social Security Administration published a document in the **Federal Register** of March 18, 2015, in FR Doc. 2015–05680, on page 14217, in the first column, in section ''D,'' in the second sentence, delete ''and dimethyl sulfoxide''.

**Faye I. Lipsky,**

*Director, Office of Regulations and Reports Clearance Social Security Administration.*

[FR Doc. 2015–08136 Filed 4–8–15; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice: 9088]**

### Notice of Public Meeting of the President's Emergency Plan for AIDS Relief (PEPFAR) Scientific Advisory Board

**SUMMARY:** In accordance with the Federal Advisory Committee Act (FACA), the PEPFAR Scientific Advisory Board hereinafter referred to as ''the Board'', will meet as indicated below.

The U.S. President's Emergency Plan for AIDS Relief (PEPFAR) Scientific Advisory Board will meet on Thursday, April 30th via teleconference. The meeting will be from 9 a.m. ET until approximately 10:30 a.m. ET and is open to the public (please see teleconference phone number below). The meeting will be hosted by the Office of the U.S. Global AIDS Coordinator, Ambassador Deborah L. Birx, who leads implementation of the President's Emergency Plan for AIDS Relief (PEPFAR). The PEPFAR Scientific Advisory Board serves the Global AIDS Coordinator in a solely advisory capacity concerning scientific, implementation, and policy issues related to the global response to HIV/AIDS. These issues will be of concern as they influence the priorities and direction of PEPFAR evaluation and research, the content of national and international strategies and implementation, and the role of PEPFAR in the international discourse regarding appropriate and resourced responses. The April 30th teleconference will act as an introduction to PEPFAR programs, the goals of the Board, and provide an overview and forum for discussion of PEPFAR 3.0, (*http://www.pepfar.gov/documents/organization/234744.pdf*) which sets the strategic direction of the program. The public may attend this meeting by using the conference number provided here: (United States: (800) 230–1951/International: (612) 332–0226/Confirmation Number: 357464).

To RSVP, please contact the Office of the U.S. Global AIDS Coordinator: email (*PEPFAR_SAB@state.gov*), by April 22nd, 2015. While the meeting is open to public attendance, the Board will determine procedures for public participation and will announce those procedures at the meeting.

For further information about the meeting, please contact Dr. Julia MacKenzie, Senior Technical Advisor and Designated Federal Officer, Office of the U.S. Global AIDS Coordinator at (202) 663–1079 or *MacKenzieJJ@state.gov.*

Dated: April 2, 2015.

**Julia MacKenzie,**

*Senior Technical Advisor, Office of the U.S. Global AIDS Coordinator, U.S. Department of State.*

[FR Doc. 2015–08157 Filed 4–8–15; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Release Airport Property at the Former Stapleton International Airport, Denver, Colorado

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

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at the former Stapleton International Airport (SIA) under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

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

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, at the following address: Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, 8500 Pena Boulevard, Ninth Floor, Room 9870, Denver, Colorado 80249–6340.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the former

Stapleton International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, 101 Stat. 1529, Section 313(a), gave the Secretary of Transportation the authorization, subject to the provisions of Section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), to grant Stapleton International Airport release from any of the terms, conditions, reservations, or restrictions contained in each deed of conveyance under which the United States conveyed property to the City and County of Denver, Colorado, on which any portion of Stapleton International Airport is located. This included property conveyed under Section 16 of the Federal Airport Act (60 Stat. 179).

On April 3, 2015, the FAA determined that the request to release property at the former Stapleton International Airport submitted by the City and County of Denver meets the procedural requirements of the Federal Aviation Administration.

The following is a brief overview of the request:

The City and County of Denver is proposing the release from the terms, conditions, reservations and restrictions on 73.310 acres of property identified as SIA Section 10 (Eastern Portion) at the former Stapleton International Airport. This parcel was conveyed from the United States of America to the City and County of Denver to be used for aviation development on October 29, 1969. Denver voters endorsed the plan to build a new airport, to be called Denver International Airport. Stapleton International Airport closed on February 28, 1995, when Denver International Airport opened, and the FAA transferred all City and County of Denver's grant obligations in connection with Stapleton International Airport to the development and operation of Denver International Airport. The Stapleton property has slowly been redeveloped over the past 20 years for homes, businesses, roads, parks, and open space, in accordance with zoning, plats, and general development plans approved by the City and County of Denver. The sale of this property will be based on an appraisal conducted in January 2000 which was approved by the FAA in April 2000. The City and County of Denver will treat all proceeds as airport revenue and will be used exclusively in connection with Denver International Airport, specifically for the payment of debt.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Denver International Airport.

Issued in Denver, Colorado on April 3, 2015.

**John P. Bauer,**

*Manager, Denver Airports District Office.*

[FR Doc. 2015–08206 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent to Rule on Request to Release Airport Property at the Former Stapleton International Airport, Denver, Colorado

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

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at the former Stapleton International Airport (SIA) under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

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

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, at the following address: Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, 8500 Pena Boulevard, Ninth Floor, Room 9870, Denver, Colorado 80249–6340.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the former Stapleton International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, 101 Stat. 1529, Section 313(a), gave the Secretary of Transportation the authorization, subject to the provisions of Section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), to grant Stapleton International Airport release from any of the terms, conditions, reservations, or restrictions contained in each deed of conveyance under which the United States conveyed property to the City and County of Denver, Colorado, on which any portion of Stapleton International Airport is located. This included property conveyed under Section 16 of the Federal Airport Act (60 Stat. 179).

On April 3, 2015, the FAA determined that the request to release property at the former Stapleton International Airport submitted by the City and County of Denver meets the procedural requirements of the Federal Aviation Administration.

The following is a brief overview of the request:

The City and County of Denver is proposing the release from the terms, conditions, reservations and restrictions on the remaining property identified in Section 15 (68.931 acres) and Section 22 (150.708 acres) at the former Stapleton International Airport. These parcels were conveyed from the United States of America to the City and County of Denver to be used for aviation development on November 22, 1957, February 26, 1960, and July 18, 1963. In May 1989, Denver voters endorsed the plan to build a new airport, to be called Denver International Airport. Stapleton International Airport closed on February 28, 1995, when Denver International Airport opened, and the FAA transferred all City and County of Denver's grant obligations in connection with Stapleton International Airport to the development and operation of Denver International Airport. The Stapleton property has slowly been redeveloped over the past 20 years for homes, businesses, roads, parks, and open space, in accordance with zoning, plats, and general development plans approved by the City and County of Denver. The sale of this property will be based on an appraisal conducted in January 2000 which was approved by the FAA in April 2000. The City and County of Denver will treat all proceeds as airport revenue and will be used

exclusively in connection with Denver International Airport, specifically for the payment of debt.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Denver International Airport.

Issued in Denver, Colorado on April 3, 2015.

**John P. Bauer,**

*Manager, Denver Airports District Office.*

[FR Doc. 2015–08215 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Pilot Certification and Qualification Requirements for Air Carrier Operations

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. FAA aviation safety inspectors review Airline Transport Pilot (ATP) Certification Training Program (CTP) submittals to determine that the program complies with the applicable requirements of 14 CFR 61.156.

**DATES:** Written comments should be submitted by June 8, 2015.

**ADDRESSES:** Send comments to the FAA at the following address: Ronda Thompson, Room 300, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0755.

*Title:* Pilot Certification and Qualification Requirements for Air Carrier Operations.

*Form Numbers:* FAA Form 8700–1.

*Type of Review:* Renewal of an information collection.

*Background:* FAA aviation safety inspectors review the Airline Transport Pilot (ATP) Certification Training Program (CTP) submittals to determine that the program complies with the applicable requirements of 14 CFR 61.156. The programs that comply with the minimum requirements receive approval to begin offering or providing the course to applicants for an ATP certificate with a multiengine class rating or an ATP certificate obtained concurrently with an airplane type rating. The inspectors also review an institution of higher education's application (new form) for the authority to certify its graduates meet the minimum requirements of 14 CFR 61.160. The institutions of higher education that receive a letter of authorization for their degree program(s) will be authorized to place a certifying statement on a graduates' transcript indicating he or she is eligible for a restricted privileges ATP certificate.

*Respondents:* Approximately 170 applicants.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 120 hours for ATP CTP course development, 8 hours for application for the authority to certify that graduates meet the minimum requirements of 14 CFR 61.160.

*Estimated Total Annual Burden:* 4,297 hours.

Issued in Washington, DC, on April 2, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–08117 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Survey of Airman Satisfaction With Aeromedical Certification Services

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This survey assesses airman opinion of key dimensions of service quality of aeromedical certification services.

**DATES:** Written comments should be submitted by June 8, 2015.

**ADDRESSES:** Send comments to the FAA at the following address: Ronda Thompson, Room 300, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0707.

*Title:* Survey of Airman Satisfaction With Aeromedical Certification Services.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Renewal of an information collection.

*Background:* The FAA, through the Office of Aerospace Medicine (OAM), is responsible for the medical certification of pilots and certain other personnel under 14 CFR part 67 to ensure they are medically qualified to operate aircraft and perform their duties safely. In the accomplishment of this responsibility,

OAM provides a number of services to pilots, and has established goals for the performance of those services. This survey is designed to meet the requirement to survey stakeholder satisfaction under Executive Order No. 12862, ''Setting Customer Service Standards,'' and the Government Performance and Results Act of 1993 (GPRA).

*Respondents:* Approximately 2,333 pilots and certain other personnel who have applied for medical certification.

*Frequency:* Information is collected biennially.

*Estimated Average Burden per Response:* 15 minutes.

*Estimated Total Annual Burden:* 583.25 hours.

Issued in Washington, DC, on April 2, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–08118 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Research, Engineering and Development Advisory Committee; Meeting

Pursuant to section 10(A) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R,E&D) Advisory Committee.

**AGENCY:** Federal Aviation Administration.

**ACTION:** Notice of Meeting.

**NAME:** Research, Engineering & Development Advisory Committee

**TIME AND DATE:** April 22, 2015—9:30 a.m. to 4:00 p.m.

*Place:* Federal Aviation Administration, 800 Independence Avenue SW.,—Round Room (10th Floor), Washington, DC 20591

*Purpose:* The meeting agenda will include receiving from the Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. Persons wishing to attend the meeting or obtain information should contact Chinita A. Roundtree-Coleman at (609) 485–7149 or *chinita.roundtree-coleman@faa.gov.* Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on March 25, 2015.

**Chinita A. Roundtree-Coleman,**

*Computer Specialist.*

[FR Doc. 2015–08106 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification of Airports

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. 14 CFR part 139 establishes certification requirements for airports serving scheduled air carrier operations in aircraft with 10–30 seats. These requirements result in information collections from respondents.

**DATES:** Written comments should be submitted by June 8, 2015.

**ADDRESSES:** Send comments to the FAA at the following address: Ronda Thompson, Room 300, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0675

*Title:* Certification of Airports.

*Form Numbers:* FAA Form 5280–1.

*Type of Review:* Renewal of an information collection.

*Background:* The statutory authority to issue airport operating certificates to airports serving certain air carriers and to establish minimum safety standards for the operation of those airports is currently found in Title 49, United States Code (U.S.C.) § 44706, Airport operation certificates. The FAA uses this authority to issue requirements for the certification and operation of certain land airports. These requirements are contained in Title 14, Code of Federal Regulation part 139 (14 CFR part 139), Certification and Operations: Land Airports Serving Certain Air Carriers, as amended. Information collection requirements are used by the FAA to determine an airport operator's compliance with part 139 safety and operational requirements, and to assist airport personnel to perform duties required under the regulation.

*Respondents:* Approximately 563 airports.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 22 hours.

*Estimated Total Annual Burden:* 100,132 hours.

Issued in Washington, DC on April 2, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–08119 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Insurance

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 4, 2014. The requested information is included in air carriers applications for insurance when insurance is not available from private sources.

**DATES:** Written comments should be submitted by May 11, 2015.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0514.

*Title:* Aviation Insurance.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Extension without change of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 4, 2014 (79 FR 72055). The information submitted by applicants for insurance under Chapter 443 of Title 49 U.S.C. is used by the FAA to identify the eligibility of parties to be insured, the amount of coverage required, and insurance premiums. Without collection of this information, the FAA would not be able to issue required insurance.

*Respondents:* Approximately 61 applicants.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 4 hours.

*Estimated Total Annual Burden:* 616 hours.

Issued in Washington, DC on April 2, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–08121 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2015–21]**

### Petition for Exemption; Summary of Petition Received

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

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before April 29, 2015.

**ADDRESSES:** You may send comments identified by Docket Number, FAA–2015–0194 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sandra Long, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov*, phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 6, 2015.

**Lirio Liu,**

*Director, Office of Rulemaking.*

**Petition for Exemption**

*Docket No.:* FAA–2015–0194.

*Petitioner:* United States Powered Paragliding Association.

*Section of 14 CFR Affected:* 14 CFR 103.1.

*Description of Relief Sought:* The petitioner seeks to permit wheels to support the foot launchable powered paraglider tandem training units during launch and landing. In addition, the petitioner seeks to require an auto-inflating device that will work upon submersion in water. Part 103 does not prohibit carriage of such an auto-inflating device, and thus no relief from part 103 for use of the device(s) is required.

[FR Doc. 2015–08155 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Release Airport Property at the Former Stapleton International Airport, Denver, Colorado

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

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at the former Stapleton International Airport (SIA) under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

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

**ADDRESSES:** Comments on this application may be mailed or delivered

to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, at the following address: Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, 8500 Pena Boulevard, Ninth Floor, Room 9870, Denver, Colorado 80249–6340.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the former Stapleton International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, 101 Stat. 1529, Section 313(a), gave the Secretary of Transportation the authorization, subject to the provisions of Section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), to grant Stapleton International Airport release from any of the terms, conditions, reservations, or restrictions contained in each deed of conveyance under which the United States conveyed property to the City and County of Denver, Colorado, on which any portion of Stapleton International Airport is located. This included property conveyed under Section 16 of the Federal Airport Act (60 Stat. 179).

On April 3, 2015, the FAA determined that the request to release property at the former Stapleton International Airport submitted by the City and County of Denver meets the procedural requirements of the Federal Aviation Administration.

The following is a brief overview of the request:

The City and County of Denver is proposing the release from the terms, conditions, reservations and restrictions on 10.479 acres of property identified as SIA Section 10 (Northwest Corner) at the former Stapleton International Airport. This parcel was conveyed from the United States of America to the City and County of Denver to be used for aviation development on October 29, 1969. Denver voters endorsed the plan to build a new airport, to be called Denver International Airport. Stapleton International Airport closed on February 28, 1995, when Denver International Airport opened, and the FAA transferred all of City and County of Denver's grant obligations in connection with Stapleton International Airport to the development and operation of Denver International Airport. The Stapleton property has slowly been redeveloped over the past 20 years for homes, businesses, roads, parks, and open space, in accordance with zoning, plats, and general development plans approved by the City and County of Denver. The sale of this property will be based on an appraisal conducted in January 2000 which was approved by the FAA in April 2000. The City and County of Denver will treat all proceeds as airport revenue and will be used exclusively in connection with Denver International Airport, specifically for the payment of debt.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Denver International Airport.

Issued in Denver, Colorado on April 3, 2015.

**John P. Bauer,**

*Manager, Denver Airports District Office.*

[FR Doc. 2015–08217 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Release Airport Property at the Former Stapleton International Airport, Denver, Colorado

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

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at the former Stapleton International Airport (SIA) under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

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

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, at the following address: Mr. Greg Holt, Stapleton Redevelopment Program Manager, Denver International Airport, 8500 Pena Boulevard, Ninth Floor, Room 9870, Denver, Colorado 80249–6340.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the former Stapleton International Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, 101 Stat. 1529, Section 313(a), gave the Secretary of Transportation the authorization, subject to the provisions of Section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), to grant Stapleton International Airport release from any of the terms, conditions, reservations, or restrictions contained in each deed of conveyance under which the United States conveyed property to the City and County of Denver, Colorado, on which any portion of Stapleton International Airport is located. This included property conveyed under Section 16 of the Federal Airport Act (60 Stat. 179).

On April 3, 2015, the FAA determined that the request to release property at the former Stapleton International Airport submitted by the City and County of Denver meets the procedural requirements of the Federal Aviation Administration.

The following is a brief overview of the request:

The City and County of Denver is proposing the release from the terms,

conditions, reservations and restrictions on 450.358 acres of property identified as SIA Section 10 (Central Portion) at the former Stapleton International Airport. This parcel was conveyed from the United States of America to the City and County of Denver to be used for aviation development on October 29, 1969. Denver voters endorsed the plan to build a new airport, to be called Denver International Airport. Stapleton International Airport closed on February 28, 1995, when Denver International Airport opened, and the FAA transferred all City and County of Denver's grant obligations in connection with Stapleton International Airport to the development and operation of Denver International Airport. The Stapleton property has slowly been redeveloped over the past 20 years for homes, businesses, roads, parks, and open space, in accordance with zoning, plats, and general development plans approved by the City and County of Denver. The sale of this property will be based on an appraisal conducted in January 2000 which was approved by the FAA in April 2000. The City and County of Denver will treat all proceeds as airport revenue and will be used exclusively in connection with Denver International Airport, specifically for the payment of debt.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Denver International Airport.

Issued in Denver, Colorado on April 3, 2015.

**John P. Bauer,**

*Manager, Denver Airports District Office.*

[FR Doc. 2015–08219 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aircraft Registration Renewal

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 22, 2014. The information collected on an Aircraft Registration Renewal Application, AC Form 8050–1B, is used by the FAA to verify and update aircraft registration information collected for an aircraft when it was first registered.

**DATES:** Written comments should be submitted by May 11, 2015.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0729

*Title:* Aircraft Registration Renewal.

*Form Numbers:* AC Form 8050–1B

*Type of Review:* Revision of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 22, 2014 (79 FR 76437). The information collected on an Aircraft Registration Renewal Application (AC Form 8050–1B) is used by the FAA to verify and update the aircraft registration information collected for an aircraft when it was first registered. The updated registration database will then be used by the FAA to monitor and control U.S. airspace and to distribute safety notices and airworthiness directives to aircraft owners.

*Respondents:* Approximately 95,653 aircraft owners.

*Frequency:* Information is collected triennially.

*Estimated Average Burden per Response:* 30 minutes to complete the form manually, 10 minutes to complete the form electronically.

*Estimated Total Annual Burden:* 23,912 hours.

Issued in Washington, DC on April 2, 2015.

**Ronda Thompson,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.*

[FR Doc. 2015–08122 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Intent to Prepare a Tier I Environmental Impact Statement: Dane County, Wisconsin

**AGENCY:** Federal Highway Administration (FHWA), Wisconsin Department of Transportation (WisDOT).

**ACTION:** Federal Notice of Intent to Prepare a Tier 1 Environmental Impact Statement (Tier 1 EIS).

**SUMMARY:** The FHWA is issuing this revised notice to advise the public that FHWA and WisDOT will be preparing a Tier 1 EIS for proposed transportation improvements in the United States Highway (US) 51 corridor in Dane County, Wisconsin generally between Interstate 39/90 east of the City of Stoughton and US 12/18 (Madison South Beltline Highway). The previous Notice of Intent was to prepare an Environmental Impact Statement and was published in the **Federal Register** on February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mr. Johnny Gerbitz, Field Operations Engineer, Federal Highway Administration, City Center West, 525 Junction Road, Suite 8000, Madison, Wisconsin, 53717–2157, Telephone: (608) 829–7500.

**SUPPLEMENTARY INFORMATION:** A needs assessment was conducted for the project corridor in 2004 followed by initiation of the environmental review process for an environmental impact statement (EIS). The EIS review process examined factors contributing to the need for improvements within the US 51 study corridor (long-term planning and corridor preservation, safety,

roadway deficiencies, bike and pedestrian accommodations, and travel demand and capacity). Because of fiscal constraints, a commitment to improvements that address all of the need factors could not be made and the environmental review process is being converted from a standard EIS to a Tier 1 EIS.

The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT), will prepare a Tier 1 EIS for proposed improvements to address safety, operational and capacity concerns on approximately 18 miles of US 51 between Interstate 39/90, east of the City of Stoughton, to US 12/18 (Madison South Beltline Highway), north of the Village of McFarland. The study will also examine a bypass of Stoughton, as well as potential operational improvements on existing US 51 in Stoughton. As alternatives to capacity improvements on US 51, the study will consider improvements on highways other than US 51 that might address the needs of travelers between the southeast portion of Dane County and the Madison Urban area. The Tier 1 EIS will evaluate the social, economic, and environmental impacts of the alternatives within the existing US 51 highway corridor, and other full build improvements on other regional highway corridors. The objective of this project is to address existing and future transportation demand and safety concerns as identified in the US 51 Needs Assessment Report. The Tier 1 EIS will be prepared in accordance with 23 U.S.C. 139, 23 CFR 771, and 40 CFR 1500–1508. Completion of the Tier 1 EIS and the Record of Decision (ROD) is expected in 2018.

Public involvement is a critical component of the National Environmental Policy Act (NEPA) and will occur throughout the development of the draft and final Tier 1 EIS. All environmental documents will be made available for review by federal and state resource agencies and the public. Specific efforts to encourage involvement by, and solicit comments from, minority and low-income populations in the project study area will be made, with public involvement meetings held throughout the environmental document process. Public notice will be given as to the time and place of public involvement meetings. A public hearing will be held after the completion of the Draft Tier 1 EIS.

Inquiries related to this study can be sent to *jeff.berens@dot.wi.gov.* A public Web site will be maintained throughout the study to provided information about the project and allow for on-line public comment (*http://www.dot.wisconsin.gov/projects/swregion/5139901218/index.htm*). To ensure the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and this notice should be directed to the FHWA address provided above.

Projects receiving Federal funds must comply with Title VI of the Civil Rights Act, and Executive Order 12898 ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this project. It is also Federal policy to identify and address any disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 2, 2015.

**Johnny M. Gerbitz,**

*Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.*

[FR Doc. 2015–08138 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on Proposed Highway in Texas

**AGENCY:** Federal Highway Administration (FHWA), DOT

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. § 139(l)(1). The actions relate to a proposed highway project, Trinity Parkway from Interstate Highway 35 East (IH35E)/State Highway (SH) 183 to U.S. 175/SH 310 in the County of Dallas, State of Texas. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. § 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 8, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Achille Alonzi, Division Administrator, Texas Division, Federal Highway Administration, 300 E. 8th Street, Room 826, Austin, Texas 78701; 8:00 a.m. to 5:00 p.m. (central daylight time) Monday through Friday, 512–536–5902; email: *al.alonzi@dot.gov*.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: The Trinity Parkway (Texas Department of Transportation CSJ 0918–45–121) would consist of a limited-access toll facility on new location in the City of Dallas, extending from the IH 35E/SH 183 interchange (northern terminus) to the US 175/SH 310 interchange (southern terminus), a distance of approximately nine miles. The facility would ultimately consist of six mixed-flow tolled mainlanes, local street interchanges, and interchanges at the northern terminus, southern terminus, Woodall Rodgers Freeway, and IH 45. The primary purpose for the Trinity Parkway is to manage congestion on existing highways through the downtown Dallas area. Trinity Parkway would help manage congestion on IH 35E (Lower Stemmons and South R.L. Thornton Freeways), IH 30, and other major transportation facilities within the Trinity Parkway project area to improve mobility and safety, and thereby increase accessibility to businesses and public facilities.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on March 7, 2014, in the FHWA Record of Decision (ROD) issued on April 2, 2015, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA at the address provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site at: *https://www.ntta.org/roadsprojects/futproj/*

*trihwy/Pages/Project-Meeting-Materials.aspx.*

This notice does not apply to the U.S. Army Corps of Engineering (U.S.A.C.E.) permitting process for this project, because no U.S.A.C.E. permits have been issued the project to date. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4375]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)]

3. Land: Uniform Relocation and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601–4655]; Section 4(f) of the Department of Transportation Act of 1966 [Pub. L. No. 111–212, Section 405 (a)(b)].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; Bald and Golden Eagle Protection Act of 1940 [16 U.S.C. 668]; Fish and Wildlife Coordination Act [16 U.S.C. 661–666(c)].

5. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Section 504 of the Americans with Disability Act; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

6. Wetlands and Water Resources: Clean Water Act [33 U.S.C. 1251–1342 (Sections 303(d), 305(b), and 402)]; Section 9 of the Rivers and Harbors Act of 1899 [33 U.S.C. 401], as modified by the General Bridge Act of 1946 [33 U.S.C. 525]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Safe Drinking Water Act of 1996 [42 U.S.C. 300(f)–300(j)(6)]; Section 6(f) of the Land and Water Conservation Fund (LWCF) Act [16 U.S.C. 460l–4 *et seq.*].

7. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 13112 Invasive Species; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13166 Improving Access to Services for Persons with Limited English Proficiency (LEP).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. § 139(l)(1)

Issued on: April 3, 2015.

**Achille Alonzi,**

*Division Administrator.*

[FR Doc. 2015–08140 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–RY–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2014–0014]**

### Pipeline Safety: Public Workshop on Pipeline Safety Management Systems

**AGENCY:** Pipeline and Hazardous Materials Safety Administration, DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is announcing a one-day public workshop to discuss the recent Pipeline Safety Management Systems (SMS) national consensus standard. The meeting will include participation from all major pipeline sectors, state and Federal regulators, and public safety advocates. This workshop will detail the development process of the SMS standard. The workshop will also emphasize the core elements of the standard including: Leadership and management commitment; risk management; emergency preparedness and response; competence awareness and training; management review and continuous commitment, and the critical role of safety culture.

**DATES:** The public workshop will held on Wednesday, April 22, 2015, from 8:00 a.m. to 4:30 p.m. EST. Written comments must be received by June 8, 2015.

**ADDRESSES:** The workshop will be held at the Westin Galleria, 5060 West Alabama Street, Houston, TX 77056. Hotel reservations can be made under the room block ''PHMSA—Pipeline Safety Management System Workshop/''.

The meeting agenda and any additional information will be published on the PHMSA home page Web site at (*http://www.phmsa.dot.gov/pipeline*), and on the PHMSA meeting page Web site *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=102.*

*Registration:* Members of the public may attend this free workshop. To help assure that adequate space is provided, all attendees should register for the workshop in advance at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=102.*

Comments: Members of the public may also submit written comments either before or after the workshop. Comments should reference Docket No. PHMSA–2014–0014. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.

*Hand Delivery:* DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE. Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Instructions:* Identify the docket number at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

**Note:** Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act Statement heading below for additional information.

*Privacy Act Statement*

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19476).

*Information on Services for Individuals With Disabilities*

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Nancy White, Office of Pipeline Safety, at 202–366–1419 or by email at *nancy.white@dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy White, Office of Pipeline Safety, at 202–366–1419 or by email at *nancy.white@dot.gov,* regarding the subject matter of this notice.

**SUPPLEMENTARY INFORMATION:** The details on this meeting, including the location, times and agenda items, will be available on the meeting page (*https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=102*) as they become available. Please note that the public

workshop will be webcast. Attendees, both in person and by webcast, are strongly encouraged to register to help ensure accommodations are adequate.

Presentations will be available online at the meeting page and also be posted in the E-Gov Web site: *http://www.regulations.gov,* at docket number PHMSA–2014–0014 within 30 days following the meeting.

**Authority:** 49 U.S.C. Chapter 601 and 49 CFR 1.97.

Issued in Washington, DC, on April 3, 2015.

**Jeffrey D. Wiese,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2015–08115 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2015–0105]**

### Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Flooding, River Scour, and River Channel Migration

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

**ACTION:** Notice; Issuance of Advisory Bulletin.

**SUMMARY:** PHMSA is issuing this updated advisory bulletin to all owners and operators of gas and hazardous liquid pipelines to communicate the potential for damage to pipeline facilities caused by severe flooding. This advisory includes actions that operators should consider taking to ensure the integrity of pipelines in the event of flooding, river scour, and river channel migration.

**FOR FURTHER INFORMATION CONTACT:** Operators of pipelines subject to regulation by PHMSA should contact the appropriate PHMSA Region Office. The PHMSA Region Offices and their contact information are as follows:

- Central Region: 816–329–3800, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin
- Eastern Region: 609–989–2171, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
- Southern Region: 404–832–1147, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee
- Southwest Region: 713–272–2859, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
- Western Region: 720–963–3160, Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming

Intrastate pipeline operators should contact the appropriate state pipeline safety authority. A list of state pipeline safety authorities is provided at: *www.napsr.org*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 192.613(a) of the Pipeline Safety Regulations (49 CFR parts 190–199) states that ''[e]ach operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.'' Section 192.613(b) further states that ''[i]f a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619(a) and (b).''

Likewise, § 195.401(b)(1) of the Pipeline Safety Regulations states that ''[w]henever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.'' Section 195.401(b)(2) further states that ''[w]hen an operator discovers a condition on a pipeline covered under [the integrity management requirements in] § 195.452, the operator must correct the condition as prescribed in § 195.452(h).'' Severe flooding, river scour, and river channel migration are the types of unusual operating conditions that can adversely affect the safe operation of a pipeline and require corrective action under §§ 192.613(a) and 195.401(b).

In addition, Part 194 requires operators of onshore oil pipelines to ''include procedures and a list of resources for responding, to the maximum extent practicable, to a worst case discharge and to a substantial threat of such a discharge'' under § 194.107(a). Per § 194.115, the operator must ''identify, and ensure, by contract or other approved means, the resources necessary to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of a worst case discharge''.

Furthermore, an operator must take additional preventative and mitigative measures beyond those already required in Parts 192, 194, and 195 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure per §§ 192.935, 194.107(a) and 195.452(i). An operator must base the additional measures on the threats the operator has identified for each pipeline segment. If an operator determines outside force damage (*e.g.,* earth movement, floods) is a threat to the pipeline, the operator must take steps to minimize the probability of damage and the consequences of a release.

PHMSA has released five Advisory Bulletins on this subject, with the earliest issued July 29, 1993, (ADB–93–03), and the most recent on July 27, 2011, (ADB–11–04; 76 FR 44985). Each of these bulletins followed an event that involved severe flooding that affected pipelines in the areas of rising waters. Four of the more notable events are briefly described below:

On August 13, 2011, Enterprise Products Operating, LLC discovered a release of 28,350 gallons (675 barrels) of natural gasoline in the Missouri River in Iowa. The rupture, according to the metallurgical report, was the result of fatigue crack growth driven by vibrations in the pipe from vortex shedding.

On July 1, 2011, ExxonMobil Pipeline Company experienced a pipeline failure near Laurel, Montana, resulting in the release of 63,000 gallons (1,500 barrels) of crude oil into the Yellowstone River. According to the results of PHMSA's accident investigation, the rupture was caused by channel migration and river bottom scour, leaving a large span of the pipeline exposed to prolonged current forces and debris washing downstream in the river. Those external forces damaged the exposed pipeline.

On July 15, 2011, NuStar Pipeline Operating Partnership, L.P. reported a 4,200 gallon (100 barrels) anhydrous ammonia spill in the Missouri River in Nebraska requiring extensive environmental response and causing supply disruption. The 6-inch-diameter pipeline was exposed by scouring during extreme flooding.

On January 17, 2015, a breach in the Bridger Pipeline Company's Poplar system resulted in another spill into the Yellowstone River near the town of Glendive, Montana, releasing an estimated 28,434 gallons (677 barrels) of crude oil into the river and impacting local water supplies. Preliminary information indicates over 100 feet of pipeline was exposed on the river bottom, and a release point was near a girth weld.

As shown in these events, river bottom scour and channel migration may occur due to seasonal flooding, increased stream velocities, and man-made and natural river bank restrictions. River scour and channel migration may damage a pipeline as a result of additional stresses imposed on the pipe by undermining underlying support soils, exposing the pipeline to lateral water forces and impact from waterborne debris. Lateral water forces may cause excessive bending loads that lead to pipeline failures, and possible impact forces from debris in the river or harmonic vibrations from water rapidly passing over pipelines can also increase the potential for pipeline failures.

Additionally, the safety of valves, regulators, relief sets, pressure sensors, and other facilities normally above ground or above water can be jeopardized when covered by water. Not only can these facilities become inoperable when submerged, but they are also at a greater risk of damage by outside forces, floating debris, river currents, and craft operating on the water. Boaters involved in rescue operations, emergency support functions, sightseeing, and other activities are generally not aware of the seriousness of an incident that could result from their craft damaging a pipeline facility that is unseen beneath the surface of the water. Depending on the size of the craft and the pipeline facility struck, significant pipeline damage may result.

Although accidents at river crossings account for less than one percent of the total number of pipeline accidents, the consequences of a release in water can be much more severe because of the threats to drinking water supplies and the environment. Unlike hazardous liquid releases on land where it can be easier to respond to and contain spills, swift-moving river currents will carry hazardous liquids further downstream, potentially impacting much larger geographical areas and more communities. Product releases in rivers can create difficult, costly, and lengthy spill response and remediation scenarios and activities for operators, communities, and local, state, and Federal responders.

**II. Advisory Bulletin (ADB–2015–01)**

To: Owners and Operators of Gas and Hazardous Liquid Pipeline Systems.

Subject: Potential for Damage to Pipeline Facilities Caused by Severe Flooding.

Advisory: Severe flooding can adversely affect the safe operation of a pipeline. Operators need to direct their resources in a manner that will enable them to determine and mitigate the potential effects of flooding on their pipeline systems in accordance with applicable regulations. Operators are urged to take the following actions to prevent and mitigate damage to pipeline facilities and ensure public and environmental safety in areas affected by flooding:

1. Utilize experts in river flow, such as hydrologists or fluvial geomorphologists, to evaluate a river's potential for scour or channel migration at each pipeline river crossing.

2. Evaluate each pipeline crossing a river to determine the pipeline's installation method and determine if that method (and the pipeline's current condition) is sufficient to withstand the risks posed by anticipated flood conditions, river scour, or river channel migration. In areas prone to these conditions and risks, consider installing pipelines using horizontal directional drilling to help place pipelines below elevations of maximum scour and outside the limits of lateral channel migration.

3. Determine the maximum flow or flooding conditions at rivers where pipeline integrity is at risk in the event of flooding (*e.g.,* where scour can occur) and have contingency plans to shut down and isolate those pipelines when those conditions occur.

4. Evaluate the accessibility of pipeline facilities and components that may be in jeopardy, such as valve settings, which are needed to isolate water crossings or other sections of pipelines.

5. Extend regulator vents and relief stacks above the level of anticipated flooding as appropriate.

6. Coordinate with emergency and spill responders on pipeline locations, crossing conditions, and the commodities transported. Provide maps and other relevant information to such responders so they can develop appropriate response strategies.

7. Coordinate with other pipeline operators in flood areas and establish emergency response centers to act as a liaison for pipeline problems and solutions.

8. Deploy personnel so that they will be in position to shut down, isolate, contain, or perform any other emergency action on an affected pipeline.

9. Determine if facilities that are normally above ground (*e.g.,* valves, regulators, relief sets, etc.) have become submerged and are in danger of being struck by vessels or debris and, if possible, mark such facilities with U.S. Coast Guard approval and an appropriate buoy.

10. Perform frequent patrols, including appropriate overflights, to evaluate right-of-way conditions at water crossings during flooding and after waters subside. Report any flooding, either localized or systemic, to integrity staff to determine if pipeline crossings may have been damaged or would be in imminent jeopardy from future flooding.

11. Have open communications with local and state officials to address their concerns regarding observed pipeline exposures, localized flooding, ice dams, debris dams, and extensive bank erosion that may affect the integrity of pipeline crossings.

12. Following floods, and when safe river access is first available, determine if flooding has exposed or undermined pipelines because of new river channel profiles. This is best done by a depth of cover survey.

13. Where appropriate, surveys of underwater pipe should include the use of visual inspection by divers or instrumented detection. Pipelines in recently flooded lands adjacent to rivers should also be evaluated to determine the remaining depth of cover. You should share information gathered by these surveys with affected landowners. Agricultural agencies may help to inform farmers of potential hazards from reduced cover over pipelines.

14. Ensure that line markers are still in place or are replaced in a timely manner. Notify contractors, highway departments, and others involved in post-flood restoration activities of the presence of pipelines and the risks posed by reduced cover.

If a pipeline has suffered damage or is shut-in as a precautionary measure due to flooding, the operator should advise the appropriate PHMSA regional office or state pipeline safety authority before returning the line to service, increasing its operating pressure, or otherwise changing its operating status. Furthermore, reporting a Safety-Related Condition as prescribed in §§ 191.23 and 195.55 may also be required.

**Authority:** 49 U.S.C. Chapter 601 and 49 CFR 1.97

Issued in Washington, DC, on April 6, 2015.

**Timothy P. Butters,**

*Acting Administrator.*

[FR Doc. 2015–08148 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending March 28, 2015.

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier. Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 302. 201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2015–0064.

*Date Filed:* March 25, 2015.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 15, 2015.

*Description:* Application of Altius Aviation, LLC requesting authority to operate scheduled passenger service as a commuter air carrier.

*Docket Number:* DOT–OST–2015–0065.

*Date Filed:* March 26, 2015.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 16, 2015.

*Description:* Application of Air Baltic Corporation A/S (''AirBaltic'') requesting a foreign air carrier permit to authorize foreign air transportation to engage in: (i) Foreign scheduled and charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union, via any point or points in any Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign scheduled and charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign scheduled and charter air transportation of cargo between any point or points in the United States and any other point or points; (iv) other charters pursuant to the prior approval requirements; and (v) transportation authorized by any additional route rights made available to European Union carriers under the U.S.-EU Air Transport Agreement in the future. AirBaltic also requests an exemption to the extent necessary to allow it to provide the services described above for a two-year period or until the requested permit authority becomes effective, whichever occurs first.

*Docket Number:* DOT–OST–1999–6663 and DOT–OST–2011–0076.

*Date Filed:* March 24, 2015.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 14, 2015.

*Description:* Application of United Parcel Service Co. requesting an amendment of its U.S.-Mexico certificate of public convenience and necessity and a related exemption, as well as a designation under the U.S.-Mexico Air Transport Agreement authorizing it to provide scheduled foreign air transportation of property and mail between Dallas, Texas (DFW) and Mexico City, Mexico (MEX).

**Barbara J. Hairston,**

*Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.*

[FR Doc. 2015–08147 Filed 4–8–15; 8:45 am]

**BILLING CODE 4910–9X–P**


# FEDERAL REGISTER

Vol. 80 Thursday,
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Part II

## Department of Homeland Security

Coast Guard

33 CFR Parts 148, 149, and 150
Deepwater Ports; Proposed Rule

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 148, 149, and 150**

**[Docket No. USCG–2012–0061]**

**RIN 1625–AB92**

## Deepwater Ports

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes revisions to its regulations for the licensing, construction, design, equipment, and operation of deepwater ports, which are offshore fixed or floating structures, other than vessels, used as ports or terminals for the import or export of oil and natural gas. The proposed revisions would provide additional information, clarify existing regulations, provide additional regulatory flexibility, and add new requirements to ensure safety. The proposed rule would not affect the license to operate of any existing deepwater port, nor would it result in the licensing of any new deepwater port. This proposed rule furthers the Coast Guard's maritime safety and stewardship missions.

**DATES:** Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before July 8, 2015 or must reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0061 using any one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Kevin Tone, Deepwater Ports Standards Division (CG–OES–4), Coast Guard; telephone 202–372–1441, email *Kevin.P.Tone@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

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### I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

*A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0061), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* and follow the instructions on that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

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

*B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* and follow the instructions on that Web site. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

*C. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*D. Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we decide to hold a public meeting, we will announce its time and place in a later notice in the **Federal Register**.

### II. Abbreviations

ABS American Bureau of Shipping
APPS Act to Prevent Pollution from Ships
BOEM Bureau of Ocean Energy Management
BSEE Bureau of Safety and Environmental Enforcement
CE Certifying Entity
CFR Code of Federal Regulations
COA Certificate of Adequacy
COTP Captain of the Port
DHS Department of Homeland Security
DNV Det Norske Veritas
DOI Department of the Interior
DWPA Deepwater Port Act of 1974
EIA Energy Information Administration
EIS Environmental Impact Statement
E.O. Executive Order

FR Federal Register
FWS National Fish and Wildlife Service
HDD Horizontal Directional Drilling
LNG Liquefied Natural Gas
LOOP Louisiana Offshore Oil Port
MARAD Maritime Administration
MARPOL 73/78 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention
MODU Mobile Offshore Drilling Unit
MOU Memorandum of Understanding
MSU Marine Safety Unit
MTSA Maritime Transportation Security Act of 2002
NAICS North American Industry Classification System
NEPA National Environmental Policy Act of 1969
NMFS National Marine Fisheries Service
OCMI Officer in Charge of Marine Inspection
OMB Office of Management and Budget
OPA 90 Oil Pollution Act of 1990
PHMSA Pipeline and Hazardous Materials Safety Administration
PLEM Pipeline End Manifold
PMMP Prevention, Monitoring and Mitigation Program
PRA Paperwork Reduction Act of 1995
Pub. L. Public Law
ROD Record of Decision
SMS Safety Management System
SOLAS International Convention for the Safety of Life at Sea
SPM–NGTS Single Point Mooring-Natural Gas Transfer System
SPM–OTS Single Point Mooring-Oil Transfer System
STL buoy Submerged turret loading buoy
§ Section symbol
U.S.C. United States Code

## III. Executive Summary

The purpose of this rulemaking is to revise existing Coast Guard regulations for deepwater ports. A deepwater port is a fixed or floating manmade structure, or a group of structures, other than a vessel, located beyond State seaward boundaries and used or intended for use as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to or from any State.[1] The proposed revisions would expedite the deepwater port license application process by capitalizing on lessons learned from past license applications. They would also address recent changes in the natural gas industry by allowing the use of deepwater ports as export facilities.

The legal basis of this rulemaking is 33 U.S.C. 1504(a) and (b), which require the Secretary of Transportation to issue regulations to implement the Deepwater Port Act of 1974, as amended (DWPA).[2] Before 2003, the Coast Guard operated under the Department of Transportation, and the Secretary of Transportation's authority under § 1504 was delegated to the Coast Guard in 49 CFR 1.46. When the Coast Guard was transferred to the Department of Homeland Security (DHS) in 2003, ''the authorities and functions of the Secretary of Transportation relating'' to the Coast Guard, including the Secretary of Transportation's authority relating to deepwater ports, also were transferred to DHS.[3] The Secretary of Homeland Security has delegated the Secretary's regulatory authority under 33 U.S.C. 1504 to the Coast Guard.[4] The Secretary of Transportation's authority to license deepwater ports [5] is delegated [6] to the Maritime Administrator.

This NPRM proposes numerous small revisions to a complex regulatory scheme. Collectively, these revisions will provide applicants with additional information and clarity, additional regulatory flexibility, and new requirements to ensure safety. Above all, the revisions should help applicants assemble more complete applications, to help them meet the Coast Guard's regulatory requirements within the strict time limitations mandated by the DWPA and without costly suspensions of the licensing process. The proposed rule would not affect the license to operate of any existing deepwater port, nor would it result in the licensing of any new deepwater port.

This NPRM would impose no new regulatory costs and should help future license applicants receive more efficient, faster processing of their applications. Some proposed revisions may give applicants more flexibility than they have under current regulations. Finally, some applicants may benefit from proposed revisions that would facilitate the licensing of export deepwater ports.

## IV. Background

Deepwater ports are oil or natural gas import or export facilities, *not* exploration, development, or production facilities like drilling rigs.[7] Deepwater ports are subject to the DWPA. When the DWPA was first enacted, it applied only to deepwater ports handling oil imports. Section 106 of the Maritime Transportation Security Act of 2002 [8] (MTSA) amended the DWPA to apply to natural gas imports as well. Section 312 of the Coast Guard and Maritime Transportation Act of 2012 [9] further amended the DWPA so that it now also authorizes deepwater ports for oil or natural gas exports. MARAD must license each deepwater port before it can be built and commissioned and begin operations, but MARAD consults the Coast Guard and other Federal agencies,[10] as well as affected State governments, before issuing licenses. License applications are jointly processed by the Coast Guard and MARAD, and we conduct the necessary analysis to determine whether a proposed deepwater port will comply with the DWPA and to ensure compliance with other applicable laws, in particular the National Environmental Policy Act of 1969 (NEPA). Also, the Coast Guard provides the regulatory framework governing the application and licensing process as well as the design, construction, equipment, and operation of deepwater ports. Our deepwater port regulations in 33 CFR subchapter NN (parts 148, 149, and 150) were first issued in 1975, and were extensively revised in 2004 and 2006 to reflect the 2002 extension of the DWPA to natural gas.

Since our most recent substantive revision of subchapter NN,[11] the Coast Guard has received eight applications to site, construct, and operate natural gas deepwater ports. Four applications were subsequently withdrawn by the applicants. Of the remaining four, two deepwater ports have been constructed, one has been issued a license to construct, and one has initial approval through a favorable Record of Decision (ROD) [12] from MARAD. All four were for natural gas imports. In processing these four applications, the Coast Guard and other Federal agencies have identified additional, specific types of information that are necessary to ensure a timely review of, and decision on, deepwater

[1] *See* 33 U.S.C. 1502(9).

[2] 33 U.S.C. 1501 *et seq.*

[3] *See* 6 U.S.C. 468(b).

[4] *See* DHS Delegation No. 0170.1(II)(75).

[5] 33 U.S.C. 1503(b).

[6] 49 CFR 1.93(h).

[7] *See* 33 CFR 140.10 (excluding deepwater ports from the definition of an Outer Continental Shelf facility).

[8] Public Law 107–295, 116 Stat. 2064.

[9] Public Law 112–213, 126 Stat. 1540.

[10] The Department of the Interior (DOI) advises license applicants that: (a) In accordance with 43 U.S.C. 1334(a)(5), to the extent that a proposed deepwater port's design includes subsurface storage on submerged lands of the Outer Continetal Shelf, that storage is subject to DOI's review and approval; (b) As a cooperating agency during a license application's processing, the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) participate in the review of proposed deepwater ports; and (c) under BSEE regulations (30 CFR part 250, subpart J), a right-of-way granted by BSEE and a right-of-way rental amount may be required.

[11] 71 FR 57644; Sep. 29, 2006.

[12] A Record of Decision states what the agency's decision is; identifies all alternatives considered by the agency, specifies the alternative or alternatives which were considered to be environmentally preferable; and states whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. *See* 40 CFR 1505.2.

port applications. During the application review process, and after the construction and operation of new deepwater ports, we gained additional insight into the technical and operational requirements that will help ensure operations are conducted efficiently and in a manner that furthers safety, security, and environmental protection. The DWPA, 33 U.S.C. 1504(g), provides a 240-day ''clock'' within which license applications must be processed (from publication of the notice of initial application to the final public hearing). To ensure compliance with the DWPA and NEPA, those wanting to build and operate a deepwater port must provide complex and highly technical information with their license applications. Under 33 U.S.C. 1504(c)(1), the Coast Guard has 21 days in which to determine whether an application appears to contain all the necessary information. If the application appears to be incomplete, the Coast Guard informs the applicant as to its deficiencies, and takes no further action until the deficiencies are corrected. If the application appears to be complete, the Coast Guard must publish a notice of the application and a summary of the plans in the **Federal Register**. Long after this initial determination of completeness, however, we often find that we need additional information to complete a proper analysis of the proposed deepwater port's environmental impact, and the applicant is required by 33 U.S.C 1504(c)(2)(M) to provide that information. Our regulations [13] make it clear that the need to obtain important additional information ''stops the clock,'' extending the 240-day deadline by the length of time needed to obtain the additional information.

## V. Discussion of Proposed Rule

This proposed rule draws on the lessons we have learned about efficiencies in the license application review process and in building and operating safe and efficient deepwater ports. In developing this proposed rule, we have consulted with MARAD and other Federal agencies that work with us on deepwater port issues, and we will continue this consultation as we develop a final rule.

This proposed rule would primarily clarify existing requirements or provide more information about how those requirements intersect with the requirements of other Federal agencies and State governments that have roles in the licensing and operation of deepwater ports. The intent of this proposed rule is to reduce the number of times the ''clock is stopped'' pursuant to our regulations, thereby reducing the time needed to reach decisions on applications. Although we propose a few new requirements, they are likely to impose no new regulatory costs because they track with industry's current behavior. We also propose several changes that should provide industry with additional regulatory flexibility. Our proposals would apply to any applications received after the effective date of the final rule. The rule would not affect the license to operate any existing deepwater port, nor would they result in the licensing of any new deepwater port.

The proposed rule aligns with directives in several Executive Orders (E.O.s). Section 3(a)(1) of E.O. 12988 [14] requires agencies to review proposed regulations to eliminate drafting errors and ambiguity, and our proposed rule will clarify ambiguities that have come to light since we last amended our current regulations. Because the proposed rule draws on lessons learned from applying our current regulations, it helps make those regulations more effective and less burdensome and is therefore in line with E.O. 13563.[15] In light of the recent surge in U.S. natural gas production, and now that the DWPA permits deepwater ports to export oil and natural gas, our proposed rule may also facilitate the development or conversion [16] of existing deepwater ports to export U.S. natural gas by clarifying the deepwater port application process and lessening the likelihood of time-consuming delays in that process. Therefore it may contribute to the job creation and economic benefits that are goals of E.O. 13605.[17]

The changes we propose for part 148 focus on providing deepwater port license applicants with clearer information about the information we require, so that applicants will be less likely to encounter ''stopped clocks.'' We propose reorganizing part 149, which addresses the complex process of designing, constructing, and equipping deepwater ports. Other changes in part 149 would clarify its requirements or adapt terminology to the reality that no two deepwater ports use identical design elements. Most of the procedural changes we propose would affect the deepwater port operations requirements in part 150. In addition to clarifying part 150's requirements and providing more information, we propose changes (in line with current industry practice) that would ensure that future deepwater ports continue to meet acceptable levels of safety.

Table 1 lists each section that we propose adding or amending, and briefly explains our rationale for the proposal. It omits the nonsubstantive redesignation of specific sections as part of the reorganization of part 149, which we discuss in the table, and the nonsubstantive insertion of ''but not limited to'' in lists, to emphasize their non-exclusive nature.

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| | | **PART 148** | |
| 3 | Revise descriptions of each agency's authority. | Informational | Based on latest statutory or interagency allocation of functions. We would describe, not change, that allocation. |
| 5 | ''Accommodation module'' | Add definition | Term figures in proposed changes. |

[13] At 33 CFR 148.107(c)(3).

[14] ''Civil Justice Reform,'' 61 FR 4729 (Feb. 5, 1996).

[15] ''Improving Regulation and Regulatory Review, ''76 FR 3821 (Jan. 21, 2011), § 6(b).

[16] An application for the conversion of an existing import facility to one adapted for export would require the submission of a new application fee. The conversion application would need to address all the same issues addressed in an original application.

[17] ''Supporting Safe and Responsible Development of Unconventional Domestic Natural Gas Resources,'' 77 FR 23107 (Apr. 17, 2012).

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| | ''Construction'' | Revise definition | Clarify that Coast Guard oversight applies throughout the deepwater port lifecycle by emphasizing that construction applies to any activity incidental to building, repairing, or expanding a deepwater port. |
| | ''Deepwater port'' | Revise definition | Align with current statutory language, which allows deepwater ports to export as well as import oil or natural gas. |
| | ''Deepwater port security plan'' | Add definition | Term figures in proposed changes. |
| | ''Engineering geological survey''. | Revise definition | Clarify that the necessary analysis considers all geological factors and is not limited to hydrographics. Coast Guard's experience is that the scope of this analysis has been confusing in the past. |
| | ''Flexible riser and umbilical'' | Add definition | Term figures in proposed changes. |
| | ''Lease block'' | Revise definition | Simplify statutory citations. |
| | ''Major conversion'' | Transfer definition | Transfer from part 149 without substantive change. |
| | ''Marine Safety Unit (MSU) Commander''. | Add definition | Updated Coast Guard internal organization. |
| | ''Marine site'' | Revise language | Clarify meaning of ''including.'' |
| | ''Maritime Administration'' | Revise definition | Updated MARAD information. |
| | ''Mile'' | Add definition | Clarify that subchapter NN references to miles mean nautical miles. |
| | ''Operator'' | Revise definition | Clarify that the operator may be the licensee's designee and not the licensee itself. |
| | ''Person in charge'' | Revise definition | Clarify definition. |
| | ''PIC'' | Add definition | Add separate definition to help distinguish ''person in charge'' from ''PIC.'' |
| | ''Pipeline'' | Add definition | Define to distinguish portion of interest to Coast Guard from equipment regulated by Pipeline and Hazardous Materials Safety Administration. |
| | ''Pipeline end manifold'' | Add definition | Define to distinguish portion of interest to Coast Guard from equipment regulated by Pipeline and Hazardous Materials Safety Administration (PHMSA). |
| | ''Prevention, monitoring, and mitigation program''. | Add definition | Term figures in proposed changes. |
| | ''Safety zone'' | Revise definition | Clarify that a deepwater port is the facility at issue. |
| | ''Service space'' | Transfer definition | Transfer from part 149 without substantive change. |
| | ''Single point mooring oil transfer system''. | Revise definition | Clarify and distinguish terms that are sometimes confused. |
| | ''Single point mooring natural gas transfer system''. | Revise definition | Clarify and distinguish terms that are sometimes confused. |
| | ''Sleeping space'' | Transfer definition | Transfer from part 149 without substantive change. |
| | ''Submerged turret loading buoy''. | Add definition | Term figures in proposed changes. |
| | ''Vessel'' | Revise definition | Conform to definition used in 1 U.S.C. 3. |
| 8 | Certifying entities (CEs) | Provide additional regulatory flexibility. | Operators are currently allowed to use CEs to assist with post-licensing technical matters. We would also allow license applicants to use CEs during the application process, to help identify information gaps and resolve technical questions. |
| 105(g)(1)(i) | Describe MARAD as acting in consultation with the Coast Guard, instead of the Coast Guard acting in concurrence with MARAD. | Informational | We would more accurately reflect MARAD's lead role for matters regarding the financial responsibility of a deepwater port application. |
| 105(g)(2)(iii) | Change ''operator'' to ''licensee,'' as the party responsible for deepwater port removal costs. | Clarification | Financial liability rests with a deepwater port's licensee, not with the operator, who may be only the licensee's designee. |
| 105(i)(1) | Change ''is'' to ''will be'' | Style | Style change. |
| 105(j) | Provide additional information about coastal zone management. | Informational | We would give license applicants more detailed information, including a reference to applicable National Oceanic and Atmospheric Administration regulations, to help applicants more quickly establish compliance with 33 U.S.C. 1503(c)(9)'s requirement for an approved coastal zone management program under the Coastal Zone Management Act of 1972. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 105(k) | Provide an alternative to the use of a professional surveyor. | Provide additional regulatory flexibility. | Delay in securing the services of a registered professional surveyor has ''stopped the clock'' in at least one instance. We would allow the use of others with equivalent professional competency. |
| 105(m)(1)(i) | Revise provisions relating to fixed and floating structures. | Clarification | We would delete language concerning connected actions, because it is redundant with the requirement in 33 CFR 148.105(l) to provide data for onshore storage areas, pipelines, and refineries. |
| 105(m)(1)(iii) | Revise provisions relating to anchorages and mooring areas. | Clarification | We would clarify that anchorages and mooring areas can be used during a deepwater port's construction as well as after it becomes operational. |
| 105(m)(2) | Revise description of required reconnaissance hydrographic survey. | Clarification | We would delete some survey specifications because MARAD describes the specific information it requires in the license conditions it sets for individual deepwater ports. |
| | Allow exceptions to 5-year limit on age of data. | Provide additional regulatory flexibility. | The proposed change would allow the use of older data, with Coast Guard approval, which would be granted so long as newer data is provided for any specific locations having a high degree of hydrographic variability. |
| 105(m)(3) | Add language for meteorological and oceanographic (''MetOcean'') data. | Revision | MetOcean data is essential for analyzing a proposed deepwater port's environmental impact. If it is not included with the license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would add the need to include MetOcean data in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| 105(m)(4) | Add language for vessel traffic data. | Revision | Vessel traffic data is essential for analyzing a proposed deepwater port's environmental impact and for the Coast Guard's analysis of risk mitigation. If it is not included with the license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would add the need to include vessel traffic data in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| 105(n) | Add language for engineering geological survey (presently soil survey) data. | Revision | We would clarify that full geological information, not just soil data, is essential for analyzing a proposed deepwater port's environmental impact. If it is not included with the license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would add the need to include geological survey data in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| | Allow exceptions to 5-year limit on age of data. | Provide additional regulatory flexibility. | The proposed change would allow the use of older data, with Coast Guard approval. |
| | Provide an alternative to the use of a professional engineer. | Provide additional regulatory flexibility. | Delay in securing the services of a professional engineer has ''stopped the clock'' in at least one instance. We would allow the use of others with equivalent professional competency. |
| 105(s)(6)(iv) | Add ''regasification'' to existing language. | Revision | We would clarify that information about the methods the applicant expects to use in regasifying natural gas prior to transmission is essential for analyzing a proposed deepwater port's environmental impact. If it is not included with the license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would add the need to include regasification data in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| 105(t) | Add recommendation for PHMSA consultation. | Informational | We would provide license applicants with additional information, and we would encourage them to consult with PHMSA, to help facilitate an applicant's ability to comply with PHMSA requirements for pipeline safety. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 105(y) | Add language for risk and consequence assessment. | Informational | A license applicant's risk and consequence assessment is essential for analyzing a proposed deepwater port's environmental impact and is currently subject to Coast Guard validation. We would provide additional information about methods that the Coast Guard may use to conduct that validation, including the conduct of an independent assessment by a third party selected by the Coast Guard. We would also restate the Coast Guard's existing authority under 33 CFR 148.107 to require the applicant to provide ''additional information'' when necessary. |
| 105(z) | Add language for NEPA alternatives. | Clarification | This paragraph currently requires license applicants to provide an environmental analysis sufficient to meet the requirements of NEPA. Under NEPA, environmental analysis must include consideration of a range of reasonable alternatives to key aspects of the action being analyzed. If alternatives are not discussed in the initial license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would clarify the need to discuss alternatives in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| 105(ff) | Add language for International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention (MARPOL 73/78). | Clarification | A license to operate a deepwater port is granted only if it is determined that the applicant ''can and will comply with applicable laws, regulations, and license conditions.'' 33 U.S.C. 1503(c)(2). MARPOL, and MARPOL-implementing regulations in 33 CFR part 158, are applicable to deepwater ports, and a Certificate of Adequacy (COA) is required to demonstrate compliance with part 158. If the COA is not requested in the initial license application, we currently require the applicant to provide it as ''additional information'' under 33 CFR 148.107. We would clarify the need to request the Certificate in the initial application, to better inform applicants and reduce the likelihood of ''clock stoppage.'' |
| 107(b) | Add references to MARAD | Clarification | We would clarify that the Coast Guard may request additional information on behalf of MARAD as well as on the Coast Guard's own behalf. |
| 107(c)–(e) | Revise (c) and add (d) and (e), regarding ''clock stoppage''. | Clarification | Paragraph (c) of this section currently allows the Coast Guard to suspend the processing of a license application indefinitely (''stop the clock'') in order to obtain additional information. We would provide additional information to clarify and help applicants better understand how ''stopping the clock'' works. This proposed change should be read along with the proposed change to 33 CFR 148.276 and 148.283 relating to suspension and withdrawal of an application. |
| 125(c) | Add ''additional environmental analysis'' to existing language. | Clarification | Under 33 U.S.C. 1504(h)(1), license applicants must ''reimburse the United States and the appropriate adjacent coastal State for any additional costs incurred in processing an application.'' We would add, as a clarification, the need for additional environmental analysis as an example of when additional costs will be incurred. A past applicant's change in plans for the proposed deepwater port raised the potential need for additional environmental analysis. |
| 209(a) | Remove reference to interagency memorandum of understanding (MOU). | Informational | We would delete a reference to an expired MOU that can no longer be consulted for the current list of all Federal agencies involved with deepwater ports. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 211(a) | Revise language describing the need for changes in applications. | Clarification | This paragraph currently requires a license applicant to promptly notify the Coast Guard of any changes to its application. We would clarify that we consider any circumstance that makes statements in the application no longer accurate to be a ''change'' requiring prompt notification. |
| 211(b) | Revise language describing how changes are made in applications. | Clarification | As currently worded, this paragraph may imply that any substantial change requires a license applicant to completely revise its application. We would clarify that our existing practice generally is to allow the applicant simply to amend its application to make the change. |
| | Add language concerning NEPA scoping and additional public comment. | Informational | We would inform license applicants that under NEPA and other existing laws, a substantial change in an application could trigger the need for additional NEPA scoping or additional public comment on the application. |
| 214 | Add provision for resubmission of a withdrawn or denied application. | Informational | We would provide additional information about the conditions under which a license applicant can address concerns raised by its initial application and resubmit the application, with the Coast Guard waiving certain Subpart B application requirements for the re-application. |
| 215 | Redesignate (d) as (c)(5) and add ''proposed deepwater'' to existing language. | Clarification | We would clarify that (d) is a continuation of (c) and relates to a proposed deepwater port. |
| 217(b)–(d) | Revise description of respective Coast Guard and MARAD roles in the designation of an Adjacent Coastal State. | Informational | We would state that MARAD consults with the Coast Guard, but makes the actual Adjacent Coastal State designation. |
| 222(b) | Revise description of respective Coast Guard and MARAD roles in giving notice of Adjacent Coastal State hearings. | Informational | We would clarify that MARAD, not the Coast Guard, has the existing responsibility for publishing notices of public hearings or meetings in Adjacent Coastal States. |
| 228 | Revise description of respective Coast Guard and MARAD roles with respect to formal evidentiary hearings. | Informational | We would clarify that MARAD, not the Coast Guard, has the existing responsibility for any formal evidentiary hearings involving deepwater ports relating to specific and material factual issues related to the licensing of a deepwater port. Existing Coast Guard regulations, 33 CFR 148.230–148.256, provide a regulatory framework for such hearings; however, because MARAD, not the Coast Guard, is the licensing authority, we propose deleting these regulations. |
| 276 | Revise section describing the DWPA timeline for action on a license application. | Informational | The revision would provide more information about the DWPA timeline for processing license applications, and about suspensions of the timeline. We informally provide this additional information today. (The revisions do not alter the statutory timeline.) This proposed change should be read along with the proposed changes to 33 CFR 148.107 and 148.283 relating to suspension and withdrawal of an application. |
| 277(d) | Provide additional information about the time period when the Governor of an Adjacent Coastal State may transmit his or her approval or disapproval of a proposed deepwater port application. | Informational | We would add more information about the existing timeline for the Governor of an Adjacent Coastal State to approve or disapprove a proposed deepwater port application. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 283 | Substitute provisions for treating an application as withdrawn for provisions concerning an application's suspension. | Procedural change | 33 CFR 148.107(c) and this section currently both provide for indefinitely suspending the processing of a license application if it is missing essential information. We would make it clear that, if there is no reasonable progress in securing the missing information, indefinite suspension may lead to the application being treated as withdrawn. This proposed change should be read along with the proposed changes to 33 CFR 148.107 and 148.276 relating to suspension. |
| 405(c)(2) | Refer to Bureau of Offshore Energy Management (BOEM) guidance. | Informational | This paragraph currently requires a license applicant to give notice of certain acoustic profiling activities, which must take place ''within specified limits.'' We would inform applicants that those limits currently are provided by BOEM guidance, thereby making it easier for applicants to determine what limits are specified. |
| Subpart G | Redesignate 33 CFR 148.600 and 148.605 as subpart G of part 148. | Nonsubstantive reorganization. | We would give added prominence to these two sections, which have been of interest to several license applicants. |
| 600 | Provide more information about deepwater port financial liability limits under the Oil Pollution Act of 1990 (OPA 90). | Informational | This section currently states that deepwater port financial liability limits are set in accordance with OPA 90 (33 U.S.C. 2704(d)(4)). Several license applicants have requested more information, and our proposed change would provide details on the current process for setting limits. |
| 605 | Provide more information about deepwater port financial liability limits under OPA 90. | Informational | This section currently refers to the provisions of OPA 90 (33 U.S.C. 2704(d)(4)) for adjusting a deepwater port's financial liability limit. We would respond to several requests from license applicants for more details on the current process for adjusting limits. That process, with the relevant risk and economic analysis criteria, was described in the NPRM that proposed lowering the liability limit for the Louisiana Offshore Oil Port (60 FR 7652 at 7653, Feb. 8, 1995; final rule 60 FR 39849, Aug. 4, 1995). |
| Subpart H | Redesignate current subpart G as new subpart H of part 148. | Nonsubstantive reorganization. | This proposed change is necessitated by our proposed designation of 33 CFR 148.600 and 148.605 as new subpart G. |
| 707(b) | Revise | Clarification | We would more closely align the wording of this section with terminology familiar to NEPA practitioners. We would also clarify that license applicants are currently required to consider a reasonable range of alternatives to their proposed deepwater port plans. |
| 707(b)(1) | Provide more information about the scope of environmental evaluation. | Informational | We would provide license applicants with more complete information about the scope of environmental evaluation and align wording with terminology familiar to NEPA practitioners. |
| 715 intro | Add ''reasonable range of alternatives'' language. | Clarification | We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans. |
| 715(a) | Provide more information about the scope of environmental evaluation. | Informational | We would provide license applicants with more complete information about the scope of environmental evaluation. |
| 725 intro | Add ''reasonable range of alternatives'' language. | Clarification | We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans. |
| 730 intro | Add ''reasonable range of alternatives'' language. | Clarification | We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans. |
| 730(a) | Revise | Informational | This paragraph currently refers to appropriate Adjacent Coastal State agencies. We would substitute a specific cross reference to 33 CFR 148.105(j), where we propose adding detailed information about Adjacent Coastal States. |
| 735 intro | Add ''reasonable range of alternatives'' language. | Clarification | We would clarify that license applicants are required to consider a reasonable range of alternatives to their proposed deepwater port plans. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 737 | Replace list with Web site reference. | Informational | This section currently contains a lengthy and non-exclusive list of environmental statutes and E.O.s of potential interest to license applicants. We would replace that list with a reference to a Coast Guard Web site where more current information is maintained and available to the public. |
| | | **PART 149** | |
| Part 149 organization | Reorganize | Nonsubstantive reorganization. | We would reorganize this part, redesignating and renaming some sections and providing a more sequential structure for existing deepwater port design, construction, and equipment requirements. Subpart A would contain general information, subpart B would contain general requirements for design, construction, operations, and equipment requirements, and the remaining subparts C through F would contain specific equipment requirements. |
| 5 | Replace definitions with cross reference to 33 CFR 148.5. | Nonsubstantive reorganization. | This section currently contains 4 definitions. We would move all subchapter NN definitions to 33 CFR 148.5. |
| 15 | Remove | Nonsubstantive reorganization. | This section currently describes the process for submitting deepwater port design or construction alterations. As part of the nonsubstantive reorganization of part 149, we would delete this section and transfer its substance to 33 CFR 149.54. |
| 20(a) (current 610(a)) | Add ''or submerged turret loading (STL) buoy'' to existing language. | Technology update | We would insert a reference to STL buoys, which are significant deepwater port components not in existence when we last revised our regulations, and the details of the construction of which we currently require deepwater port operators to provide. |
| 51 (current 615) | Provide for use of foreign engineers. | Provide additional regulatory flexibility. | We would amend paragraph (b) to allow the use of foreign engineers who may not be registered professional engineers, if they possess equivalent qualifications. |
| 52 (current 625) | Revise (b) | Provide additional regulatory flexibility. | We would insert a reference to CEs, reflecting our proposal (see table entry for 33 CFR 148.8) to allow greater use of CEs. |
| | Add (d) | Clarification | We would add language from current 33 CFR 149.650, to clarify the existing procedure by which a license applicant works with the Coast Guard to determine which deepwater port components require classification society certification. That determination will likely be different for each deepwater port, given the potential variability between deepwater port designs. We would also add language to encourage (but not require) early coordination between the applicant and the Coast Guard, because of the potential value of early coordination for expediting the design process. |
| 54 | Add | Nonsubstantive reorganization. | We would move the text from existing § 149.15 to the revised subpart B to consolidate requirements for design into one subpart. |
| 57 | Add | Informational | We would add this section for the benefit of license applicants, to provide them with more information about our existing process for reviewing and approving a deepwater port's design, construction, and commissioning. |
| 58 | Add | Clarification | We would add this section to clarify that our existing practice is to allow a license applicant to use certifying entities during the design and construction of a deepwater port as well as after the deepwater port is licensed, and to describe the CE's role in various phases of the deepwater port's lifespan. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 63(a) (current 660(a)) | Substitute ''manned deepwater port'' for ''pumping platform complex''. | Clarification | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes. |
| 64(b) (current 140(b)) | Add ''facilities, vessels approaching the safety zone'' to existing language. | Clarification | Provides clarification of who the vessel would be in communication with to ensure communications are occurring between the vessel and the shoreside facility for purposes of situational awareness. |
| 65 intro, (b) (current 665 intro, (b)). | Substitute ''manned deepwater port'' for ''pumping platform complex''. | Clarification | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes. |
| 67(a) (current 675(a)) | Substitute ''Each'' for ''For a,'' remove ''each pumping platform complex,'' and substitute ''deepwater port'' for ''complex''. | Clarification | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because the one existing manned deepwater port is a pumping platform complex. |
| 68(a) (current 680(a)) | Add ''manned'' before ''deepwater'' in existing language. | Clarification | We would clarify that this requirement applies only to manned deepwater ports. |
| 70 (current 690) | Substitute ''specified'' for ''outlined''. | Clarification | The requirements are specified and are not optional, as ''outlined'' would imply. |
| 77(a) (current 697(a)) | Substitute ''operator's'' for ''owner's''. | Clarification | We would clarify that because the operator is in charge of day-to-day operations, the operator is responsible for maintaining all documentation. |
| 115 (current 110) | Substitute ''remotely'' for ''from the pumping platform complex''. | Clarification | This section currently requires pipeline end manifolds to have shutoff valves that can be operated both manually and remotely from a pumping platform complex. Since not every deepwater port has a pumping platform complex, we would replace the reference to such a complex with the word ''remotely.'' |
| 130(a) (current 125(a)) | Substitute ''marine transfer area of a deepwater port'' for ''pumping platform complex''. | Clarification | Only the single existing manned deepwater port has a pumping platform complex. The proposed change substitutes a generic term common to manned or unmanned deepwater ports. |
| 135 (current 130) | In (b) introductory language add ''described in paragraph (a) of this section''. | Clarification | Reference to paragraph (a) of same section. |
| | In (b)(1) and (b)(2) substitute ''marine transfer area of a deepwater port'' for ''pumping platform complex''. | Clarification | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all marine transfer areas are pumping platform complexes. Revised terminology provides greater clarity. |
| | In (b)(2) add ''described'' | Clarification | Clarification and reference to paragraph (b)(3) of the section. |
| 206 | Add | Harmonization | We would adapt existing lifesaving equipment requirements for mobile offshore drilling units (MODUs). |
| 302 (current 402) | Revise | Clarification | We would transfer qualifying language from the end to the beginning of the section. |
| 303 (current 403) | Revise heading | Clarification | We would revise the heading to clarify who needs the information provided by this section. |
| 304 (current 404) | Revise heading | Clarification | We would revise the heading to clarify who needs the information provided by this section. |
| Current 306–315 | Remove | Nonsubstantive reorganization. | These sections currently describe survival craft and rescue boat requirements. As part of the nonsubstantive reorganization of part 149, we would delete these sections and transfer their substance to 33 CFR part 149, subpart D. |
| 315(a) (current 415(a)) | Substitute ''manned deepwater port'' for ''pumping platform complex''. | Clarification | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 410(a) (current 510(a)) ..... | Substitute ''Coast Guard District Commander in the area where the deepwater port will be built'' for ''Commandant (CG–5P)''. | Clarification ..... | We would clarify that the District Commander approves applications to establish a private aid to navigation. |
| 480(a) (current 580(a)) ..... | Remove ''of a pumping platform complex''. | Clarification ..... | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. |
| 485(a) (current 585(a)) ..... | Substitute ''deepwater port'' for ''pumping platform complex''. | Clarification ..... | The proposed change standardizes terminology applicable to all deepwater ports regardless of design or cargo. There is no change in applicability because all manned deepwater ports are pumping platform complexes. |
| 650 ..... | Remove ..... | Clarification; Nonsubstantive reorganization. | We would transfer the substance of this provision to § 149.52(d), and revise it to apply to all deepwater ports regardless of design or cargo. |
| | | **PART 150** | |
| 10 ..... | In (b), remove reference to part 148 approval of manuals. | Correction ..... | We would remove this incorrect reference. Approval of manuals is addressed in part 150. |
| | Revise (c) and redesignate (d) and (e). | Clarification ..... | We would remove existing (c) because the process is described in detail in proposed § 150.25. Existing (d) and (e) would be redesignated as (c) and (d), respectively. |
| | Add new (e) ..... | Clarification ..... | The proposed change would make explicit in our regulations that the Coast Guard's current practice is to review the operations manual every five years, in conjunction with our review of the environmental impact statement (EIS) (the Council on Environmental Quality recommends that, as a rule of thumb, the EIS be carefully reexamined no later than once every five years—*see https://ceq.doe.gov/nepa/regs/40/30-40.HTM#32*). |
| 15 ..... | In (i)(4)(vii), substitute ''zones and areas described under subpart J of this part'' for ''a safety zone, area to be avoided, and anchorage area''. | Clarification ..... | We would clarify that the procedures described must account for any protective zone or area that could apply, regardless of a deepwater port's design or cargo. |
| | Add new (o) ..... | Informational ..... | Deepwater ports are ports subject to U.S. jurisdiction and used by oceangoing tankers greater than 400 gross tons, and as such their operators must comply with 33 CFR 158.135, which requires ports to hold certificates of adequacy (or waivers), evidencing their capability to receive regulated substances. For informational purposes, we would restate that requirement here. |
| | Revise (y) (current (x)) ..... | Informational ..... | Under 33 CFR 106.410 and 106.415, security plans must be periodically audited, and reviewed every 5 years by the Coast Guard. For informational purposes, we would restate those requirements here. |
| | Revise (bb) (current (aa)) ..... | Clarification ..... | This change would reflect MARAD's current policy, requiring each deepwater port to maintain a prevention, monitoring, and mitigation program (PMMP) as a license condition. |
| | Add (cc) ..... | Clarification ..... | MARAD currently requires, as a license condition, each deepwater port to comply with 49 CFR 192.605 and with other applicable PHMSA regulations in 49 CFR parts 190–199. We would make that requirement explicit in our regulations. |
| 25 ..... | Revise heading ..... | Clarification ..... | We would amend for better clarity. |
| | Add (c)(1) ..... | Clarification ..... | We would clarify the existing local authority to approve or reject revisions to the operations manual. |
| | Revise (c)(2)(current (d)) ..... | Clarification ..... | We would clarify the existing local authority to approve or reject revisions to the operations manual. |
| | Revise (e)(current (f)) ..... | Clarification ..... | We would clarify the existing local authority to approve or reject revisions to the operations manual. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| | Add new (f) | Clarification | We would make explicit the existing authority of other Federal agencies to propose operations manual amendments to the Coast Guard. |
| 30 | Revise | Clarification | We would update Coast Guard organizational terminology and clarify what our current process is for coordinating with other Federal agencies. |
| 35 | Revise | Informational | Updated Coast Guard internal organization. |
| 40 | Add paragraph (b) | Nonsubstantive reorganization. | We would consolidate current 33 CFR 150.40 and 150.45 into a single section dealing with deviations from the operations manual. In new (b), we would update references to Coast Guard internal organization. |
| 45 | Remove | Nonsubstantive reorganization. | We would transfer the substance of this section to § 150.40. Text from existing § 150.45 now in proposed § 150.40(b). |
| 50 | Revise heading | Clarification | The proposed change would reduce the risk of confusing a deepwater port with an Outer Continental Shelf facility. |
| 100 | Add (b) | Clarification | We would make explicit the current Coast Guard practice of sometimes allowing, for reasons of government economy, representatives from other Federal agencies to accompany Coast Guard inspectors on inspection visits to deepwater ports. |
| 105 | Revise | Clarification | We would clarify the existing procedure for proposing a self-inspection program; to make it clear that it is the operator, not the owner, who performs the duties required by this section; and to make explicit the existing Coast Guard regulatory responsibility to validate the contents and results of deepwater port self-inspections. |
| 107 | Add | Procedural change | We would add this section to require deepwater port operators to notify the Coast Guard when a Federal or State agency schedules an inspection and keep inspection records, both of which operators currently do without their being formally required. We would also make it explicit that, as a matter of government economy, Coast Guard personnel sometimes accompany Federal or State inspectors on inspection visits. |
| 110 | Add ''or of changes in class status.'' to existing language. | Procedural change | We would require deepwater port operators to notify us of changes in the status of classification society-approved components, which may present safety issues that warrant adjustment to the deepwater port's operations. Operators currently provide this notification without being formally required to do so. |
| 225 | Add second sentence | Clarification | This section currently requires appropriate training for deepwater port personnel. We would clarify our expectation, which is in line with current practice at the one existing manned deepwater port, that all personnel will receive basic safety training. |
| 380 | Substitute ''ships routing measures'' for the example ''(e.g., no anchoring area)'' from Table 150.380(a). | Clarification | We would provide greater technical accuracy and use familiar International Maritime Organization terminology. |
| | Remove ''(for example an SPM)'' from Table 150.380(a). | Clarification | Because the surface components used by deepwater ports vary so widely, we would remove an example that may confuse some license applicants. |
| | Revise (b) | Clarification | We would update references to Coast Guard internal organization. |
| 435(b) | Add ''unless'' clause | Provide additional regulatory flexibility. | We would allow operations to continue during an electrical storm so long as they are conducted in compliance with appropriate safety provisions contained in the operations manual. |
| 715 | Add reference to 33 CFR 66.01–11. | Clarification | Deepwater port lights are private aids to navigation and therefore subject to 33 CFR 66.01–11. We would make that explicit in deepwater port regulations. |
| 720 | Add reference to 33 CFR 67.10 | Clarification | Would clarify that other existing Coast Guard regulations for sound signals still apply. |

TABLE 1—CHANGES PROPOSED FOR 33 CFR SUBCHAPTER NN—Continued

| Section | Change | Nature of change | Discussion |
|---|---|---|---|
| 812 | Add ''and the environment'' | Clarification | Coast Guard marine casualty regulations that currently apply to vessels and facilities, including deepwater ports, protect environmental safety as well as the safety of life and property; *see, e.g.,* 33 CFR 140.1, 46 CFR 4.03–1. We would make explicit the need to consider environmental damage in connection with this section. |
| 830 | Revise | Procedural change | This section currently requires the one existing oil deepwater port to report oil pollution incidents in accordance with 33 CFR part 135, for which the underlying authority may have been repealed. (*See* Coast Guard notice of inquiry, 76 FR 67385; Nov. 1, 2011; a follow-on rulemaking has begun under RIN 1625–AA03 and docket number USCG–2004–17697.) We would require reports to be made in accordance with 33 CFR part 153 subpart B, which has reporting requirements similar to those in part 135. We would also restate the existing 33 CFR 135.307 requirements for the contents of pollution reports. |
| 915(a) | Add ''or the environment'' | Clarification | Coast Guard marine casualty regulations that currently apply to vessels and facilities, including deepwater ports, protect environmental safety as well as the safety of life and property; *see, e.g.,* 33 CFR 140.1, 46 CFR 4.03–1. We would make explicit the need to consider environmental damage in connection with this section. |

## V. Regulatory Analyses

The Coast Guard developed this proposed rule after considering the statutes and E.O.s related to rulemaking that are discussed in this part.

### *A. Regulatory Planning and Review*

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

The Coast Guard proposes revisions to its regulations for the licensing, construction, design, equipment, and operation of deepwater ports, which are offshore fixed or floating structures, other than vessels, used as ports or terminals for the import or export of oil and natural gas. The proposed revisions would provide additional information, clarify existing regulations, provide additional regulatory flexibility, and add new requirements to ensure safety.

One objective of the proposed rule is to ensure that adequate information is submitted with a deepwater port application. Through the experience of processing past applications, Coast Guard and other Federal agencies have identified additional, specific types of information that are necessary to ensure a timely review of, and decision on, deepwater port applications. For past applications, this additional information has been requested during the review process, causing delays in the review and approval of applications. Specifying that the additional information is required at the beginning of the process will not increase the application process burden, but is expected to result in more efficient and timely reviews of any future applications.

Further, the proposed rule codifies various technical and operational requirements. During the application review process, and after the actual construction and operation of new deepwater ports, the Coast Guard gained additional insight into the technical and operational requirements that will help ensure operations are conducted efficiently and in a manner that furthers safety, security, and environmental protection. These technical and operational requirements are currently standard industry practice or are existing requirements (*e.g.,* from another agency, etc.). The proposed rule consolidates these requirements to facilitate understanding and compliance of deepwater port owners and operators.

Table 2 below provides a summary of the final rule's costs and benefits.

TABLE 2—SUMMARY OF THE PROPOSED RULE'S IMPACTS

| Category | Summary |
|---|---|
| Applicability | Deepwater ports in waters beyond the territorial limits of the United States. |
| Affected Population | Future deepwater port applicants 3 existing deepwater ports. |
| Cost Impacts | No additional costs identified. |
| Benefits | More efficient and timely reviews of deepwater port applications. |
| | Consolidation of technical and operating requirements for existing deepwater ports. |

TABLE 2—SUMMARY OF THE PROPOSED RULE'S IMPACTS—Continued

| Category | Summary |
|---|---|
| | Potential cost savings from the following provisions:<br>1. § 148.8 Nominate CE.<br>2. § 148.105 Equivalent means of certifying accuracy of maps.<br>3. § 148.707.<br>4. § 149.51 Allows foreign national engineers.<br>5. § 149.52 Allows for adoption of classification society standards.<br>6. § 150.435 Authorizes continuation of cargo transfer operations during electrical storm.<br>7. § 150.15 Limits scope of audits to modifications. |

Affected Population

One oil deepwater port began operation before 2006. Since 2006, the Coast Guard has processed, or is processing, eight deepwater port applications to site, construct, and operate deepwater ports. After review of those applications, two LNG deepwater ports have been constructed, one has been issued a license to construct, and one has initial approval through a favorable ROD from MARAD. The applicants for the other four applications have withdrawn their applications. The population of currently operating deepwater ports is three: the one pre-2006 oil port and two LNG ports.

The potential number of additional deepwater port applications over the next 10 years is dependent on changing market conditions and economic forces. The existing deepwater ports were built when the forecasts for imports of LNG to the United States, such as those made by the Energy Information Administration (EIA), were predicting high levels of LNG imports. With recent changes in the natural gas and oil markets, EIA now projects continued decline in LNG imports and increasing volumes of LNG exports.[18] The financial and technical feasibility of using deepwater ports for LNG exports has not yet been demonstrated, making a projection of the number of future deepwater port applications difficult. The Coast Guard, for the purpose of this rulemaking, estimates that it will receive at least one future deepwater port application in the next 10 years, based on the one entity that has expressed interest in submitting a new application. The Coast Guard is proposing changes to enhance the efficiency and timeliness of any future applications.

Costs

Table 3 details numerous proposed changes in the regulation with an assessment of the cost impacts of the change. These changes fall into the following categories:

- May result in possible time or cost savings as they allow for greater flexibility in complying with existing requirements.
- Clarify information to be submitted with the deepwater port application. These information requirements do not result in additional costs to industry as this information has been required under existing 33 CFR 148.107 in the past during application processing and review. Based on experience with each of the previous applicant reviews, the Coast Guard has consistently requested this information at some point in the processing of the application. The proposed regulatory changes clarify that the information is required up front to allow for the more timely review of the application, thus saving the applicant the time and expense of additional submissions.
- Implementation may be optional.
- Clarify the Coast Guard's existing need for certain additional information that it specifies during the license process and which the license applicant provides; the intended impact of the clarification is to notify the applicant that, in the interest of expeditious processing of the application, this information should be provided up front. As the information is already being provided, there is no new cost impact.
- May be administrative and would not result in costs. Many of these changes clarify the relationship between various Federal agencies with responsibility for deepwater ports application, licensing, and review. These types of changes do not impose any behavioral changes by applicants of deepwater ports. These changes are labeled ''Administrative,'' described as clarifications, and will have no cost impact. Other ''Administrative'' proposed changes reword definitions or delete outdated references.

Overall, Coast Guard has not identified additional costs associated with complying with the proposed rule, and sees potential for some minor cost savings. Table 3 provides a detailed list of the changes proposed by the Coast Guard. The changes with potential cost savings include the following:

- Proposed § 148.8 allows an applicant to nominate a CE during the application processing phase. Currently, an applicant nominates a CE later in the application process. By allowing the nomination earlier, we believe that the applicants will have potential cost savings by identifying potential problems or challenges earlier in the process rather than later, when more work has been done on the application.
- Proposed § 148.105 allows for equivalent means of certifying the accuracy of maps. Applicants have experienced delays when certified geologists were not available to certify the accuracy of maps. The Coast Guard had no alternative but to stop the clock, often delaying application processing by several months. The intent of this proposed revision is to permit the use of specialists who do not possess a professional certification, but are able to provide proof of equivalent technical expertise and experience, to certify work studies and reports required to satisfactorily process a deepwater port application. Allowing certifications by technical personnel possessing alternate credentialing will help to eliminate extensive delays in projects, waiting for expertise that is limited and in high demand. Also, proposed § 148.105 allows for the use of data older than 5 years under certain conditions. Use of older data could result in potential cost savings due to the avoidance of gathering new data.
- Proposed § 148.214 allows for resubmission of a modified application without incurring a fee. Under the existing process, an application can be re-submitted after modification, but the applicant must pay the filing fee.
- Proposed § 149.51 allows foreign-national engineers to submit design and construction plans on behalf of the licensee. The potential cost savings come from the flexibility of allowing the applicant to contract services from a larger pool of engineers. The applicant

[18] *http://www.eia.gov/forecasts/aeo/pdf/0383(2014).pdf.*

may have existing relationships with foreign engineers as the construction of LNG ports is multinational. Thus, the expertise of the foreign engineer may allow for more rapid review, greater institutional knowledge, and prior professional relationships which could result in potential cost savings.

• Proposed § 149.52 allows for adoption of classification society standards. Many maritime companies rely on classification standards to satisfy insurance, safety management system (SMS), and other requirements. The Coast Guard's adoption of classification society standards eliminates the potential for duplicate effort. The Coast Guard recognizes that work already completed by a classification society can be used in the application process. An example is the APL submerged turret loading buoy system to import natural gas. The first natural gas deepwater port was Gulf Gateway, which used the APL submerged turret loading buoy system. There were no existing classification standards that addressed these types of ports or their components. Classification societies (American Bureau of Shipping (ABS) and Det Norske Veritas (DNV)) had to develop standards as the post-licensing review and approval process was taking place. Additional review on the part of the Coast Guard to grant equivalency approvals for some major port components and systems (emergency alarms, shutoffs, etc.) caused some delays in schedule. The classification societies have developed a highly detailed body of information on the submerged turret loading buoy-type deepwater ports, as well as practical experience with the actual deepwater port operations. This information, adopted as classification society standards, will improve and expedite the post-licensing engineering review and approval process.

• Proposed § 150.435 authorizes continuation of cargo transfer operations during an electrical storm. The potential cost savings derives from the ability to continue safe operations during certain electrical storms in accordance with the deepwater port's plans. The LNG port operators have stated that they cannot shut down operations during electrical storms as this will lead to potentially hazardous situations due to static electricity build-up.

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE

| Description of change | Type of change | Cost impact |
|---|---|---|
| **§ 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act?** | | |
| Clarify the Coast Guard's role as the lead agency responsible for preparing the environmental impact analysis under NEPA, compliance with NEPA and other relevant environmental laws, and matters relating to navigation safety and security, engineering and safety standards, and facility inspections. | Administrative: Clarification of existing role. | No cost. |
| PHMSA is the Federal agency with jurisdiction over the construction and operation of pipeline components of a deepwater port. | Administrative: Clarification of existing authority of PHMSA. | No cost. |
| Expands the description of responsibilities for the Coast Guard and cooperating Federal agencies. | Administrative: Clarification of existing authority of cooperating Federal agencies. | No cost. |
| Delete the reference to an expired Interagency MOU between the Coast Guard and MARAD. | Administrative: Deletion of outdated reference. | No cost. |
| **§ 148.5 How are terms used in this subchapter defined?** | | |
| Definition clarifies the requirements of a security plan's scope and contents and would align with 33 CFR subchapter H. | Administrative: Definition .... | No cost. |
| Definition specifies the components that comprise the flexible riser and umbilical portion of a STL buoy system. | Administrative: Definition .... | No cost. |
| Moved from § 149.5 ..... | Administrative: Move ..... | No cost. |
| Definition clarifies that the operator of a deepwater port may be either the person who receives the license to operate (licensee), or the licensee's designated representative who is responsible for the day to day operation of the deepwater port. | Administrative: Definition .... | No cost. |
| Definition clarifies jurisdictional boundaries regarding Federal agency oversight of deepwater pipelines between the Coast Guard and PHMSA regarding oversight of deepwater port pipelines. | Administrative: Definition .... | No cost. |
| Definition clarifies that the PLEM includes the last downstream valve prior to the deepwater port pipeline. | Administrative: Definition .... | No cost. |
| Definition to account for a new proposed post-licensing requirement. | Administrative: Definition .... | No cost. |
| Moved from § 149.5 ..... | Administrative: Move ..... | No cost. |
| Moved from § 149.5 ..... | Administrative: Move ..... | No cost. |
| Definition distinguishes between deepwater ports that use STL buoys to affect cargo transfer and deepwater ports that use single point moorings for cargo transfer operations. | Administrative: Definition .... | No cost. |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| **§ 148.8 How are certifying entities designated and used for purposes of this subchapter?** | | |
| Allows the applicant to nominate a CE during the application processing phase in order to begin the technical review necessary for the approval of design, construction, installation, operation, maintenance and decommissioning plans for any proposed deepwater port. | Administrative: Provides flexibility in nominating CE earlier in process. | Possible time and cost savings. The CE can be nominated and chosen during MARAD evaluation period rather than waiting until after the ROD, allowing an earlier start to certification. The CE could begin a technical review during MARAD evaluation period to identify potential problems and solutions before work has progressed further on an application. |
| **§ 148.105 What must I include in my application?** | | |
| Clarifies that MARAD, and not the Coast Guard, is the lead agency responsible for matters regarding the DWPA financial responsibility aspect of a deepwater port application. | Administrative: Clarification of MARAD and the Coast Guard's existing roles re: DWPA financial responsibility. | No cost. |
| Removes and replaces ''operator'' with ''licensee'' as the responsible party for costs associated with removal of port components. | Administrative: Clarification of who is financially responsible party. | No cost. |
| Clarifies that the applicant must provide with its application a completed consistency certification stating that the proposed deepwater port complies with each affected State's Coastal Management Program per 15 CFR part 930, subpart D. | Administrative: Clarification of need for consistency certificate to comply with existing Coastal Zone Management Program requirements. | No cost. |
| Allows an applicant to provide an equivalent means of certifying the accuracy of the leasing maps or protraction diagrams, as an alternative to using a professional surveyor. | Administrative: Provides flexibility in means of certifying accuracy of maps and diagrams. | Possible time and cost savings. As the Coast Guard processed applications, it became aware of the limited availability of registered professional surveyors authorized to certify Outer Continental Shelf leasing maps or protraction diagrams. This resulted in delays in application processing. By allowing for equivalent means of certification, this proposed change would broaden the spectrum of persons who would be able to provide the necessary professional competency to certify the accuracy or correctness of the leasing maps or protraction diagrams, and minimize delays in application processing. |
| Requires the site plan showing proposed anchorage and mooring areas to also include areas associated with construction and installation of deepwater port components (e.g., pipelaying) in addition to deepwater port operations. | Clarifies information needed to support application. | No cost. Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays. |
| Allow exceptions to 5-year limit on age of data for certain hydrographic data. | Administrative: Provides flexibility by allowing the use of data older than 5 years under certain circumstances. | Potential time and cost savings. The proposed change would allow the use of older data, with Coast Guard approval. Use of older information may result in costs avoided to develop new data. |
| Requires an applicant to provide MetOcean data that includes prevailing winds, currents, waves and storm history in the affected area of the proposed deepwater port site. | Clarifies information needed to support application. | No cost. Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays. |
| Requires an applicant to provide vessel traffic data to support analysis of navigational safety and security hazards. | Clarifies information needed to support application. | No cost. Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays. |
| Clarifies that geological survey data includes not just soil analysis, but also the overall physical characteristics of the ocean bottom (e.g., soil mechanics). | Clarifies information needed to support application. | No cost. Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays. |
| Formalizes the independent risk and consequence assessment process that has been customarily submitted as a supplement to the application. | Clarifies information needed to support application. | No cost. Formalizes existing process (information already submitted as a supplement). |
| Requires the applicant to identify in the environmental evaluation section of the application a reasonable range of alternatives to the proposed action to include deepwater port location, pipeline routes and landfall locations (if applicable), construction methods, and deepwater port design and technologies used during operations. | Clarifies information needed to support application. | No cost. Information has been required from all past applicants. Clarifying information needed up front does not result in additional cost but instead helps prevent delays. |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Requires the applicant to include in the deepwater port application a request for a COA as defined at 33 CFR 158.120 or a request for waiver if compliance is impracticable or unreasonable. | Clarifies information needed to support application. | No cost. Information already compiled and submitted by all applicants to comply with MARPOL and APPS. |
| **§ 148.107 What happens if I supplement my application?** | | |
| Allows for suspension of timeline if information required is not provided in a timely manner. | Administrative: Formalizes existing process for suspending timeline. | No cost. Existing process for suspending timelines already in use when applicable. |
| Superseded | Administrative: Removes and replaces with (d) and (e). | No cost. |
| Superseded | Administrative: Removes and replaces with (d) and (e). | No cost. |
| Superseded | Administrative: Removes and replaces with (d) and (e). | No cost. |
| Replaces (2) | Administrative: Formalizes existing process for suspending timeline. | No cost. |
| Replaces (3) | Administrative: Formalizes existing process for suspending timeline. | No cost. |
| **§ 148.125 What are the application fees?** | | |
| Adds environmental analysis as examples of costs for application and post-license review. | Administrative: Adding environmental analysis as example. | No cost. Formalizes current industry practice. Clarifies current practice when processing deepwater port applications that costs for environmental analyses must be paid by applicant prior to commencing operation of deepwater port. |
| **§ 148.209 How is the application processed?** | | |
| Removes reference to outdated MOU | Administrative: Removes reference to outdated MOU. | No cost. |
| **§ 148.211 What must I do if I need to change my application?** | | |
| Formalizes process in the case of a significant change or required information. | Administrative: Formalizes existing process. | No cost. |
| **§ 148.214 May I resubmit my application?** | | |
| Formalizes process for re-submittal of application. Allows for resubmission of application with no filing fee. | Administrative: Formalizes process to allow for re-submittal of application. | Potential cost savings. Formalizes process that allows for resubmission of modified application with no filing fee. |
| **§ 148.217 How can a State be designated as an Adjacent Coastal State?** | | |
| States that MARAD determines whether a State should be considered an Adjacent Coastal State, and that MARAD, in consultation with the Coast Guard, would designate the Adjacent Coastal States. | Administrative: Clarifies respective duties of Coast Guard and MARAD. | No cost. |
| **§ 148.228 What if a formal evidentiary hearing is necessary?** | | |
| Establishes procedures to be used for a formal evidentiary hearing. | Administrative: Provides procedures for existing hearings. | No cost. |
| Removes (b)–(d) | Administrative: Removes superseded requirements. | No cost. |
| **§§ 148.230 through 148.256** | | |
| Removes | Administrative: Removes superseded requirements. | No cost. |
| **§ 148.276 What is the timeline for approving or denying an application?** | | |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Describes timeline for action on a license including the publishing of a notice of application. | Administrative: Clarifies timing for publication of notice of application. | No cost. |
| Describes MARAD public hearings in Adjacent Coastal States. | Administrative: Clarifies process for Adjacent Coastal State public hearings. | No cost. |
| **§ 148.283 When may the application process be stopped and an application be treated as withdrawn?** | | |
| Clarifies that MARAD and Commandant will provide a joint written notice to the applicant of action taken under this section. | Administrative: Clarification of joint written notice procedure. | No cost. |
| Clarifies when a suspended application is considered withdrawn. | Administrative: Substitutes ''withdrawn'' for ''suspended'' to describe when an application process is stopped. | No cost. |
| **§ 148.405 What are the procedures for notifying the Commandant (CG–5P) of proposed site evaluation and pre-construction testing?** | | |
| Clarifies that BOEM guidelines for geological and geophysical surveys should be applied when the applicant plans to use bottom and sub-bottom acoustic profiling during deepwater port site evaluation and pre-construction activities. | Information for submission with application: Clarifies use of BOEM guidelines for certain data. | No cost. Does not add a new requirement, but clarifies what standards would be sufficient for the Coast Guard to properly evaluate an applicant's deepwater port site evaluation and pre-construction testing plans. Applicants currently use BOEM guidelines. |
| **§ 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)?** | | |
| Clarifies that Coast Guard may lower the OPA 90 limit of liability for deepwater ports under 33 U.S.C. 2704(d)(2) on a port-by-port basis, after evaluating oil spill risk and economic analyses. | Administrative: Clarifies process for existing authority for CG to lower the OPA 90 limit of liability for deepwater ports. | No cost. Explains process to lower oil spill liability limits. Requires no change of behavior. |
| Discusses that the OPA 90 limit of liability of a deepwater port will not be reduced to less than $50 million, and may be increased following a reduction, as the Coast Guard deems appropriate, if the design, construction, or operation of the deepwater port changes, or if oil spill incidents related to the deepwater port, or to deepwater ports generally, indicate that a higher limit is needed. | Administrative: Sets minimum level for OPA 90 limit of liability adjustments and describes process for increases as appropriate. | No cost. Explains OPA 90 liability adjustments. Requires no change of behavior. |
| Describes that requests for adjustments to the OPA 90 deepwater port limit of liability may be submitted with a license application or upon receipt of a license from MARAD to construct and operate the proposed deepwater port. | Administrative: Clarifies process for existing authority for CG to lower OPA 90 limit of liability. | No cost. Explains OPA 90 liability adjustments. Requires no change of behavior. |
| Describes the contents of requests to adjust the limit of liability under 33 U.S.C. 2704(d)(2), including a risk analysis of the deepwater port to determine its maximum most probable oil discharge and an economic analysis to determine the removal costs and damages of such a spill. | Additional Information: Lists information required to support an adjustment to liability. | No cost. The industry is currently required by OPA 90 to perform this risk analysis. |
| **§ 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?** | | |
| (b) Expands the list of resource areas which will be considered in the environmental impact analysis to include, without being limited to, threatened species; marine protected areas; marine, coastal, and migratory birds; marine mammals; and fisheries. | Additional Information: Clarifies existing requirements for NEPA submissions. | No cost. The intent of this revision is to clarify that the existing NEPA and DWPA requirements must be met. This has always been required under NEPA and DWPA in order to develop and publish the EIS, and to initiate Endangered Species Act Section 7 consultation w/NFMS & FWS. |
| **148.715 How is an environmental review conducted?** | | |
| Adds the following to the existing list of factors: geographic relevance, age of data, and methods of data analysis. | Administrative: Specifies data already required and data quality for Coast Guard review. | No cost. |
| **§ 148.737 What environmental statutes must an applicant follow?** | | |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Removes the list of environmental statutes and executive orders and replaces it with a reference to the list on the Commandant Web site. | Administrative: Replaces list of statutes with reference to Web site so list can be kept current. | No cost. |
| **§ 149.5 What definitions apply to this part?** | | |
| Moves to definitions section 148.5 ..... | Administrative: Moved ..... | No cost. |
| **§ 149.15 What is the process for submitting alterations and modifications affecting the design and construction of a deepwater port?** | | |
| Contains procedures for preparation and submission of plans pertaining to design, construction and operation of the deepwater port, and the Coast Guard's review and approval of these proposed plans. | Administrative: Removed to § 149.54. | No cost. |
| **§ 149.20 What must the District Commander be notified of and when?** | | |
| Adds that the District Commander must be notified of the construction of a STL buoy. | Administrative: Clarifies existing practice by adding STL buoy. | No cost. Current industry practice that all STL buoy applicants notify District Commander. |
| **§ 149.51 What construction drawings and specifications are required?** | | |
| Allows a foreign national engineer, possessing qualifications equivalent to those required in the United States for a professional engineer, to submit design and construction plans on behalf of the licensee. | Qualifications: Allows equivalent qualifications for foreign national engineer. | Potential cost savings due to flexibility. |
| **§ 149.52 What are the design standards?** | | |
| Clarifies what the appropriate classification society requirements are for deepwater ports. This proposed change would be added to explicitly allow for the adoption of classification society standards generally used within the offshore industry that are at least equivalent to rules established by any recognized classification society recognized by the Coast Guard. | Classification standards: Allows the use of classification society standards as generally used within the industry. | Provides alternative for compliance that has potential cost savings due to use of existing industry classification society standards by recognizing work already completed by a classification society, eliminating the potential for duplicating effort. |
| **§ 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port?** | | |
| Moved from another section ..... | Administrative: Moves existing text from other section. | No cost. |
| **§ 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?** | | |
| Provides standardization of the deepwater port commissioning process, ensures all levels of the Coast Guard with deepwater port responsibilities are appraised of a deepwater port's pending operational approval, and clarifies for the licensee the identity of the responsible Coast Guard official with daily operational oversight. | Administrative: Describes process, clarifies responsibilities. | No cost. Uses existing Coast Guard resources. |
| **§ 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?** | | |
| Describes the scope and duration of a CE's responsibility during each phase of design, construction, and operations, and would apply to all nominated CEs whether nominated under proposed § 148.8 or not. | Certifying entity: Describes scope and duration of CE responsibility. | No cost. Current industry practice. Clarifies the role of the technical contractor they have already been employing to develop the application to assume the role as CE for the design, construction, installation, and commencement of deepwater port operations. |
| **§ 149.115 What are the requirements for pipeline end manifold shutoff valves?** | | |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Revises to indicate that the PLEM's shutoff valve must be operable from a remote location because that capability must be available for operations on unmanned deepwater ports as well as during emergencies. | Equipment requirement: Pipeline end manifold's shutoff valve must be operable from remote location. | No cost. Formalizes current industry practice. Remotely-operated shutoff valves are already required to be installed on all currently active deepwater ports. (i.e., 49 CFR 193 (PHMSA) for LNG deepwater ports), as well as be designed and maintained in accordance with Classification Society Rules (ABS and DNV). |
| **§ 149.206 What are the requirements for survival craft and rescue boats?** | | |
| Aligns the requirements for survival craft and rescue boats for manned deepwater ports with Coast Guard requirements for survival craft and rescue boats for MODUs in 46 CFR 108.520–108.575. | Survival craft: Aligns requirements with MODU CFRs. | No cost. Formalizes current industry practice. LOOP is the only manned deepwater port and is currently equipped w/SOLAS-compliant survival craft, thus already complying with this regulation change. The cost for operating and maintaining these craft is already factored into port operational budget. Future manned deepwater ports are also expected to comply with SOLAS survival craft requirements. |
| **§ 149.306 through 149.315.** | | |
| Removes sections ..... | Administrative: Removed ... | No cost. |
| **§ 150.10 What are the general requirements for operations manuals?** | | |
| To ensure operations manuals are subject to continuous review and reflect the deepwater port's actual operational profile, the Coast Guard proposes in § 150.10(e) to establish a 5-year cycle for the operator to re-submit the operations manual to the Commandant (CG–5P) to be re-reviewed and re-approved. This 5-year review cycle would coincide with the existing 5-year environmental baseline reassessment requirement found at § 150.15(bb). | Operations manual: 5-year cycle to resubmit operational manual for review. | No cost. Formalizes current industry practice and recognizes established procedure. Deepwater port operators have been submitting their operations manuals on a 5-year cycle for nearly 10 years to comply with MTSA requirements, permits, and requirements from other Federal agencies. |
| **§ 150.15 What must the operations manual include?** | | |
| Require that the operations manual include either the deepwater port's COA that certifies the deepwater port meets the requirements for reception facilities as required under 33 CFR part 158, or to include a waiver of the COA issued by the responsible Sector Commander or MSU Commander with COTP and OCMI authority. | Operations manual: Specifies inclusion of existing COA in manual. | No cost. Formalizes current industry practice. |
| Comprehensive audit program to ensure that the deepwater port operator has an approved and regularly reviewed deepwater port security plan. To help fulfill this verification requirement, the Coast Guard would implement an annual audit program for deepwater ports that would align with, and the report of audit results would be an attachment to, the annual self-inspection report that the operator is already required to provide to the responsible Sector Commander or MSU Commander with COTP and OCMI authority as specified at § 150.105. This proposed requirement would allow the Sector Commander or MSU Commander with COTP and OCMI authority to verify that the deepwater port operator has the necessary personnel and procedures in place to respond to a security incident in a manner that adequately protects the deepwater port, human health, and the environment. | Audit program for port security plan: Establishes a requirement for annual audit of port security plan. Results are submitted as attachment to existing annual self-inspection report. | No cost. The deepwater port security plan is a subset of the operations manual. As stated above, LOOP and the LNG deepwater port operators are already employing contractors to conduct and produce port security assessments and to update the operations and security plans as needed. This regulatory revision is formalizing what is current industry practice and meets the approval of the cognizant COTP. |
| Establishes that the deepwater port security plan must be audited if there is a change in ownership or operations of the deepwater port, or if there have been modifications to the deepwater port. | Audit program for port security plan: Establishes requirement for audit of security plan if there is a change in ownership, operations or modification to the port. | No cost. Formalizes current industry practice. Existing Coast Guard deepwater port regulations (§ 150.15(x)) require the operator to maintain a security plan ''comparable to part 106.'' Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years. No currently operating deepwater port has had more than annual audits. |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Limits the scope of audits of the port security plan to only those sections affected by the modifications. | Audit program for port security plan: Clarifies existing requirements in 106.415(b)(3). | No cost. Clarifies existing requirements in 106.415(b)(3). |
| Requires submittal of the proposed amendment to the cognizant Sector Commander or MSU Commander with COTP and OCMI authority, with copy to the Commandant for review and approval. | Audit program for port security plan: Establishes process if audit results require amendment. | No cost. Formalizes current industry practice. Existing Coast Guard deepwater port regulations (§ 150.15(x)) require the operator to maintain a security plan "comparable to part 106." Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years. |
| Establishes that the Sector Commander or MSU Commander with COTP and OCMI authority will normally perform an annual security inspection to verify the findings in the audit. The Sector Commander or MSU Commander with COTP and OCMI authority will perform a more detailed deepwater port security plan review at prescribed 5-year intervals following initial approval of the deepwater port security plan and will include onsite inspection of personnel assignments and qualifications, observance of security drills, and other security exercises as necessary. | Security plans: Establishes requirement for Sector Commander or MSU Commander with COTP and OCMI authority to perform annual security inspection and 5-year security plan review. | No cost. Formalizes current industry practice. Existing Coast Guard deepwater port regulations (§ 150.15(x)) require the operator to maintain a security plan "comparable to part 106." Part 106, in turn, requires the security plan to be audited annually and to be submitted to Coast Guard for re-approval every 5 years. |
| Adopts the use of a formal PMMP. Currently, every licensed deepwater port has a PMMP as a condition of the MARAD-issued license by making the PMMP a requirement of the operations manual. | Operations manual: Requires that existing PMMP be incorporated as part of the operations manual. | No cost. Current industry practice as every deepwater port has a PMMP to get a license. This also harmonizes with MARAD requirements. |
| Requires the operator to develop a manual that addresses deepwater port pipeline operations, maintenance and emergencies. This manual, which would be an appendix to the operations manual, would incorporate procedures that meet the requirements of PHMSA regulations. | Procedural manual for pipelines: Requires development of a procedures manual for pipelines incorporating existing PHMSA requirements. | No cost. Formalizes current industry practice and is also currently required as a condition of the MARAD-issued license for PHMSA approval. Has been submitted by all applicants for deepwater ports. |
| **§ 150.25 When will the Coast Guard require amendments to the operations manual?** | | |
| Amends the regulation to clarify that if the responsible Sector Commander or MSU Commander with COTP and OCMI authority determines that the licensee's proposed amendments to the operations manual are inadequate, the COTP may return the proposed amendments to the licensee for revision. | Administrative: Clarifies responsibility of Sector Commander or MSU Commander with COTP and OCMI authority with respect to operations manual amendments. | No cost. |
| Explicitly enables other Federal agencies to propose amendments of the operations manual to Commandant. | Administrative: Enables other Federal agencies to propose amendments to operations manual. | No cost. |
| **§ 150.30 How may the licensee propose an amendment to the operations manual?** | | |
| Adds new paragraph (a) to state that the applicant must provide Commandant with a copy of the proposed amendment. Commandant would then notify MARAD prior to approval of significant changes to the deepwater port's operations. | Amendment to Operations Manual: Process for submittal and notification of amendment. | No cost. Formalizes current industry practice. These types of changes requiring Coast Guard review and approval are already routinely submitted electronically to Coast Guard. |
| **§ 150.100 What are the requirements for inspecting deepwater ports?** | | |
| Adds new paragraph (b) to affirm that other Federal agency representatives may accompany Coast Guard personnel during an inspection of a deepwater port to verify compliance in those areas of operations over which each agency has jurisdiction. | Administrative: Clarifies that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection. | No cost. |
| **§ 150.105 What are the requirements for annual self-inspection?** | | |

TABLE 3—ASSESSMENT OF IMPACTS OF THE PROPOSED RULE—Continued

| Description of change | Type of change | Cost impact |
|---|---|---|
| Revises the procedures for development and approval of a deepwater port self-inspection program by which deepwater ports may, prior to commencement of operations, submit a self-inspection program to the responsible Sector Commander or MSU Commander with COTP and OCMI authority for consideration and approval. | Self-inspection Program: Clarifies existing procedures for development of self-inspection program. | No cost. Clarifies existing procedures for development of self-inspection program. |
| Requires that the responsible Sector Commander or MSU Commander with COTP and OCMI authority validate the results of each inspection. If the Sector Commander or MSU Commander with COTP and OCMI authority determines the deepwater port is not operating in conformity with its operations manual or license, the Sector Commander or MSU Commander with COTP and OCMI authority must direct appropriate corrective action and notify Commandant (CG–5P) and, if there is a possible violation of a license condition, notify MARAD. | Administrative: Clarifies procedures for validation of inspections. | No cost. |
| **§ 150.107 What notice must be given in the event of inspections?** | | |
| Requires that the operator notify the responsible Sector Commander or MSU Commander with COTP and OCMI authority when a Federal or State agency schedules an inspection, and retain the record of results of any Federal or State agency inspection, and make those records available for review upon request from the responsible Sector Commander or MSU Commander with COTP and OCMI authority or his or her designated representative. | Notification of inspection: Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of Federal or State inspection and retain records of inspections. | No cost. Formalizes current industry practice. These types of changes requiring Coast Guard review and approval are already routinely submitted to Coast Guard. |
| **§ 150.110 What are the notification requirements upon receipt of classification society certifications?** | | |
| Requires that the deepwater port operator notify the responsible Sector Commander or MSU Commander with COTP and OCMI authority of any changes to the deepwater port's classification status to ensure the deepwater port's operations are carried out in a manner that is safe for personnel and protective of the environment. | Notification of classification status: Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of changes to classification status. | No cost. Formalizes current industry practice. These types of changes requiring Coast Guard review and approval are already routinely submitted to Coast Guard. |
| **§ 150.225 What training and instruction are required?** | | |
| Ensures that all employees, regardless of status, receive basic safety training as soon as practicable after reporting to the deepwater port. | Training: Requires that all employees receive basic safety training. | No cost. Consolidates existing training requirements that are currently scattered throughout part 150. All deepwater ports currently require basic safety training for all crew and persons other than crew on deepwater ports. |
| **§ 150.435 When are cargo transfers not allowed?** | | |
| Authorizes continuation of cargo transfers during an electrical storm in the vicinity of the deepwater port so long as the operations manual contains approved procedures, with which the deepwater port operator is in compliance, to ensure the safety of personnel, equipment and the environment. | Cargo transfers: Allows continuation of cargo transfers during electrical storms if certain procedures are used. | Potential cost savings due to flexibility in continuing operations. Also, LNG ports must maintain operations to avoid possible hazardous situations. |
| **§ 150.830 Reporting a pollution incident.** | | |
| Requires that the person in charge report oil pollution incidents involving a deepwater port according to §§ 135.305 and 135.307. | Notification of oil pollution incidents: Requires that person in charge report oil pollution incidents. | No cost. Already required in § 135.307. |

Benefits

The benefits of the proposed rule are summarized below. See Table 4 for more detailed marginal benefit analysis.

Part 148

The main purpose of the revisions to 33 CFR part 148 in this proposed rule is to clarify the deepwater port application process. The roles of the Coast Guard, MARAD, BOEM, and other Federal agencies would be further clarified to insure applicants better understand the application process. The

Coast Guard also proposed to revise the definitions used in parts 148, 149, and 150 to reflect actual operations.

The benefits for 33 CFR part 148 would come from incorporating lessons learned from the history of deepwater port applications. The Coast Guard frequently finds that applications cannot be fully processed without time-consuming delays to obtain additional data from applicants. The result may require the Coast Guard to ''stop the clock'' on the application review process. This proposed rule will likely reduce the periods when the ''clock is stopped,'' and expedite the application process.

Part 149

The proposed changes in 33 CFR part 149 are mainly technical and administrative in nature to clarify the review and approval process. The proposed changes would allow for increased flexibility in the review and approval process and for certifying entities.

Part 150

The proposed changes to part 150 of Title 33 would consolidate operational requirements and codify current industry practice to improve understanding of, and compliance with, good operational practices.

TABLE 4—ASSESSMENT OF BENEFITS OF THE PROPOSED RULE

| Section | Description of change | Beneficial impact of change |
|---|---|---|
| § 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act? | Describes Coast Guard's role as the lead agency responsible for NEPA compliance. Also describes the responsibilities of PHMSA and other federal agencies. Deletes reference to expired MOU. | Clarifies for applicant the roles and responsibilities of Coast Guard and other Federal agencies to enhance understanding of application process. |
| § 148.5 How are terms in this subchapter defined? | Administrative definitions and reorganization ..... | Clarification of various terms. |
| § 148.8 How are certifying entities designated and used for purposes of this subchapter. | Allows the applicant to nominate a CE during the application processing phase in order to begin the technical review necessary for the approval of design, construction, installation, operation, maintenance and decommissioning plans for any proposed deepwater port. | Possible time and cost savings. The CE can be nominated and chosen during the MARAD evaluation period, rather than waiting until after the ROD, allowing earlier start to certification. The CE could begin technical review during MARAD evaluation period to identify potential problems and solutions before work has progressed on a application. |
| § 148.105 What must I include in my application? | Various Administrative measures ..... | Clarifies roles of Coast Guard and MARAD, and who is a financially responsible party, and provides consistency with Coastal Zone Management Act procedures to enhance understanding of application process. |
| § 148.105 What must I include in my application? | Provides flexibility in means of certifying accuracy of maps and diagrams. | Possible time and cost savings. As the Coast Guard processed applications, it became aware of the unavailability of registered professional surveyors authorized to certify Outer Continental Shelf leasing maps or protraction diagrams. This resulted in delays in application processing. By allowing for equivalent certifications, this proposed change would broaden the spectrum of persons who could certify the accuracy or correctness of the leasing maps or protraction diagrams, and minimize delays in application processing. |
| § 148.105 What must I include in my application? | Allows use of data older than 5 years under certain circumstances. | Potential time and cost savings. The proposed change would allow the use of older data, with Coast Guard approval. Use of older information may result in costs avoided to develop new data. |
| § 148.105 What must I include in my application? | Specifies various information to be included with application. | Clarifies information to be included with the application to prevent ''stopping the clock'' if information is requested during application review. |
| § 148.107 What happens if I supplement my application? | Various Administrative changes, including formalizing existing process for suspending timeline. | Clarifies existing process and enhances understanding by removing outdated discussion. |
| § 148.125 What are the application fees? | Administrative change that adds environmental analysis as examples of costs for application and post-license review. | Clarifies the existing practice that environmental analysis costs are part of application and post-license review. |
| § 148.209 How is the application processed? | Administrative change that removes reference to outdated MOU. | Clarifies existing process by removing outdated references. |
| § 148.211 What must I do if I need to change my application? | Formalizes existing process in the case of a significant change or required information. | Clarifies existing process to enhance understanding of application process. |
| § 148.214 May I resubmit my application? | Formalizes process to allow for re-submittal of application. | Potential cost savings. The proposed change allows for the resubmission of an application after a modification with no filing fee. The existing process allows resubmission, but a filing fee for the re-submittal applies. |
| § 148.217 How can a State be designated as an Adjacent Coastal State? | Clarifies respective duties of Coast Guard and MARAD | Clarifies existing process to enhance understanding of application process. |
| § 148.228 What if a formal evidentiary hearing is necessary? | Provides procedures for existing hearings and removes superseded requirements. | Clarifies existing process to enhance understanding of application process. |

TABLE 4—ASSESSMENT OF BENEFITS OF THE PROPOSED RULE—Continued

| Section | Description of change | Beneficial impact of change |
|---|---|---|
| §§ 148.230 through 148.256 | Removes superseded requirements | Clarifies existing process to enhance understanding of application process. |
| § 148.276 What is the timeline for approving or denying an application? | Describes timing for publication of notice of application and process for Adjacent Coastal State public hearings. | Clarifies existing process to enhance understanding of application process. |
| § 148.283 When may the application process be stopped and an application be treated as withdrawn? | Describes that MARAD and Commandant will provide joint written statement to the applicant of action taken under this section. | Clarifies existing process to enhance understanding of application process. |
| § 148.405 What are the procedures for notifying the Commandant (CG–5P) of proposed site evaluation and pre-construction testing? | Clarifies that BOEM guidelines for geological and geophysical surveys should be applied when the applicant plans to use bottom and sub-bottom acoustic profiling during deepwater port site evaluation and pre-construction activities. | Clarifies existing process to enhance understanding of application process. |
| § 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)? | Clarifies process for existing authority for Coast Guard to lower the OPA 90 limit of liability for deepwater ports; sets minimum level for OPA 90 limit of liability adjustments and describes process for increases as appropriate; lists information required to support an adjustment to liability. | Clarifies existing process to enhance understanding of application process. |
| § 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied? | Clarifies existing requirements for NEPA submissions .. | Clarifies information to be included with the Application to prevent ''stopping the clock'' if information is requested during application review. |
| § 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied? | Deletes requirement to consider future environmental regulations as unreasonable. | Possible time and cost savings. Consideration of future environmental regulations time consuming and requires speculation. Allows focus on complying with existing regulations. |
| § 148.715 How is an environmental review conducted? | Adds the following to the existing list of factors: Geographic relevance, age of data, and methods of data analysis. | Clarifies information to be included with the application to prevent ''stopping the clock'' if information is requested during application review. |
| § 148.737 What environmental statutes must an applicant follow? | Replaces list of statutes with reference to Web site so list can be kept current. | Allows for easier update of list of statutes that applicant must follow. |
| § 149.5 What definitions apply to this part? | Moves to definition section 148.5 | Administrative to enhance understanding of application process by consolidating definitions. |
| § 149.20 What must the District Commander be notified of and when? | Adds that the District Commander must be notified of the construction of a submerged turret loading (STL) buoy. | Clarifies existing requirement by adding STL. |
| § 149.51 What construction drawings and specifications are required? | Allows a foreign national engineer, possessing qualifications equivalent to those required in the United States for a professional engineer, to submit design and construction plans on behalf of the licensee. | Potential cost savings due to flexibility by allowing equivalent qualifications for foreign national engineer thereby avoiding potential delays. |
| § 149.52 What are the design standards? | Clarifies what the appropriate classification society requirements are for deepwater ports. This proposed change would be added to explicitly allow for the adoption of classification society standards generally used within the offshore industry that are at least equivalent to rules established by any recognized classification society recognized by the Coast Guard. | Potential cost savings due to use of existing industry classification society standards. |
| § 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port? | Moves existing text from other section | Reorganizes text to enhance understanding. |
| § 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation? | Provides standardization of the deepwater port commissioning process, ensures all levels of the Coast Guard with deepwater port responsibilities are appraised of a deepwater port's pending operational approval, and clarifies for the licensee the identity of the responsible Coast Guard official with daily operational oversight. | Describes the review and approval process and clarifies responsibilities to facilitate understanding of the process. |

TABLE 4—ASSESSMENT OF BENEFITS OF THE PROPOSED RULE—Continued

| Section | Description of change | Beneficial impact of change |
|---|---|---|
| § 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation? | Describes the scope and duration of a CE's responsibility during each phase of design, construction, and operations, and would apply to all nominated CEs whether nominated under proposed § 148.8 or not. (discussed previously under "B. Part 148, 2. Application Information and Review"). | Clarifies scope and duration of CE's responsibility to enhance understanding of how the CE assists the application process. |
| § 149.115 What are the requirements for pipeline end manifold shutoff valves? | Revises to indicate that the pipeline end manifold's shutoff valve must be operable from a remote location because that capability must be available for operations on unmanned deepwater ports as well as during emergencies. | Clarifies existing requirements to improve ability to respond to emergencies and on unmanned facilities through the use of remote shutoff valves. |
| § 149.206 What are the requirements for survival craft and rescue boats? | Aligns the requirements for survival craft and rescue boats for manned deepwater ports with Coast Guard regulations for the survival craft and rescue boat requirements for Mobile Offshore Drilling Units (MODU) in 46 CFR 108.520–108.575. | Enhances understanding by aligning requirements with MODU CFR. |
| § 150.10 What are the general requirements for operations manuals? | To ensure operations manuals are subject to continuous review and reflect the deepwater port's actual operational profile, the Coast Guard proposes in § 150.10(e) to establish a five-year cycle for the operator to re-submit the operations manual to the Commandant (CG–5P) to be re-reviewed and re-approved. This 5-year review cycle would coincide with the existing five-year environmental baseline reassessment requirement found at § 150.15(bb). | Clarifies requirements for operations manual review to enhance understanding of process. |
| § 150.15 What must the operations manual include? | Specifies details of operations manual including inclusion of existing COA and existing PMMP. Describes the annual audit of deepwater port security plan and clarifies scope of audits audit to modification.<br>Requires development of a procedures manual for pipelines incorporating existing PHMSA requirements.<br>Establishes requirement for Sector Commander or MSU Commander with COTP and OCMI authority to perform annual security inspection and 5-year security plan review. | Potential time and cost savings. Streamlines approval by ensuring that manual meets existing COA, MTSA, and PMMP/PHMSA requirements. |
| § 150.25 When will the Coast Guard require amendments to the operations manual? | Clarifies responsibility of Sector Commander or MSU Commander with COTP and OCMI authority with respect to operations manual amendments and enables other Federal agencies to propose amendments to operations manual. | Enhances understanding of process by clarifying responsibilities of Coast Guard and other Federal agencies with regards to amendments to operations manual. |
| § 150.30 How may the licensee propose an amendment to the operations manual? | Adds new paragraph (a) to state that the applicant must provide Commandant with a copy of the proposed amendment. Commandant would then notify MARAD prior to approval of significant changes to the deepwater port's operations. | Enhances understanding of process by clarifying process for amending operations manual and notifying MARAD. |
| § 150.100 What are the requirements for inspecting deepwater ports? | Adds language that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection. | Enhances understanding of process by clarifying that representatives from other Federal agencies can accompany Coast Guard personnel during an inspection. |
| § 150.105 What are the requirements for annual self-inspection? | Clarifies the existing procedures for development and approval of a deepwater port self-inspection program by which deepwater ports may, prior to commencement of operations, submit a self-inspection program to the responsible Sector Commander or MSU Commander with COTP and OCMI authority for consideration and approval. | Enhances understanding of process by clarifying the existing procedures for developing and approving a self-inspection program. |
| § 150.107 What notice must be given in the event of inspections? | Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of Federal or State inspection and retain records of inspections. | Formalizes current industry practice relating to notice of inspections. |
| § 150.110 What are the notification requirements upon receipt of classification society certifications? | Operator must notify Sector Commander or MSU Commander with COTP and OCMI authority of changes to classification status. | Formalizes current industry practice relating to changes to classification. |
| § 150.225 What training and instruction are required? | Describes basic safety training requirements for all employees. | Clarifies existing regulatory requirements for basic safety training for all employees. |
| § 150.435 When are cargo transfers not allowed? | Allows continuation of cargo transfers during electrical storms if certain procedures are used. | Potential cost savings due to flexibility in continuing operations. Also, LNG ports must maintain operations to avoid possible hazardous situations. |

TABLE 4—ASSESSMENT OF BENEFITS OF THE PROPOSED RULE—Continued

| Section | Description of change | Beneficial impact of change |
|---|---|---|
| § 150.830 Reporting a pollution incident. | Describes process for reporting oil pollution incidents ... | Enhances understanding of process by clarifying existing regulatory requirements for reporting oil pollution incidents. |

*B. Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000.

There are three entities that operate existing deepwater ports. LOOP is owned by a consortium of three multinational energy corporations. The owners/operators of LOOP are not small; therefore, LOOP exceeds the threshold for a small entity. Gulf Gateway and Northeast Gateway are wholly owned by the second entity, which exceeds the threshold for a small entity. The deepwater port Neptune LNG is wholly owned by the third entity, which exceeds the threshold for a small entity. The applicants of the five applications that were withdrawn also exceed the threshold for a small entity. We assume that any new deepwater port will not be a small entity given the history and requirements for a new deepwater port. The North American Industry Classification System (NAICS) codes and size standards for these entities are found in Table 5.

TABLE 5—NAICS CODES AND SIZE STANDARD FOR DEEPWATER PORT OPERATORS

| Count of companies | NAICS Code | Size standard (employees) |
|---|---|---|
| 1 ..... | 486110 Pipeline Transportation of Crude Oil. | 1,500 |
| 1 ..... | 424710 Petroleum Bulk Stations and Terminals. | 100 |
| 1 ..... | 211111 Oil and Gas Extraction. | 500 |
| 2 ..... | 221210 Natural Gas Distribution. | 500 |

No not-for-profit organizations are involved with deepwater ports. Deepwater ports are beyond the boundary line and therefore beyond small government jurisdiction. This proposed rule will not have an adverse impact on small government entities.

Therefore the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996,[19] we want to assist small entities in understanding this proposed rule so that they could better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Kevin Tone, Deepwater Ports Standards Division (CG–OES–4), email *Kevin.P.Tone@uscg.mil,* phone (202) 372–1441. The Coast Guard will not retaliate against the small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

*D. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 [20] (PRA). Under OMB regulations implementing the PRA, ''Controlling Paperwork Burdens on the Public'' (5 CFR part 1320), ''collection of information'' means the obtaining, soliciting, or requiring the disclosure to an agency of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. ''Ten or more persons'' refers to the number of respondents to whom a collection of information is addressed by the agency within any 12-month period and does not include employees of the respondent acting within the scope of their employment, contractors engaged by a respondent for the purpose of complying with the collection of information, or current employees of the Federal government. Collections of information affecting ten or more respondents within any 12-month period require OMB review and approval.

This proposed rule comprises deepwater port application, operation, and oversight procedures. The Coast Guard expects fewer than ten entities in the natural gas industry would be affected by this rule within any 12-month period because there are only four deepwater ports currently in operation, and the Coast Guard does not expect to receive ten or more applications in any future year because it has received only eight applications in the last five years combined. Thus, we expect to receive less than 10 applications per year; less than 10 submissions of design, construction, and equipment modification per year; and less than 10 proposals to amend approved Operation Manuals per year. Consequently, the number of respondents is less than the threshold of ten respondents per 12-month period for collection of information requirements under the PRA.

*E. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and

[19] Public Law 104–121.

[20] 44 U.S.C. 3501–3520.

have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

Congress conferred rulemaking authority on the Secretary of Transportation to promulgate regulations to carry out the provisions of the DWPA. Relating to deepwater port licenses, 33 U.S.C. 1504(a) states that the Secretary ''shall . . . issue regulations to carry out the purposes and provisions of [the DWPA] . . . Such regulations shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses.'' As noted above, when the Coast Guard was transferred to DHS, certain authorities and functions that were delegated to the Coast Guard while operating as a part of the Department of Transportation remained with the Coast Guard after its transfer to DHS. As such, the Coast Guard retained its delegated authority to establish the regulatory framework governing the application and licensing process of deepwater ports. Although Congress specifically provided for affected States to play a role in the licensing process of deepwater ports, the authorities exercised by the Coast Guard in this rulemaking do not involve those delineated State roles or responsibilities as they establish the licensing procedures themselves. Congress made clear in the language of the DWPA that the authority to establish licensing procedures was reserved to the Coast Guard and States may not regulate within this category. Therefore, the proposed rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Additionally, the Coast Guard was granted the authority by Congress, through delegation, to issue regulations to improve safety in deepwater ports. 33 U.S.C. 1509(b) states that the Secretary ''shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.'' As this proposed rule revises provisions regarding the construction, design, equipment, and operation of deepwater ports, it falls within the scope of authority Congress granted exclusively to the Secretary. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within these categories of construction, design, equipment and operation for deepwater ports. Therefore, the proposed rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of authority to issue regulations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

*F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 [21] requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*G. Taking of Private Property*

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*H. Civil Justice Reform*

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

*I. Protection of Children*

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

*J. Indian Tribal Governments*

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

*K. Energy Effects*

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order. Though it is a ''significant regulatory action'' under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

*L. Technical Standards*

The National Technology Transfer and Advancement Act [22] directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

*M. Environment*

We have analyzed this proposed rule under DHS Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969,[23] and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist

[21] 2 U.S.C. 1531–1538.

[22] Codified as a note to 15 U.S.C. 272.

[23] 42 U.S.C. 4321–4370f.

supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This action falls under section 2.B.2, figure 2–1, paragraph (34)(a) and involves regulations that are editorial or procedural, such as those updating or establishing application procedures. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

**List of Subjects**

*33 CFR Part 148*

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

*33 CFR Part 149*

Fire prevention, Harbors, Marine Safety, Navigation (water), Occupational safety and health, Oil pollution.

*33 CFR Part 150*

Harbors, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 148, 149, and 150 as follows:

## PART 148—DEEPWATER PORTS: GENERAL

■ 1. The authority citation for part 148 continues to read as follows:

**Authority:** 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

■ 2. Revise § 148.3 to read as follows:

### § 148.3 What Federal agencies are responsible for implementing the Deepwater Port Act?

(a) Under delegations from the Secretary of Homeland Security and the Secretary of Transportation, the Coast Guard and MARAD coordinate with each other in processing applications for the issuance, transfer, or amendment of a license for the construction and operation of a deepwater port.

(b) The Coast Guard is responsible for compliance with the National Environmental Policy Act (NEPA), including, but not limited to, preparation of the appropriate environmental documents (Environmental Impact Statement, Environmental Assessment, and/or a State-required Environmental Impact Report) for each deepwater port license application. The Coast Guard also has authority over certain matters relating to navigation safety and security, engineering and safety standards and deepwater port inspections.

(c) MARAD is responsible for issuing the Record of Decision to announce whether a license application is approved, approved with conditions, or denied, and for issuing, revoking, and reinstating deepwater port licenses. MARAD also has authority over the approval of fees charged by Adjacent Coastal States, and certain matters relating to international policy, civil actions, and suspension or termination of licenses.

(d) The Secretary of Transportation has delegated to the Administrator of the Pipeline Hazardous Materials and Safety Administration (PHMSA) the authority to carry out the functions vested in the Secretary under section 21 of the Deepwater Port Act relating to the safe construction, operation, and maintenance of pipelines associated with deepwater ports.

(e) The Secretary of the Interior is responsible for determining the fair market rental value of the subsoil and seabed of the Outer Continental Shelf of the United States to be used by the deepwater port, including, but not limited to, the fair market rental value of the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed. Any proposed subsuface storage of oil and gas in the submerged lands of the Outer Continental Shelf is also subject to the review and approval of the Secretary of the Interior. In order to minimize potential impacts to existing facilities and protect the development potential of nearby oil, gas, and mineral resources, Bureau of Ocean Energy Management (BOEM) should also be involved in the site selection process.

(f) The Environmental Protection Agency (EPA), U.S. Army Corps of Engineers, and other Federal agencies are designated as cooperating agencies and support the Coast Guard and MARAD in the review and evaluation of deepwater port license applications.

■ 3. Amend § 148.5 as follows:

■ a. Add a definition in alphabetical order for ''Accommodation module'';

■ b. Revise the definition for ''Construction'';

■ c. Add definitions in alphabetical order for ''Deepwater port'', ''Deepwater port security plan'', ''Engineering geological survey'',

■ d. Remove the definition for ''Engineering hydrographic survey'';

■ e. Add in alphabetical order a definition for ''Flexible riser and umbilical'';

■ f. Revise the definition for ''Lease block'';

■ g. Add in alphabetical order definitions for ''Major conversion'' and ''Marine Safety Unit (MSU) Commander'';

■ h. Revise the definitions for ''Marine site'' and ''Maritime Administration'';

■ i. Add in alphabetical order a definition for ''Mile'';

■ j. Revise the definitions for ''Operator'' and ''Person in Charge'';

■ k. Add in alphabetical order definitions for ''PIC'' and ''Pipeline'';

■ l. Revise the definition for ''Pipeline end manifold'';

■ m. Add in alphabetical order a definition for ''Prevention, monitoring and mitigation program'';

■ n. Revise the definition for ''Safety zone'';

■ o. Add in alphabetical order a definition for ''Service space'';

■ p. Revise the definitions for ''Single point mooring oil transfer system''; ''Single point mooring natural gas transfer system'';

■ q. Add in alphabetical order definitions for ''Service space'', ''Sleeping space'', and ''Submerged turret loading buoy''; and

■ r. Revise the definition for ''Vessel''.

The additions and revisions read as follows;

### § 148.5 How are terms used in this subchapter defined?

As used in this subchapter:

*Accommodation module* means a module with one or more accommodation spaces that is individually contracted and may be used for one or more facilities.

* * * * *

*Construction* means any activity incidental to building, repairing, or expanding a deepwater port or any of its components, and includes but is not limited to supervision, inspection, actual building, fabrication, laying of pipe, pile driving, bulk heading, alteration, modification, commissioning, and additions to the deepwater port.

* * * * *

*Deepwater port.* (1) Means any fixed or floating manmade structure other than a vessel, or any group of structures, located beyond State seaward boundaries that are used or are intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to or from any State, except as otherwise provided in the Deepwater Port Act of 1974, as amended, and for other uses not inconsistent with the purposes of the Deepwater Ports Act, including transportation of oil or natural gas from the United States' OCS;

(2) Includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities, to the extent that they are located seaward of the high water mark;

(3) Includes, in the case of natural gas, all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

(4) Must be considered a ''new source'' for purposes of the Clean Air Act, as amended (codified at 42 U.S.C. 7401 *et seq.*), and the Federal Water Pollution Control Act, as amended (codified at 33 U.S.C. 1251 *et seq.*).

*Deepwater port security plan* or *DPSP* means the plan developed to ensure the implementation of security measures, at each Maritime Security Level defined in 33 CFR 101.105, to protect the deepwater port and its servicing vessels or those vessels interfacing with the deepwater port, and any cargoes and persons on board the port or vessels.

* * * * *

*Engineering geological survey* means a detailed geological analysis of seabed soil samples performed to determine the physical composition—for example the mineral content—and structural integrity for the installation of offshore components and structures.

*Flexible riser* and *umbilical* refer to the parts of a single point mooring system and include the flexible product transfer and control system from the submerged turret loading (STL) buoy to a pipeline end manifold (PLEM).

* * * * *

*Lease block* means an area established either by the Secretary of the Interior under 43 U.S.C. 1334, or by a State under 43 U.S.C. 1311.

* * * * *

*Major conversion* means a conversion that the Commandant (CG–5P) determines will result in a substantial change to the deepwater port's type or essence, dimensions, carrying capacity (if a floating deepwater port), processing equipment, or expected useful lifespan.

* * * * *

*Marine Safety Unit (MSU) Commander* means the same as the definition in 33 CFR 3.01–1(d)(2).

*Marine site* means the area in which the deepwater port is located, including, but not limited to, the safety zone and all areas seaward of the high water mark in which associated components and equipment of the deepwater port are located.

*Maritime Administration* or *MARAD* means the Administrator of the Maritime Administration or that person's designees, and includes the Associate Administrator for Intermodal System Development, Maritime Administration, or that individual's authorized representative, at 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 366–0926.

* * * * *

*Mile* means nautical mile.

* * * * *

*Operator* means the licensee or the licensee's designee.

* * * * *

*Person in charge,* when used without the abbreviation ''*PIC,*'' means a person in charge of an operation other than transfer operations.

*PIC* means an individual designated as a person in charge of transfer operations under 33 CFR 154.710 for oil facilities or 33 CFR 127.301 for liquefied natural gas (LNG) facilities.

* * * * *

*Pipeline* means the pipeline portion of a deepwater port downstream of the last valve, and associated safety equipment, on the pipeline end manifold (PLEM). On deepwater ports with multiple mooring stations, the term includes the flow line or gathering line between each PLEM.

*Pipeline end manifold* or *PLEM* means the deepwater port process skids containing the valves, controls, and instrumentation downstream of the mooring equipment. The PLEM is normally subsea and will normally include the last downstream valve prior to the deepwater port pipeline.

* * * * *

*Prevention, monitoring, and mitigation program* or *PMMP* means a post-licensing, performance-based process to evaluate the effectiveness of preventing or mitigating environmental impacts from deepwater port construction and operations, and including the development of a pre-construction monitoring baseline with subsequent periodic evaluations to determine if and when improvements to the program must be incorporated.

* * * * *

*Safety zone* means a safety zone established around a deepwater port under part 150, subpart J, of this chapter and extending up to 500 meters (approximately 1,640 feet) around the deepwater port, measured from each point on its outer edge or from its construction site, except as authorized by generally accepted international standards or as recommended by the International Maritime Organization but not interfering with the use of recognized sea lanes.

*Service space* means a space used for a galley, a pantry containing cooking appliances, a storeroom, or a workshop other than those in industrial areas, and trunks to those spaces.

* * * * *

*Single point mooring oil transfer system* or *SPM–OTS* means the part of the oil transfer system from the pipeline end manifold to the end of the hose string that connects to the tanker's manifold. This is not part of a submerged turret loading-single point mooring (STL–SPM) system.

*Single point mooring natural gas transfer system* or *SPM–NGTS* means the part of the natural gas transfer system from the pipeline end manifold to the end of the hose string that connects to the tanker's manifold. This is not part of a submerged turret loading-single point mooring (STL–SPM) system.

*Sleeping space* means a space provided with bunks for sleeping.

* * * * *

*Submerged turret loading buoy* or *STL buoy* means a loading buoy connected to the riser and umbilical that is pulled into a tanker's receiving cone for the transfer of oil or natural gas.

* * * * *

*Vessel* means every description of watercraft or artificial contrivance used or capable of being used as a means of transportation on or through the water.

■ 4. Amend § 148.8 as follows:

■ a. In paragraph (a), add a sentence at the end of the paragraph; and

■ b. In paragraph (b) introductory text, remove the words ''may be made at any time after the Maritime Administration issues a record of decision approving the application, and''.

The addition reads as follows:

**§ 148.8 How are certifying entities designated and used for purposes of this subchapter?**

(a) * * * Applicants may, with Commandant (CG–5P) approval, nominate a CE before the Maritime Administration issues a Record of Decision.

* * * * *

■ 5. Amend § 148.105 by:

■ a. Revising paragraphs (g)(1)(i), (g)(2)(iii), (i)(1), and (j) introductory text;

■ b. Adding paragraphs (j)(1), (j)(1)(i), (j)(1)(ii), and (j)(2);

■ c. Revising paragraphs (k)(1) introductory text, (m)(1)(i), (m)(1)(iii), and (m)(2);

■ d. Adding paragraphs (m)(3) and (4);

■ e. Revising paragraphs (n) introductory text, (s)(6)(iv), (t) introductory text, (y), and (z); and
■ f. Adding paragraph (ff).

The revisions and additions read as follows:

**§ 148.105 What must I include in my application?**

* * * * *

(g) * * *

(1) * * *

(i) Annual financial statements, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; provided, however, that MARAD, in consultation with the Commandant (CG–5P), may waive this requirement upon finding:

* * * * *

(2) * * *

(iii) A preliminary estimate of the cost of removing all of the deepwater port marine components, including pipelines that lie beneath the seabed. The licensee of a deepwater port is responsible for the costs associated with removal of all deepwater port components. Should a license be granted, MARAD will require a bond, guarantee, or other financial instrument to cover the complete cost of decommissioning as a condition of the license.

* * * * *

(i) * * *

(1) Evidence, to the extent available, that the requirements of 33 U.S.C. 1341(a)(1) will be satisfied. If complete information is not available by the time MARAD must either approve or deny the application under 33 U.S.C. 1504(i)(1), the license for the deepwater port will be conditioned upon the applicant demonstrating that the requirements of 33 U.S.C. 1341(a)(1) will be satisfied.

* * * * *

(j) *Coastal zone management.* (1) The application must be accompanied by a completed consistency certification that the proposed activity complies with, and will be conducted in a manner consistent with, each affected state's Coastal Management Program. This certification must include—

(i) The statement: ''The proposed activity complies with the enforceable policies of [NAME OF AFFECTED STATE]'s approved management program and will be conducted in a manner consistent with such program.''; and

(ii) A copy of the environmental evaluation required by § 148.105(z) of this part; and

(2) At the time of submitting the application, the applicant must also furnish to the appropriate agency of each State where the proposal may affect a coastal use or resource, a copy of the certification requesting concurrence with the consistency certification. Complete procedures for providing data for the consistency certification are specified at 15 CFR part 930, subpart D.

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification must be made on official Outer Continental Shelf leasing maps or protraction diagrams, where available. Each map and diagram must be certified by a professional surveyor, or, in the alternative, the applicant must provide an equivalent means of certifying accuracy. For each lease block, provide the following:

* * * * *

(m) * * *

(1) * * *

(i) Fixed and floating structures and associated components seaward of the high water mark;

* * * * *

(iii) Proposed anchorage and mooring areas, including areas associated with construction and pipelaying operations;

(2) A reconnaissance hydrographic survey of the proposed marine site. This survey should provide data on the water depth, cultural resources, and a general characterization of the sea bottom. A requirement to submit a reconnaissance hydrographic survey of the final marine site will be imposed as a condition in the license. The applicant may submit existing data, gathered within the previous 5 years (or within a longer timeframe if approved by the Commandant (CG–5P)), but it must be supplemented by field data for the specific locations in which a high degree of variability exists;

(3) Meteorological/oceanographic (''MetOcean'') data. This should include prevailing winds, currents, waves and storms in the vicinity of the proposed marine site; and

(4) Vessel traffic data. At least one year of vessel traffic data from the most recent year's data, if available, in the vicinity of the proposed marine site.

(n) *Engineering geological survey data.* An initial preliminary analysis of the general character and condition of the ocean bottom and sub-bottom, soils and sediments throughout the marine site, and, if applicable, soils and topography throughout the terrestrial site. If the applicant proposes to use horizontal directional drilling (HDD), the initial preliminary analysis must include a study addressing the feasibility of HDD in the proposed HDD location. The applicant may use existing data, so long as it was collected within the last 5 years (or within a longer timeframe if approved by the Commandant (CG–5P)) and continues to provide accurate information about conditions throughout the site. If not, a new survey must be completed to provide supplemental data. The analysis must include an opinion by a registered professional specializing in soil mechanics, such as a registered professional engineer or an equivalent means of certifying accuracy, concerning:

* * * * *

(s) * * *

(6) * * *

(iv) Any associated equipment, including equipment for oil or natural gas regasification, throughput measuring, leak detection, emergency shutdown, and the alarm system.

* * * * *

(t) *Information on offshore pipelines.* To facilitate timely processing of an application, applicants are encouraged to consult with PHMSA to verify the requirements for the design, construction, operation and maintenance of pipelines prior to submitting an application, which must include the following:

* * * * *

(y) *Risk and consequence assessment.* The applicant must submit a site-specific risk and consequence assessment to assess the risks and consequences of accidental and intentional events that compromise cargo containment. The applicant may consult with the Commandant (CG–5P) to ensure that appropriate assessment procedures are used. If the Coast Guard determines that an independent risk and consequence assessment is necessary, the Coast Guard may require the applicant to provide additional data in order to support an independent, site-specific analysis. The Coast Guard may use an approved third party to analyze the applicant provided data for impact on the public, property, and the environment including, but not limited to, potential events that result in a liquefied natural gas or oil spill, vapor dispersion and/or fire. The Coast Guard-approved third party will use validated models, for example, computational fluid dynamics, or an equivalent model.

(z) *Environmental evaluation.* An analysis, sufficient to meet the

requirements of the National Environmental Policy Act, and as outlined in subpart H of this part, of the potential impacts on the natural and human environments, including sufficient information that complies with all applicable Federal, tribal, and State requirements for the protection of the environment. The analysis must identify a reasonable range of alternatives to the proposed action including, but not limited to, deepwater port location, pipeline route and landfall, construction methods, deepwater port design, and technologies used during operation.

* * * * *

(ff) *MARPOL 73/78 requirements for certification as Reception Facility for Oil, Noxious Liquid Substances, and Garbage.* The deepwater port license applicant must include an application for a Certificate of Adequacy (COA) as defined in 33 CFR 158.120 or a written waiver justifying why compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention, or MARPOL 73/78, is unreasonable or impracticable.

■ 6. Revise § 148.107 to read as follows:

**§ 148.107 What happens if I supplement my application?**

(a) The Commandant (CG–5P), in coordination with MARAD, may require the applicant, or the applicant's affiliates, to file as a supplement to the application any analysis, explanation, or other information the Commandant (CG–5P) deems necessary to process the application.

(b) The Commandant (CG–5P), in coordination with MARAD, may require the applicant, or the applicant's affiliates, to make available for Coast Guard or MARAD examination, under oath or for interview, persons having, or believed to have, necessary information.

(c) If information under paragraph (a) or (b) of this section is required, the Commandant (CG–5P), with input from the applicant, will determine if that required supplemental information can be provided in a timeframe necessary to meet the Act's timeline for processing the application. If the information under paragraph (a) or (b) cannot be provided in that timeframe, the Commandant (CG–5P), in consultation with MARAD, may suspend the timeline for processing the application until the Commandant (CG–5P) receives that information and deems it to be adequate.

(d) The deadline for the Administrator's review of an application under the Act is extended for a period of time equal to the total number of days of all suspensions made under paragraph (c) of this section.

(e) If information under paragraph (a) or (b) of this section is required, and the Commandant (CG–5P) determines that reasonable progress is not being made to supply that information, the Commandant (CG–5P) may recommend to MARAD to either suspend processing of the application indefinitely or to treat the application as withdrawn in accordance with § 148.283 of this part.

**§ 148.125 [Amended]**

■ 7. Amend § 148.125(c) by adding the words ''and additional environmental analysis'' after the words ''operations manual''.

**§ 148.207 [Amended]**

■ 8. Amend § 148.209 by revising paragraph (a) to read as follows:

**§ 148.209 How is the application processed?**

* * * * *

(a) Each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports; and

* * * * *

■ 9. Revise § 148.211 to read as follows:

**§ 148.211 What must I do if I need to change my application?**

(a) If at any time before MARAD approves or denies an application, the information in it changes, becomes incomplete, or becomes inaccurate, the applicant must promptly submit the changes, additional information, or necessary corrections in the manner set forth in § 148.115 of this part.

(b) The Coast Guard may determine that the change or required information is of such magnitude that it warrants submission of an amended or, in some cases, a completely revised application. The Commandant (CG–5P), in consultation with MARAD, will determine if the change is of such a magnitude as to require reopening of the scoping process or otherwise warrant the opportunity for additional public comment on the proposed action.

■ 10. Add § 148.214 to read as follows:

**§ 148.214 May I resubmit my application?**

With the approval of MARAD, in consultation with the Commandant (CG–5P), an applicant may resubmit a previously withdrawn application in accordance with subpart B of this part. The Commandant (CG–5P) may waive such subpart B requirements as the Commandant (CG–5P) deems appropriate. Where the application was previously denied, or withdrawn due to concerns raised by either MARAD or the governor of an Adjacent Coastal State, the resubmission must be accompanied by a memorandum in which the applicant shows clearly how the application has been revised to address those reasons for denial or concerns.

**§ 148.215 [Amended]**

■ 11. Amend § 148.215 as follows:

■ a. Redesignate paragraph (d) as paragraph (c)(5); and

■ b. In newly redesignated paragraph (c)(5), after the words ''determination that the'', add the words ''proposed deepwater''.

■ 12. Amend § 148.217 by revising paragraphs (b)(1), (c), and (d) to read as follows:

**§ 148.217 How can a State be designated as an Adjacent Coastal State?**

* * * * *

(b) * * *

(1) Be submitted in writing to MARAD within 14 days after the date of publication of the notice of application in the **Federal Register**;

* * * * *

(c) Upon receipt of a request, MARAD will send a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and ask for the Administrator's recommendations within an amount of time that will allow MARAD, in consultation with the Commandant (CG–5P), 45 days from receipt of the request to determine the matter.

(d) If after receiving NOAA's recommendations, MARAD determines that the State should be considered an Adjacent Coastal State, MARAD, in consultation with the Commandant (CG–5P), will so designate it. If MARAD, in consultation with the Commandant (CG–5P), denies the request, he or she will notify the requesting State's Governor of the denial.

**§ 148.222 [Amended]**

■ 13. Amend § 148.222(b) by removing the words ''The Commandant (CG–5) or the MARAD Administrator'' and adding, in their place, the words ''MARAD, in coordination with the Commandant (CG–5P),''.

■ 14. Revise § 148.228 to read as follows:

**§ 148.228 What if a formal evidentiary hearing is necessary?**

After all public meetings under § 148.222 of this part are concluded, MARAD, in consultation with the Commandant (CG–5P), will consider whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing. If it is determined that a formal

evidentiary hearing is necessary, the hearing will be conducted in accordance with 5 U.S.C. 554, in accordance with procedures prescribed by MARAD.

**§§ 148.230, 148.232, 148.234, 148.236, 148.238, 148.240, 148.242, 148.244, 148.246, 148.248, 148.250, 148.252, 148.254, and 148.256 [Removed and Reserved]**

■ 15. Remove and reserve §§ 148.230 148.232, 148.234, 148.236, 148.238, 148.240, 148.242, 148.244, 148.246, 148.248, 148.250, 148.252, 148.254, and 148.256.

■ 16. Revise § 148.276 to read as follows:

**§ 148.276 What is the timeline for approving or denying an application?**

(a) In 33 U.S.C. 1504, the Act provides strict timelines for action on a license application, which, if closely observed, can lead to action in just under 1 year. The Coast Guard, with the concurrence of MARAD, may suspend the timeline if an applicant fails to provide timely information or requests additional time to comply with a request, as described in § 148.107 of this part.

(b) The timeline for action on a license application includes publishing a notice of application. A notice of application is published after it has been determined that the application contains sufficient material for processing the application. The Coast Guard and MARAD must conduct a public hearing in each Adjacent Coastal State within 240 days of publishing the notice.

(c) After the final environmental impact statement is published, MARAD will hold a final public hearing in each Adjacent Coastal State. MARAD issues a Record of Decision (ROD) approving or denying a license application within 90 days after the final public hearing. Actual issuance of a license may not take place until certain conditions imposed by the ROD have been met. Those conditions may include how the applicant must address design, construction, installation, testing, operations, and decommissioning of the deepwater port, or meet the requirements of other agencies.

■ 17. Amend § 148.277 by adding paragraph (d) to read as follows:

**§ 148.277 How may Federal agencies and States participate in the application process?**

* * * * *

(d) Approvals or disapprovals of the application from the governors of Adjacent Coastal States will be accepted by MARAD only within the 45-day period after the close of the final public hearing on the application, and not before the final public hearing. If the governor fails to transmit his or her approval or disapproval to MARAD not later than 45 days after the last public hearing, such approval will be conclusively presumed.

**§ 148.281 [Amended]**

■ 18. Amend § 148.281(b)(1) by removing the letter ''G'' after the word ''subpart'' and adding, in its place, the letter ''H''.

■ 19. Revise § 148.283 to read as follows:

**§ 148.283 When may the application process be stopped and an application be treated as withdrawn?**

(a) The Commandant (CG–5P) may recommend to MARAD that an application be treated as withdrawn before the application is approved or denied if—

(1) The application is withdrawn before MARAD approves it; or

(2) The application is incomplete, and the applicant does not respond to a request by the Commandant (CG–5P) for further information, as per § 148.107 of this part.

(b) The Commandant (CG–5P) and MARAD will provide joint written notice to the applicant of an action taken under this section.

**§ 148.405 [Amended]**

■ 20. Amend § 148.405(c)(2) as follows:

■ a. After the word ''limits'', remove the symbol '',''; and

■ b. After the word ''explosives'', add the words '', per the applicable guidance for geological and geophysical surveys prescribed by the Bureau of Ocean Energy Management (BOEM)''.

## Subpart G—[Redesignated as Subpart H]

■ 21. Redesignate subpart G, consisting of §§ 148.700 through 148.737, as subpart H.

■ 22. Add new subpart G entitled ''Subpart G—Oil Pollution Act of 1990 Limits of Liability for Deepwater Ports'' and move §§ 148.600 and 148.605 from subpart F to new subpart G and revise them to read as follows:

Subpart G—Oil Pollution Act of 1990 Limits of Liability for Deepwater Ports

**§ 148.600 Where can I find the Oil Pollution Act of 1990 (OPA 90) limits of financial liability for deepwater ports?**

The OPA 90 limits of liability for deepwater ports are set forth in 33 CFR 138.230(b). The limits of liability in that section are adjusted periodically for significant increases in the Consumer Price Index, in accordance with 33 U.S.C. 2704(d)(4) and the procedures in 33 CFR 138.240. The limits of liability may also be adjusted under 33 U.S.C. 2704(d)(2) and the procedures in § 148.605 of this subpart.

**§ 148.605 What are the procedures under OPA 90 for adjusting a deepwater port's limit of liability under 33 U.S.C. 2704(d)(2)?**

(a) Upon an applicant's or licensee's request, the Coast Guard may lower the generally applicable OPA 90 limit of liability for deepwater ports in 33 CFR 138.230(b)(1). The Coast Guard may do so under 33 U.S.C. 2704(d)(2) on a port by-port-basis, after evaluating a spill risk analysis and an economic analysis. Adjustments to a deepwater port's limit of liability are established by a rulemaking that allows for public notice and comment, and if approved, will be codified at 33 CFR 138.230(b)(2).

(b) The limit of liability of a deepwater port will not be reduced to less than $50 million, and may be increased following a reduction, as the Coast Guard deems appropriate, if the design, construction, or operation of the deepwater port changes, or if oil spill incidents related to the deepwater port, or to deepwater ports generally, indicate that a higher limit is needed.

(c) Requests to adjust the limit of liability for a deepwater port under this subpart must be submitted to the Commandant (CG–5P). Requests to adjust the limits of liability may be submitted with a license application or upon receipt of a license from MARAD to construct and operate the proposed deepwater port. If the request for adjustment is submitted with the license application, no action will be taken on the request until MARAD issues a license to construct and operate the proposed deepwater port.

(d) Requests to adjust the limit of liability under this subpart must include a risk analysis of the deepwater port to determine its maximum probable oil discharge and an economic analysis to determine the OPA 90 responsible party removal costs and OPA 90 removal costs and damages for which the responsible party is liable under 33 U.S.C. 2702 that could result from such a spill.

(1) The risk analysis must, as applicable, consider the following factors:

(i) Deepwater port oil handling, storage, transfer, and transportation capacity and practices.

(ii) Type of oil handled.

(iii) Physical layout and condition of the deepwater port.

(iv) On-site oil spill response capability.

(v) Oil spill history of the deepwater port.

(vi) The pipeline oil leak detection system.

(vii) Section-by-section pipeline analysis of credible oil spill scenarios.

(viii) Other oil spills for which the deepwater port might be solely or jointly liable (such as tanker spills).

(2) The economic analysis must, as applicable, consider the following factors for the maximum credible spill:

(i) Spill trajectories.

(ii) Potential responsible party removal costs.

(iii) Potential removal costs and damages for which the responsible party is liable under 33 U.S.C. 2702.

## Subpart H—Environmental Review Criteria for Deepwater Ports

■ 23. Amend § 148.707 as follows:

■ a. Revise the section heading and paragraph (b) introductory text;

■ b. In paragraph (b)(1)(i), before the word ''endangered'', add the words ''threatened and'', and after the word ''species'', add the words ''and critical habitats'';

■ c. In paragraph (b)(1)(iii), remove the word ''sanctuaries'' and add, in its place, the words ''protected areas'';

■ d. In paragraph (b)(1)(vii), remove the word ''and'';

■ e. In paragraph (b)(1)(viii), remove the symbol ''.'', and add, in its place, the symbol ''; ''; and

■ f. Add paragraphs (b)(1)(ix) and (x).

The revisions and additions read as follows:

### § 148.707 What type of criteria will be used in an environmental evaluation and how will they be applied?

* * * * *

(b) The environmental evaluation will be applied to the phases of construction, operation, and decommissioning of the proposed action and alternatives. Alternatives must consider alternate siting of the deepwater port as well as different technologies and pipeline routes. The evaluation will assess:

(1) * * *

(ix) Marine, coastal, and migratory birds; and

(x) Marine mammals and fisheries.

* * * * *

### § 148.715 [Amended]

■ 24. Amend § 148.715 as follows:

■ a. In the introductory text, remove the word ''reasonable'' and add, in its place, the words ''a reasonable range of'';

■ b. In paragraph (a), after the word ''assessment'' and before the comma, add the words ''including, but not limited to, geographic relevance, age of data used (generally no more than 5 years at the time of submission) and methods of data analysis''; and

■ c. In paragraph (a), remove the text ''; and'' and add, in its place a period.

### § 148.720 [Amended]

■ 25. Amend § 148.720(k) by adding the words '', but not limited to,'' after the word ''including''.

### § 148.725 [Amended]

■ 26. Amend § 148.725 introductory text by removing the word ''reasonable'' and adding, in its place, the words ''a reasonable range of''.

### § 148.730 [Amended]

■ 27. Amend § 148.730 as follows:

■ a. In the introductory text, remove the word ''reasonable'' and add, in its place, the words ''a reasonable range of''; and

■ b. In paragraph (a), remove the words ''from appropriate State agencies for any designated Adjacent Coastal State'' and add, in its place, the words ''described in § 148.105(j) of this part''.

### § 148.735 [Amended]

■ 28. Amend § 148.735 introductory text by removing the word ''reasonable'' and adding, in its place, the words ''a reasonable range of''.

■ 29. Revise § 148.737 to read as follows:

### § 148.737 What environmental statutes must an applicant follow?

In constructing and operating a deepwater port, the deepwater port must comply with all applicable Federal, State, and tribal environmental statutes and Executive Orders (E.O.s). For the purposes of information only, a non-exhaustive list of Federal environmental statutes and E.O.s is available online via a Coast Guard Web site: *http://www.uscg.mil/hq/cg5/cg522/cg5225/.*

## PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

■ 30. The authority citation for part 149 continues to read as follows:

**Authority:** 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

### §§ 149.306–149.315 [Removed and Reserved]

■ 31. Remove and reserve §§ 149.306 through 149.315.

### §§ 149.100–149.700 [Redesignated]

■ 32. Redesignate §§ 149.100 through 149.700 as shown in the following table:

| Old section, old subpart | New section, new subpart |
|---|---|
| 149.100, B | 149.100, C |
| 149.103, B | 149.105, C |
| 149.105, B | 149.110, C |
| 149.110, B | 149.115, C |
| 149.115, B | 149.120, C |
| 149.120, B | 149.125, C |
| 149.125, B | 149.130, C |
| 149.130, B | 149.135, C |
| 149.135, B | 149.140, C |
| 149.140, B | 149.64, B |
| 149.145, B | 149.150, C |
| 149.300, C | 149.200, D |
| 149.301, C | 149.201, D |
| 149.302, C | 149.202, D |
| 149.303, C | 149.203, D |
| 149.304, C | 149.204, D |
| 149.305, C | 149.205, D |
| 149.316, C | 149.207, D |
| 149.317, C | 149.208, D |
| 149.318, C | 149.209, D |
| 149.319, C | 149.210, D |
| 149.320, C | 149.211, D |
| 149.321, C | 149.212, D |
| 149.322, C | 149.213, D |
| 149.323, C | 149.214, D |
| 149.324, C | 149.215, D |
| 149.325, C | 149.216, D |
| 149.326, C | 149.217, D |
| 149.327, C | 149.218, D |
| 149.328, C | 149.219, D |
| 149.329, C | 149.220, D |
| 149.330, C | 149.221, D |
| 149.331, C | 149.222, D |
| 149.332, C | 149.223, D |
| 149.333, C | 149.224, D |
| 149.334, C | 149.225, D |
| 149.335, C | 149.226, D |
| 149.336, C | 149.227, D |
| 149.337, C | 149.228, D |
| 149.338, C | 149.229, D |
| 149.339, C | 149.230, D |
| 149.340, C | 149.231, D |
| 149.400, D | 149.300, E |
| 149.401, D | 149.301, E |
| 149.402, D | 149.302, E |
| 149.403, D | 149.303, E |
| 149.404, D | 149.304, E |
| 149.405, D | 149.305, E |
| 149.406, D | 149.306, E |
| 149.407, D | 149.307, E |
| 149.408, D | 149.308, E |
| 149.409, D | 149.309, E |
| 149.410, D | 149.310, E |
| 149.411, D | 149.311, E |
| 149.412, D | 149.312, E |
| 149.413, D | 149.313, E |
| 149.414, D | 149.314, E |
| 149.415, D | 149.315, E |
| 149.416, D | 149.316, E |
| 149.417, D | 149.317, E |
| 149.418, D | 149.318, E |
| 149.419, D | 149.319, E |
| 149.420, D | 149.320, E |
| 149.421, D | 149.321, E |
| 149.500, E | 149.400, F |
| 149.505, E | 149.405, F |
| 149.510, E | 149.410, F |
| 149.520, E | 149.420, F |
| 149.535, E | 149.435, F |
| 149.540, E | 149.440, F |
| 149.550, E | 149.450, F |
| 149.560, E | 149.460, F |
| 149.565, E | 149.465, F |
| 149.570, E | 149.470, F |
| 149.575, E | 149.475, F |
| 149.580, E | 149.480, F |
| 149.585, E | 149.485, F |
| 149.600, F | 149.50, B |

| Old section, old subpart | New section, new subpart |
|---|---|
| 149.610, F | 149.20, A |
| 149.615, F | 149.51, B |
| 149.620, F | 149.53, B |
| 149.625, F | 149.52, B |
| 149.640, F | 149.60, B |
| 149.641, F | 149.61, B |
| 149.655, F | 149.62, B |
| 149.660, F | 149.63, B |
| 149.665, F | 149.65, B |
| 149.670, F | 149.66, B |
| 149.675, F | 149.67, B |
| 149.680, F | 149.68, B |
| 149.685, F | 149.69, B |
| 149.690, F | 149.70, B |
| 149.691, F | 149.71, B |
| 149.692, F | 149.72, B |
| 149.693, F | 149.73, B |
| 149.694, F | 149.74, B |
| 149.695, F | 149.75, B |
| 149.696, F | 149.76, B |
| 149.697, F | 149.77, B |
| 149.700, F | 149.78, B |

■ 33. Revise § 149.5 to read as follows:

**§ 149.5 What definitions apply to this part?**

Definitions applicable to this part appear in 33 CFR 148.5.

**§ 149.15 [Removed and Reserved]**

■ 34. Remove and reserve § 149.15.

**§ 149.20 [Amended]**

■ 35. In newly redesignated § 149.20, paragraph (a), after the text ''(SPM)'', add the words '', or submerged turret loading (STL) buoy''.

■ 36. Revise the heading of subpart B to read as follows:

## Subpart B—Design, Construction, Operations, and Equipment

**§ 149.50 [Amended]**

■ 37. Amend newly redesignated § 149.50 by adding the words ''the design, construction, operations, and'' after the words ''requirements for'', and by removing the words ''and design'' after the word ''equipment''.

**§ 149.51 [Amended]**

■ 38. Amend newly redesignated § 149.51(b) by adding the words ''in the U.S., or an engineer possessing equivalent qualifications in a foreign country as approved by the Commandant (CG–5P),'' after the words ''professional engineer''.

■ 39. Amend newly redesignated § 149.52 as follows:

■ a. In paragraph (b), after the text ''(CG–5P)'' add the words ''or the accepted certifying entity''; and

■ b. Add paragraph (d).

The addition reads as follows:

**§ 149.52 What are the design standards?**

* * * * *

(d) The appropriateness of the design of a deepwater port, or its components, may be shown by its compliance with standards generally used within the offshore industry that are at least equivalent to rules established by any recognized classification society as defined in 46 CFR 8.100. Based on the design, complexity, and location of a deepwater port, the Commandant (CG–5P) will determine, in coordination with the applicant or licensee, as appropriate, the components to be included in classification society certification or classification certificate. This coordination should start early in the process, especially in the case of manned fixed or floating structures.

■ 40. Add § 149.54 to read as follows:

**§ 149.54 What is the process for submitting alterations and modifications affecting the design, construction, and operations of a deepwater port?**

(a) Alterations and modifications affecting the design and construction of a deepwater port must be submitted to the Commandant (CG–5P) for review and approval if—

(1) A license has not yet been issued; or

(2) A license has been issued but the deepwater port has not commenced operations; or

(3) The alterations and modifications are deemed a major conversion; or

(4) The alterations or modifications substantially change the manner in which the deepwater port operates or are not in accordance with a condition of the license.

(b) All other alterations and modifications to the deepwater port must be submitted to the Sector Commander, or MSU Commander with COTP and OCMI authority for review and approval.

(c) Approval for alterations and modifications proposed after a license has been issued will be contingent upon whether the proposed changes will affect the way the deepwater port operates, or any conditions imposed in the license.

(d) The licensee is not authorized to proceed with alterations prior to approval from the Commandant (CG–5P) for the conditions outlined in paragraph (a) and for approval by the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority as required in paragraph (b) of this section.

(e) During the review and approval process of a proposed alteration or modification, the Commandant (CG–5P) may consult with the Marine Safety Center and cooperating Federal agencies possessing relevant technical expertise.

■ 41. Add § 149.57 to read as follows:

**§ 149.57 What is the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?**

(a) The Coast Guard is responsible for ensuring that all aspects of a deepwater port are in compliance with appropriate standards and requirements. The Coast Guard review of a proposed deepwater port ends at, and includes, the last downstream valve of the pipeline end manifold (PLEM) for each single point mooring-oil transfer system (SPM–OTS) or single point mooring-natural gas transfer system (SPM–NGTS) (last downstream valve prior to connecting to a pipeline). The main gas transmission lines to shore or to offshore pipeline infrastructure, and the flowlines or gathering lines connecting multiple SPM–OTSs or SPM–NGTSs, fall under the jurisdiction of PHMSA.

(b) The Commandant (CG–5P) will coordinate the review and approval for operations for the Coast Guard and other Federal and State agencies as necessary.

(c) Depending on project complexity, construction, and installation timing, the Commandant (CG–5P) will determine, with input from the licensee, when the review process should be initiated and when the certifying entity (CE), if used, should be nominated, approved and engaged. The CE may also be the classification society being used as described in 33 CFR 149.52(d).

(d) Final approval to commence commissioning and operations of the deepwater port will come from the Commandant (CG–5P). This approval may contain additional conditions that must be satisfied once the deepwater port is operational. Once Commandant (CG–5P) has granted the deepwater port clearance to operate, the Sector Commander, or MSU Commander with COTP and OCMI authority will exercise day to day oversight.

■ 42. Add § 149.58 to read as follows:

**§ 149.58 What is the role of the certifying entity in the review and approval process for the design, construction, and commissioning for Deepwater Ports for operation?**

(a) A certifying entity (CE), contracted by the licensee but under the direction of and acting for the Coast Guard, may assist in the review and verification of each phase (*i.e.,* the design, construction, and operations) of a deepwater port. If a CE is used, the CE's review must include a recommendation to the Commandant (CG–5P) on the sufficiency of a deepwater port's design basis and selected drawings, plans, or analysis and procedure. Review for each phase may require on-site inspections at

fabrication locations and during construction and installation. The Commandant (CG–5P) is the final approval authority for the deepwater port's design, construction, and commissioning.

(1) *Design phase, including the design basis.* The design basis must identify all baseline design standards, regulations, rules and/or codes, and key parameters to be used to design each structure, system, or component of the deepwater port.

(2) *Construction phase,* including fabrication, installation, and commissioning.

(3) *Operational phase,* including maintenance and inspection procedures and long-term support from commencement of operations to decommissioning of the deepwater port.

(b) The licensee must provide to the Commandant (CG–5P), and to a CE, if used, the design basis and lists of drawings, plans, calculations, analyses, procedures, and correspondence as determined in the review.

(c) If a CE is used, key responsibilities for the CE include, but are not limited to—

(1) Recommendation of approval, disapproval, or approval with proposed changes of the applicant's design basis;

(2) Development of an action plan for each phase;

(3) Providing selected drawings and plan reviews;

(4) Inspections and oversight;

(5) Interim reports and recommendations; and

(6) A final report and recommendation for Coast Guard approval or disapproval.

(d) The CE may also be used to assist in the review of such areas as—

(1) A maintenance and inspection program;

(2) System safety, including interoperability, reliability, safety integrity levels, and LNG carrier compatibility;

(3) Specific, higher-risk components and operations; and

(4) Pipeline design, installation and operations manual (The applicant must coordinate the review and approval of the pipeline appendix to the operations manual with PHMSA).

(e) At the option of the licensee, the CE may continue to support the review and approval process for a deepwater port through to its decommissioning.

**§ 149.63 [Amended]**

■ 43. Amend newly redesignated § 149.63(a) introductory text by removing the words ''pumping platform complex'' and adding, in their place, the words ''manned deepwater port''.

**§ 149.64 [Amended]**

■ 44. Amend newly redesignated § 149.64(b) by removing the symbol '','' after the word ''side'' and adding, in its place, the words ''facilities, vessels approaching the safety zone,''.

**§ 149.65 [Amended]**

■ 45. In newly redesignated § 149.65, wherever they appear, remove the words ''pumping platform complex'' and add, in their place, the words ''manned deepwater port''.

**§ 149.66 [Amended]**

■ 46. In newly redesignated § 149.66, paragraph (b), remove the text ''§ 149.665'' and add, in its place, the text ''§ 149.65''.

**§ 149.67 [Amended]**

■ 47. Amend newly redesignated § 149.67(a) as follows:

■ a. Remove the words ''For a'' and add, in their place, the word ''Each'';

■ b. Remove the words '', each pumping platform complex''; and

■ c. After the words ''on the'', remove the word ''complex'' and add, in its place, the words ''deepwater port''.

**§ 149.68 [Amended]**

■ 48. Amend newly redesignated § 149.68 by adding the word ''manned'' before the word ''deepwater'' in the introductory text.

**§ 149.70 [Amended]**

■ 49. Amend newly redesignated § 149.70 by removing the word ''outlined'' and adding, in its place, the word ''specified'', and by removing the text ''§§ 149.691 through 149.699'' and adding, in its place, the text ''§§ 149.71 through 149.77''.

**§ 149.77 [Amended]**

■ 50. Amend newly redesignated § 149.77(a) by removing the word ''owner's'' and adding, in its place, the word ''operator's''.

■ 51. Revise the heading for subpart C to read as follows:

## Subpart C—Pollution Prevention Equipment

**§ 149.115 [Amended]**

■ 52. In newly redesignated § 149.115, remove the words ''from the pumping platform complex'' and add, in their place, the word ''remotely''.

**§ 149.130 [Amended]**

■ 53. Amend newly redesignated § 149.130(a) by removing the words ''a pumping platform complex'' and adding, in their place, the words ''the marine transfer area of a deepwater port''.

**§ 149.135 [Amended]**

■ 54. Amend newly redesignated § 149.135 as follows:

■ a. In paragraph (b) introductory text, after the word ''alarm'', add the words ''described in paragraph (a) of this section'';

■ b. In paragraph (b)(1), remove the words ''pumping platform complex'' and add, in their place, the words ''marine transfer area of a deepwater port''; and

■ c. In paragraph (b)(2), remove the words ''pumping platform complex'' and add, in their place, the words ''marine transfer area of a deepwater port'', and before the word ''under'', add the word ''described''.

**§ 149.150 [Amended]**

■ 55. Amend newly redesignated § 149.150 by removing the words ''pumping platform complex'' and adding, in their place, the words ''manned deepwater port''.

■ 56. Revise the heading for subpart D to read as follows:

## Subpart D—Lifesaving Equipment

**§ 149.203 [Amended]**

■ 57. Amend newly redesignated § 149.203 as follows:

■ a. In paragraph (a)(1), remove the text ''§ 149.306'' and add, in its place, the text ''§ 149.206'';

■ b. In paragraph (a)(2), remove the text ''§ 149.308'' and add, in its place, the text ''§ 149.208''; and

■ c. In paragraph (b), remove the text ''§ 149.314'' and add, in its place, the text ''§ 149.206''.

**§ 149.204 [Amended]**

■ 58. Amend newly redesignated § 149.204 as follows:

■ a. In paragraph (a), in the introductory text, remove the text ''§ 149.305'' and add, in its place, the text ''§ 149.205'';

■ b. In paragraph (a)(4), remove the text ''§ 149.305'' and add, in its place, the text ''§ 149.205''; and

■ c. In paragraph (a)(5), remove the text ''§ 149.314'' and add, in its place, the text ''§ 149.206''.

**§ 149.205 [Amended]**

■ 59. Amend newly redesignated § 149.205 as follows:

■ a. In paragraph (a), remove the text ''§ 149.304'' and add, in its place, the text ''§ 149.204''; and

■ b. In paragraph (b), remove the text ''§ 149.308'' and add, in its place, the text ''§ 149.208''.

■ 60. Add § 149.206 to read as follows:

**§ 149.206 What are the requirements for survival craft and rescue boats?**

Survival craft and rescue boats must satisfy the requirements of 46 CFR

108.520–108.575, except as described in paragraphs (a) through (g) of this section.

(a) Except for boathooks, the survival equipment required by 46 CFR 108.575(b) must be securely stowed in the lifeboat.

(b) Each lifeboat must have a list of the survival equipment it is required to carry. The list must be posted in the lifeboat.

(c) Except as provided in § 149.205(b) of this part, each inflatable or rigid liferaft, boarded from a deck that is more than 4.5 meters (14.75 feet) above the water, must be davit-launched or served by a marine evacuation system approved under approval series 160.175.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

(e) Not more than two liferafts may be launched from the same set of launching equipment.

(f) The operator must arrange survival craft so that they are—

(1) Readily accessible in an emergency;

(2) Accessible for inspection, maintenance, and testing;

(3) In locations clear of overboard discharge piping or openings, and of obstructions below; and

(4) Located so that survival craft with an aggregate capacity to accommodate all persons authorized to be berthed are readily accessible from the personnel berthing area.

(g) The operator may use an onboard crane to launch a rescue boat if the crane's launching system meets the requirements of this section.

**§ 149.209 [Amended]**

■ 61. Amend newly redesignated § 149.209 by removing the text ''§ 149.316'' and adding, in its place, the text ''§ 149.207''.

**§ 149.210 [Amended]**

■ 62. Amend newly redesignated § 149.210 by removing the text ''§ 149.317'' and adding, in its place, the text ''§ 149.208''.

**§ 149.216 [Amended]**

■ 63. In newly redesignated § 149.216, remove the text ''§ 149.140'' and add, in its place, the text ''§ 149.64''.

**§ 149.221 [Amended]**

■ 64. In newly redesignated § 149.221(a), remove the text ''§ 149.326'' and add, in its place, the text ''§ 149.217''.

**§ 149.227 [Amended]**

■ 65. Amend newly redesignated § 149.227(a) by removing the text ''§ 149.316'' and adding, in its place, the text ''§ 149.217''.

**§ 149.228 [Amended]**

■ 66. Amend newly redesignated § 149.228(a) by removing the text ''§ 149.320'' and adding, in its place, the text ''§ 149.211''.

■ 67. Revise the heading for subpart E to read as follows:

## Subpart E—Firefighting and Fire Protection Equipment

■ 68. Revise newly redesignated § 149.302 to read as follows:

**§ 149.302 What firefighting and fire protection equipment must be approved by the Coast Guard?**

Unless approval from the Sector Commander, or MSU Commander with COTP and OCMI authority, is requested and granted pursuant to § 149.303 of this part and as permitted under § 149.303, § 149.315(c) or (d), § 149.319(a)(1), or § 149.320 of this part, all required firefighting and fire protection equipment on a deepwater port must be approved by the Commandant (CG–ENG). Firefighting and fire protection equipment that exceeds required equipment must also be approved by the Commandant (CG–ENG).

■ 69. Revise the section heading for newly redesignated § 149.303 to read as follows:

**§ 149.303 How may the operator request the use of alternate or supplemental firefighting and fire prevention equipment or procedures?**

* * * * *

■ 70. Amend newly redesignated § 149.304 as follows:

■ a. Revise the section heading; and

■ b. Remove the text ''§ 149.403'' and add, in its place, the text ''§ 149.303''.

The revision reads as follows:

**§ 149.304 Can the operator use firefighting equipment that has no Coast Guard standards?**

* * * * *

**§ 149.305 [Amended]**

■ 71. Amend newly redesignated § 149.305 by removing the text ''149.405'' wherever it appears, and adding, in each place, the text ''149.305''.

**§ 149.307 [Amended]**

■ 72. Amend newly redesignated § 149.307 as follows:

■ a. In paragraph (a), remove the text ''§ 149.409'' and add, in its place, the text ''§ 149.309''; and

■ b. In paragraph (b), remove the text ''§ 149.409'' and add, in its place, the text ''§ 149.309''.

**§ 149.309 [Amended]**

■ 73. Amend newly redesignated § 149.309 by removing the text ''149.409'' wherever it appears, and adding, in each place, the text ''149.309''.

**§ 149.310 [Amended]**

■ 74. In newly redesignated § 149.310, remove the text ''149.409'' and add, in its place, the text ''149.309''.

**§ 149.315 [Amended]**

■ 75. Amend newly redesignated § 149.315(a) by removing the words ''pumping platform complex'' and adding, in their place, the words ''manned deepwater port''.

**§ 149.317 [Amended]**

■ 76. In newly redesignated § 149.317(b), remove the text ''149.409'' and add, in its place, the text ''149.309''.

**§ 149.318 [Amended]**

■ 77. In newly redesignated § 149.318, remove the text ''149.409'' and add, in its place, the text ''149.309''.

**§ 149.319 [Amended]**

■ 78. Amend newly redesignated § 149.319 as follows:

■ a. In paragraph (a) introductory text, remove the text ''§ 149.420'' and add, in its place, the text ''§ 149.320'' and remove the text ''§ 149.421'' and add, in its place, the text ''§ 149.321''; and

■ b. In paragraph (a)(2), remove the text ''§ 149.415'' and add, in its place, the text ''§ 149.315''.

■ 79. Revise the heading for subpart F to read as follows:

## Subpart F—Aids to Navigation

**§ 149.405 [Amended]**

■ 80. In newly redesignated § 149.405(a), remove the text ''§ 149.510'' and add, in its place, the text ''§ 149.410''.

**§ 149.410 [Amended]**

■ 81. In newly redesignated § 149.410(a), remove the text ''Commandant (CG–5P)'' and add, in its place, the words ''Coast Guard District Commander in the area where the deepwater port will be built''.

**§ 149.470 [Amended]**

■ 82. In newly redesignated § 149.470(c), remove the text ''§ 149.540'' and add, in its place, the text ''§ 149.440''.

**§ 149.480 [Amended]**

■ 83. In newly redesignated § 149.480(a), remove the words ''of a pumping platform complex''.

**§ 149.485 [Amended]**

■ 84. In redesignated § 149.485(a), remove the words ''pumping platform complex'' and add, in their place, the words ''deepwater port''.

**§ 149.650 [Removed]**

■ 85. Remove § 149.650.

## PART 150—DEEPWATER PORTS: OPERATIONS

■ 86. The authority citation for part 150 continues to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

■ 87. Amend § 150.10 by revising paragraphs (b), (c), (d), and (e) to read as follows:

**§ 150.10 What are the general requirements for operations manuals?**

* * * * *

(b) The operations manual is reviewed and approved by the Commandant (CG–5P), in coordination with the local Sector Commander, or MSU Commander, with COTP and OCMI authority, as meeting the requirements of the Act and this subchapter.

(c) The manual must be readily available on the deepwater port for use by personnel.

(d) The licensee must ensure that all personnel are trained and follow the procedures in the manual while at the deepwater port.

(e) Every 5 years from the date of approval of the operations manual (unless a longer timeframe is approved by the Commandant (CG–5P)), a deepwater port operator must re-submit the operations manual to the Commandant (CG–5P) to be re-reviewed and re-approved.

■ 88. Amend § 150.15 as follows:

■ a. In paragraph (c), after the word ''including'', add the words '', but not limited to,'';

■ b. In paragraphs (d) introductory text, (m) introductory text, and in newly redesignated paragraph (q) introductory text, after the word ''including'', add the words '', but not limited to'';

■ c. In paragraphs (i) introductory text, (i)(4), after the word ''including'', add the words '', but not limited to,'';

■ d. In paragraph (i)(4)(vii), remove the words ''a safety zone, area to be avoided, and anchorage area'' and add, in their place, the words ''zones and areas described under subpart J of this part'';

■ e. In paragraphs (i)(7), (l) introductory text, and (l)(1)(iii), after the word ''including'', add the words '', but not limited to,'';

■ f. In paragraph (l)(2)(iii), remove the word ''to'' and add, in its place, the words '', but not limited to,'';

■ g. In paragraph (l)(4), after the word ''including'', add the words '', but not limited to,'';

■ h. In paragraphs (m) introductory text, and in newly redesignated paragraph (q) introductory text, after the word ''including'', add the words '', but not limited to'';

■ i. Redesignate paragraphs (o) through (aa) as (p) through (bb), respectively;

■ j. Add new paragraph (o);

■ k. In newly redesignated paragraphs (s), (u)(3), and (x)(2)(iii), after the word ''including'', add the words '', but not limited to,'';

■ l. Revise newly redesignated paragraphs (y) and (bb); and

■ m. Add paragraph (cc);

The additions and revisions read as follows:

**§ 150.15 What must the operations manual include?**

* * * * *

(o) A certificate of adequacy (COA) that certifies a deepwater port meets the requirements for reception facilities as required under 33 CFR part 158, or a waiver of a COA.

* * * * *

(y) *Security procedures*—(1) *Security plan.* Deepwater port operators must develop a deepwater port security plan comparable, at a minimum, to those required by 33 CFR part 106. The plan must address at least:

(i) Access controls for goods and materials and access controls for personnel that require positive and verifiable identification;

(ii) Monitoring and alerting of vessels that approach or enter the deepwater port's security zone;

(iii) Risk identification and procedures for detecting and deterring terrorist or subversive activity, such as security lighting and remotely-alarmed restricted areas;

(iv) Internal and external notification and response requirements in the event of a perceived threat or an attack on the deepwater port;

(v) Designation of the deepwater port security officer (DPSO);

(vi) Required security training and drills for all personnel; and

(vii) The scalability of actions and procedures for the various levels of threat.

(2) *Audits.* (i) The DPSO must ensure an audit of the deepwater port security plan is performed annually, beginning no later than one year from the initial date of approval and attach a letter to the deepwater port security plan certifying that the deepwater port security plan meets the applicable requirements of this part. The results of this audit must be included as an attachment to the annual self-inspection report to the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority as outlined in § 150.105 of this part.

(ii) If there is a change in ownership or operations of the deepwater port, or if there have been modifications to the deepwater port, the deepwater port security plan must be audited including but not limited to physical structure, emergency response procedures, security measures, or operations.

(iii) Auditing the deepwater port security plan, as a result of modifications to the deepwater port, may be limited to those sections of the deepwater port security plan affected by the deepwater port modifications.

(iv) Unless impracticable due to the size and nature of the company or the deepwater port, personnel conducting internal audits of the security measures specified in the deepwater port security plan or evaluating its implementation must—

(A) Have knowledge of methods of conducting audits and inspections, and control and monitoring techniques;

(B) Not have regularly assigned security duties; and

(C) Be independent of any security measures being audited.

(v) If the results of an audit require an amendment of the deepwater port security plan, the DPSO must submit the proposed amendment to the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority, with copy to the Commandant (CG–5P), for review and approval no later than 30 days after completion of the audit.

(3) *Review.* The Sector Commander, or MSU Commander with COTP and OCMI authority, will normally perform an annual security inspection to verify the findings in the audit. The Sector Commander, or MSU Commander with COTP and OCMI authority, will perform a more detailed deepwater port security plan review at prescribed 5-year intervals following initial approval of the deepwater port security plan and will include onsite inspection of personnel assignments and qualifications, observance of security drills, and other security exercises as necessary.

* * * * *

(bb) *Environmental procedures.* A prevention, monitoring, and mitigation program (PMMP) that provides procedures to prevent, minimize, or mitigate adverse environmental effects

resulting from the construction, operation, and decommissioning of the deepwater port. This must include both routine scheduled maintenance activities as well as unscheduled maintenance activities.

(1) *Environmental monitoring program.* The PMMP must include a detailed environmental monitoring program plan. It must be performance-based, and include provisions for incorporating recommendations for adaptive management based upon analysis of data obtained from monitoring studies. The PMMP must also include provisions for periodic re-examination of the physical, chemical, and biological factors investigated during the baseline surveys contained in the licensee's deepwater port license application.

(i) Monitoring must commence shortly before project construction in the vicinity of the construction sites and other potentially impacted areas and continue throughout the construction phase.

(ii) During project operations, a continuous monitoring program designed to ensure coverage of seasonal variations must be undertaken.

(2) *Review.* Every 5 years (unless a longer timeframe is approved by the Commandant (CG–5P)), to coincide with the periodic review of the deepwater port's operations manual, the licensee must conduct a thorough re-examination of the physical, chemical, and biological factors contained in the deepwater port's environmental evaluation.

(i) The re-examination must include, but not be limited to, a detailed analysis of the results of the environmental monitoring program to identify trends and impacts that result from the deepwater port's operations.

(ii) The re-examination must be submitted for review and approval to the Commandant (CG–5P) and MARAD not later than 60 days before the 5 year period ends.

(cc) *Procedural manual for operations, maintenance, and emergencies of the deepwater port pipelines.* This manual must meet the requirements of PHMSA regulations 49 CFR 192.605 and other applicable parts of 49 CFR 190 through 199.

■ 89. Amend § 150.25 as follows:

■ a. Revise the section heading;

■ b. Redesignate paragraphs (d), (e), and (f) as paragraphs (c)(2), (d), and (e), respectively;

■ c. Revise newly redesignated paragraph (c)(2);

■ d. Add paragraph (c)(1);

■ e. Revise newly redesignated paragraph (e);

■ f. Add new paragraph (f); and

The revisions and addition read as follows:

**§ 150.25 When will the Coast Guard require amendments to the operations manual?**

* * * * *

(c) * * *

(1) If the Sector Commander, or MSU Commander with COTP and OCMI authority determines that the proposed amendments are inadequate, the Sector Commander, or MSU Commander with COTP and OCMI authority, will return them to the licensee for revision.

(2) If the Sector Commander, or MSU Commander with COTP and OCMI authority, decides that a proposed amendment is adequate, the amendment will go into effect 60 days after the Sector Commander, or MSU Commander with COTP and OCMI authority, notifies the licensee, with copy to the Commandant (CG–5P). The Commandant (CG–5P) will notify MARAD, and PHMSA as appropriate, prior to a significant amendment going into effect.

* * * * *

(e) If the Sector Commander, or MSU Commander with COTP and OCMI authority, finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, he or she may issue an amendment effective on the date that the licensee receives it. The Sector Commander, or MSU Commander with COTP and OCMI authority, must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

(f) Other Federal agencies may propose amendments to the operations manual by submitting them to the Coast Guard's Office of Operating and Environmental Standards (CG–OES), which will coordinate with the Sector Commander, or MSU Commander with COTP and OCMI authority, to have the licensee implement requested amendments.

■ 90. Revise § 150.30 to read as follows:

**§ 150.30 How may the licensee propose an amendment to the operations manual?**

(a) Proposed amendments to an approved operations manual must be submitted to the Sector Commander, or MSU Commander with COTP and OCMI authority, in whose area of responsibility the deepwater port is located, with copy to the Commandant (CG–5P). The Commandant (CG–5P) will notify MARAD prior to approval of proposed significant amendments to the operations manual to ensure approval accords with the conditions of the deepwater port's license. If the proposed changes are not consistent with the requirements of any license condition, the environmental impact analysis, or any other Federal or State license or approval, the Commandant (CG–5P) must notify the Sector Commander, or MSU Commander with COTP and OCMI authority of this inconsistency immediately. Sector Commander, or MSU Commander with COTP and OCMI authority approval of the proposed changes will be withheld until the identified inconsistencies are resolved.

(b) The licensee may propose an amendment to the operations manual—

(1) By submitting to the Sector Commander, or to the MSU Commander with COTP and OCMI authority, in writing, the amendments and reasons for the amendments, not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the Sector Commander, or to the MSU Commander with COTP and OCMI authority in writing.

(c) The Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG–5P), must respond to a proposed amendment by notifying the licensee of his or her decision, in writing, before the requested date of the amendment. If the request is disapproved, the Sector Commander, or MSU Commander with COTP and OCMI authority must include the reasons for disapproval in the notice. If the request is for an immediate amendment, the Sector Commander, or the MSU Commander with COTP and OCMI authority must respond as soon as possible.

■ 91. Revise § 150.35 to read as follows:

**§ 150.35 How may an Adjacent Coastal State request an amendment to the deepwater port operations manual?**

(a) An Adjacent Coastal State connected by pipeline to the deepwater port may petition the cognizant Sector Commander, or MSU Commander with COTP and OCMI authority, with copy to the Commandant (CG–5P), to amend deepwater port operations. The petition must include sufficient information to allow the Sector Commander, or MSU Commander with COTP and OCMI authority to reach a decision concerning the proposed amendment.

(b) After the Sector Commander, or MSU Commander with COTP and OCMI

authority receives a petition, the Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG–5P), requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the Sector Commander, or MSU Commander with COTP and OCMI authority, in coordination with the Commandant (CG–5P), may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The Adjacent Coastal State may petition the Commandant (CG–5P) to review the decision. Petitions must be made in writing and presented to the Sector Commander, or MSU Commander with COTP and OCMI authority for forwarding to the Commandant (CG–5P) via the District Commander.

■ 92. Revise § 150.40 to read as follows:

**§ 150.40 Deviating from the operations manual.**

(a) If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the Sector Commander, or MSU Commander with COTP and OCMI authority explaining why the deviation is necessary and what alternative is proposed. If the Sector Commander, or MSU Commander with COTP and OCMI authority determines that the deviation would ensure equivalent or greater protection and safety, the Sector Commander, or MSU Commander with COTP and OCMI authority will authorize the deviation and notify the licensee in writing.

(b) In an emergency, any person may deviate from any requirement in this subchapter, or any procedure in the operations manual, to ensure the safety of life, property, or the environment. Each deviation must be reported to the Sector Commander, or to the MSU Commander with COTP and OCMI authority at the earliest possible time.

**§ 150.45 [Removed and Reserved]**

■ 93. Remove and reserve § 150.45.

■ 94. Amend § 150.50 by revising the section heading to read as follows:

**§ 150.50 What are the requirements for a deepwater port spill response plan?**

* * * * *

■ 95. Revise § 150.100 to read as follows:

**§ 150.100 What are the requirements for inspecting deepwater ports?**

(a) Under direction of the Sector Commander, or MSU Commander, with COTP and OCMI authority, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the Sector Commander or MSU Commander deems necessary.

(b) During an inspection, Coast Guard marine inspectors may be accompanied by representatives of other Federal agencies.

■ 96. Revise § 150.105 to read as follows:

**§ 150.105 What are the requirements for annual self-inspection?**

(a) The operator of each deepwater port must ensure that the deepwater port is regularly inspected to determine whether the facility is in compliance with the requirements of the approved operations manual, the license, and any classification society certifications. To this end, a deepwater port operator may propose to the Sector Commander, or to the MSU Commander, with COTP and OCMI authority, to implement a self-inspection program. Prior to the initiation of a self-inspection program, and before commencement of operations, the owner or operator must submit a proposal describing the self-inspection plan to the Sector Commander, or to the MSU Commander, with COTP and OCMI authority for acceptance. The plan must address all applicable requirements outlined in parts 149 and 150 of this subchapter. Any proposed program must include inspection intervals not to exceed 12 months between inspections. The inspection may be conducted up to 2 months after its due date, but will be valid for only the 12 months following that due date.

(b) The operator must record and submit the results of the annual self-inspection to the Sector Commander, or to the MSU Commander with COTP and OCMI authority, within 30 days of completing the inspection. The report must include a description of any failure, and the scope of repairs made to components or equipment, in accordance with the requirements in subpart I of this part, other than primary lifesaving, firefighting, or transfer equipment, which are inspected and repaired in accordance with subpart F.

(c) The Sector Commander, or the MSU Commander with COTP and OCMI authority, must validate the results of each inspection. If the Sector Commander, or the MSU Commander with COTP and OCMI authority, determines that the deepwater port is not operating in conformity with its operations manual or license, the Sector Commander, or the MSU Commander with COTP and OCMI authority, must direct appropriate corrective action to the deepwater port operator, and the Sector Commander, or the MSU Commander with COTP and OCMI authority, must notify the Commandant (CG–5P). After receipt of the notification, if the Commandant (CG–5P) concurs that a possible violation of a license condition is indicated, Commandant (CG–5P) will notify MARAD for consideration of what, if any, action on the license should be taken.

■ 97. Add § 150.107 to read as follows:

**§ 150.107 What notice must be given in the event of inspections?**

The operator must notify the Sector Commander, or the MSU Commander with COTP and OCMI authority, of scheduled Federal and State agency inspections. The operator must retain the record of results of any Federal or State agency inspection and make those records available for review upon receiving a request by the Sector Commander, or by the MSU Commander with COTP and OCMI authority, or his or her designated representative. The Coast Guard may participate in any inspection undertaken by another Federal or State agency with jurisdiction.

**§ 150.110 [Amended]**

■ 98. Amend § 150.110 by removing the word ''or'' after the words ''class certificate,''; and adding the words '', or of changes in class status'' after the words ''classification certificate''.

**§ 150.225 [Amended]**

■ 99. In § 150.225, after the word ''hold.'', add the sentence ''All employees, regardless of status, must receive basic safety training as soon as practicable after reporting to the deepwater port.''.

**§ 150.325 [Amended]**

■ 100. Amend § 150.325(b) introductory text by adding the words '', but not limited to'' after the word ''including''.

■ 101. Amend § 150.380 by revising Table 150.380(a) and paragraph (b) to read as follows:

**§ 150.380 Under what circumstances may vessels operate within the safety zone or area to be avoided?**

(a) * * *

TABLE 150.380(A)—REGULATED ACTIVITIES OF VESSELS AT DEEPWATER PORTS

| Regulated activities | Safety zone | Areas to be avoided around each deepwater port component [1] | Anchorage areas | Other ship's routing measures adjacent to the safety zone |
|---|---|---|---|---|
| Tankers calling at port | C | C | C | C |
| Support vessel movements | C | C | C | C |
| Transit by vessels other than tankers or support vessels | F | D | P | P |
| Mooring to surface components by vessels other than tankers or support vessels | N | N | N | N |
| Anchoring by vessels other than tankers or support vessels | N | F | C | F |
| Fishing, including, but not limited to, bottom trawl (shrimping) | N | D | P | R |
| Mobile drilling operations or erection of structures [2] | N | R | N | N |
| Lightering/transshipment | N | N | N | N |

[1] Areas to be avoided are in subpart J of this part.
[2] Not part of Port Installation.
[3] *Key to regulated activities for Table 150.380(a):*
C—Movement of the vessel is permitted when cleared by the person in charge of vessel operations.
D—Movement is not restricted, but recommended transit speed not to exceed 10 knots. Communication with the person in charge of vessel operations.
F—Only in an emergency. Anchoring will be avoided in a no anchoring area except in the case of immediate danger to the ship or persons on board. N—Not permitted. P—Transit is permitted when the vessel is not in the immediate area of a tanker, and when cleared by the vessel traffic supervisor. R—Permitted only if determined that operation does not create unacceptable risk to personnel safety and security and operation. For transiting foreign-flag vessels, the requirement for clearance to enter the area to be avoided and no anchoring area is advisory in nature, but mandatory for an anchorage area established within 12 nautical miles.

(b) If the activity is not listed in table 150.380(a) of this section, or otherwise provided for in this subpart, the permission of the Sector Commander, or MSU Commander with COTP and OCMI authority, is required before operating in the safety zone or other ship's routing measure.

* * * * *

**§ 150.435 [Amended]**

■ 102. Amend § 150.435(b) by adding the words '', unless complying with any approved procedures contained in the operations manual to ensure the safety of personnel, equipment and the environment'' after the word ''vicinity''.

**§ 150.501 [Amended]**

■ 103. Amend § 150.501 by adding the words '', but not limited to,'' after the word ''including''.

**§ 150.601 [Amended]**

■ 104. Amend § 150.601(b) introductory text by adding the words ''but not limited to,'' after the word ''including,'' and by adding the symbol '','' after the word ''subcontractors''.

**§ 150.602 [Amended]**

■ 105. Amend § 150.602(a) by removing the text ''§ 150.15(w)'', and adding, in its place, the text ''§ 150.15(x)''.

**§ 150.607 [Amended]**

■ 106. Amend § 150.607(a) by adding the words '', but not limited to,'' after the word ''including'' and by adding the symbol '','' after the word ''gear''.

**§ 150.615 [Amended]**

■ 107. Amend § 150.615(c) by adding the words '', but not limited to,'' after the word ''including''.

**§ 150.618 [Amended]**

■ 108. In § 150.618(a), after the word ''including'', add the words '', but not limited to,''.

**§ 150.619 [Amended]**

■ 109. In § 150.619(b), after the word ''including'', add the words '', but not limited to,''.

**§ 150.623 [Amended]**

■ 110. Amend § 150.623(c) introductory text by adding the words '', but not limited to'' after the word ''including''.

**§ 150.715 [Amended]**

■ 111. In § 150.715(a), after the word ''must'', add the words ''comply with the requirements of 33 CFR 66.01–11 and''.

**§ 150.720 [Amended]**

■ 112. Amend § 150.720 by adding the words ''and comply with the requirements of 33 CFR 67.10'' after the text ''5 miles''.

**§ 150.812 [Amended]**

■ 113. Amend § 150.812 by removing the word ''and'' and adding, in its place, the symbol '','' after the word ''life''; and adding the words '', and the environment'' after the word ''property''.

**§ 150.815 [Amended]**

■ 114. Amend § 150.815(a)(4) by adding the words '', but not limited to,'' after the word ''including''.

■ 115. Revise § 150.830 to read as follows:

**§ 150.830 Reporting a pollution incident.**

(a) Oil pollution incidents involving a deepwater port are reported according to part 153, subpart B, of this chapter.

(b) In each notification made under paragraph (a) of this section, the person in charge of the deepwater port involved in the incident must provide his or her name and telephone number, or radio call sign, and, to the extent known, the—

(1) Location, date, and time of the incident;

(2) Quantity of oil involved;

(3) Cause of the incident;

(4) Name or other identification of the vessel or offshore facility involved;

(5) Size and color of any slick or sheen and the direction of its movement;

(6) Observed on-scene weather conditions, including wind speed and direction, height and direction of seas, and any tidal or current influence present;

(7) Actions taken or contemplated to secure the source or contain and remove or otherwise control the discharged oil;

(8) Extent of any injuries or other damages incurred as a result of the incident;

(9) Observed damage to living natural resources; and

(10) Any other information deemed relevant by the reporting party or requested by the person receiving the notification.

(c) The person giving notification of an incident must not delay notification to gather all required information and

must provide any information not immediately available when it becomes known.

**§ 150.905 [Amended]**

■ 116. Amend § 150.905(d) by adding the words ‘‘, but not limited to,’’ after the word ‘‘including’’.

**§ 150.915 [Amended]**

■ 117. Amend § 150.915 as follows:
■ a. In paragraph (a), after the word ‘‘life’’, remove the word ‘‘and’’ and add, in its place, the symbol ‘‘,’’, and after the word ‘‘property’’, add the words ‘‘, or the environment’’;
■ b. In paragraph (b)(2), after the word ‘‘including’’, add the words ‘‘, but not limited to,’’; and
■ c. In paragraph (b)(9), after the word ‘‘including’’, add the words ‘‘, but not limited to,’’.

Dated: March 17, 2015.

**Paul F. Zukunft,**

*Admiral, U.S. Coast Guard, Commandant.*

[FR Doc. 2015–06611 Filed 4–8–15; 8:45 am]

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Part III

## Department of Health and Human Services

Food and Drug Administration

21 CFR Part 1
Amendments to Registration of Food Facilities; Proposed Rules

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 1**

**[Docket No. FDA–2002–N–0323]**

## Amendments to Registration of Food Facilities

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA or we) is proposing to amend its regulation for registration of food facilities that requires domestic and foreign facilities that manufacture/process, pack, or hold food for human or animal consumption in the United States to register with FDA. This proposed rule would amend and update FDA's registration regulations and is part of our implementation of the FDA Food Safety Modernization Act (FSMA), which added new provisions for the registration of food facilities. Moreover, a number of provisions in FSMA apply only to facilities required to register, including hazard analysis and risk-based preventive controls and mandatory recall authority. The proposed amendments will further enhance FDA's capabilities with respect to responding to food safety issues, and in addition, provide FDA with information that we can use to focus and better utilize our limited inspection resources.

**DATES:** Submit either electronic or written comments on the proposed rule by June 8, 2015. Submit comments on the information collection issues under the Paperwork Reduction Act of 1995 by May 11, 2015, (see the ''Paperwork Reduction Act of 1995'' section of this document).

**ADDRESSES:** You may submit comments by any of the following methods, except that comments on the information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

### Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

### Written Submissions

Submit written submissions in the following ways:

- Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Docket No. FDA–2002–N–0323 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** *With regard to the proposed rule:* Monica Storozyszyn, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1367. *With regard to the information collection:* 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:**

### Executive Summary

*Purpose of the Proposed Rule*

This proposed regulation would implement certain provisions in section 415 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 350d), as amended by section 102 of the FDA Food Safety Modernization Act (FSMA), that relate to registration of food facilities. In addition, this proposed regulation would amend and update FDA's registration regulations to further enhance FDA's capabilities with respect to responding to food-related emergencies, and in addition, provide FDA with information that we can use to focus and better utilize our limited inspection resources.

### Summary of the Major Provisions of the Proposed Rule

Section 102 of FSMA amends section 415 of the FD&C Act by requiring that certain additional information be included in registrations. More specifically, section 102(a)(1)(A) of FSMA amends section 415 to provide that registrations for domestic food facilities are required to contain the email address for the contact person of the facility, and registrations for foreign food facilities are required to contain the email address of the U.S. agent for the facility. Further, section 102(a)(3) of FSMA amends section 415 to provide that food facilities required to register with FDA must renew their registrations with FDA every 2 years, between October 1 and December 31 of each even-numbered year, by submitting registration renewals to FDA. Also, section 102(b)(1)(A) of FSMA provides that all food facility registrations are required to contain an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the FD&C Act. These FSMA amendments were self-implementing and became effective upon enactment of FSMA. These FSMA amendments are being included in this proposed rule to codify the provisions in the food facility registration regulations in 21 CFR part 1, subpart H.

In addition, section 102(b) of FSMA authorizes FDA to require that all food facility registrations be submitted to FDA in an electronic format; however, such requirement cannot take effect before the date that is 5 years after the date of enactment of FSMA (*i.e.,* January 4, 2016). We are proposing to implement this provision in this proposed rule.

Section 102(c) of FSMA also directs FDA to amend the definition of the term ''retail food establishment'' in § 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include: (1) The sale of food products or food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed; (2) the sale and distribution of such food through a community supported agriculture program; and (3) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary. We are proposing to implement these provisions in this proposed rule.

Lastly, we are proposing changes to improve the utility of the food facility registration database. We are proposing, among other things, to: (1) Require

certain additional data elements in food facility registrations; (2) employ additional measures to verify certain information submitted in registrations; and (3) take additional steps to ensure that our registration database is up-to-date by identifying additional circumstances under which FDA will cancel registrations.

**Costs and Benefits**

Costs of meeting the proposed requirements of this rule will be incurred by both FDA and food facilities that are required to register. Table 1 presents estimated costs associated with the provisions in this proposed rule. Estimated one-time costs to domestic and foreign facilities are about $22 million. Annualized costs are calculated using a discount rate of 7 percent and 3 percent over 20 years. Total annualized costs to food facilities, which include annualized one-time costs and annualized recurring costs, are approximately $5 million and $6 million. Annualized recurring costs to FDA are approximately $1 million, using both discount rates. We expect that the benefits of the proposed rule would include aiding FDA's ability to deter and limit the effects of foodborne outbreaks and other food-related emergencies. Although we are unable to quantify these and other benefits, we discuss the expected benefits qualitatively in the preliminary regulatory impact analysis (PRIA).

TABLE 1—ANNUALIZED COST AND BENEFIT SUMMARY

[$Millions]

| | Total one time costs | Total annualized costs 7% | Total annualized costs 3% | Benefits |
|---|---|---|---|---|
| Domestic Facilities | $9 | $1 | $1 | Not Quantified. |
| Foreign Facilities | 13 | 4 | 5 | |
| Subtotal Facilities | 22 | 5 | 6 | |
| Costs to FDA | | 1 | 1 | |
| Total | 22 | 6 | 7 | |

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## I. Background

### *A. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and FDA's Current Regulations for Registration of Food Facilities*

After the events of September 11, 2001, highlighted the need to enhance the security of the infrastructure of the United States, including the food supply, Congress responded by enacting the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) (Pub. L. 107–188), which was signed into law on June 12, 2002. The Bioterrorism Act included a provision in Title III (Protecting Safety and Security of Food and Drug Supply), Subtitle A—Protection of Food Supply, section 305, which required the Secretary of Health and Human Services (the Secretary) to develop a regulation to require domestic and foreign facilities that manufacture, process, pack, or hold food for consumption in the United States to register with FDA by December 12, 2003. The provision created section 415 and amended sections 301 and 801 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 331 and 381). Section 415 of the FD&C Act, as added by the Bioterrorism Act, generally requires food facilities to register with FDA by submitting certain information to the Agency and updating such information as necessary. Section 301(dd) of the FD&C Act provides that failure to register in accordance with section 415 of the FD&C Act is a prohibited act. Section 801(l) of the FD&C Act, as added by the Bioterrorism Act, generally provides that an article of food imported or offered for import into the United States from a foreign facility for which a registration has not been submitted to FDA under section 415 shall be held at the port of entry for the article.

The Secretary and the Department of Treasury (Treasury) jointly issued a proposed rule for food facility registration (2003 proposed rule) in the **Federal Register** on October 10, 2003 (68 FR 58894). On October 10, 2003, the Secretary and the Department of Homeland Security (DHS) jointly issued an interim final rule for registration of food facilities under the Bioterrorism Act.[1] The interim final rule implemented section 305 of the Bioterrorism Act, and required domestic and foreign facilities to be registered with FDA by December 12, 2003 (68 FR 58894). On October 3, 2005, FDA issued a final rule in the **Federal Register** (70 FR 57505) that confirmed the interim final rule entitled ''Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.'' FDA's implementing regulation for section 415 of the FD&C Act is codified in part 1 (21 CFR part 1), subpart H. Highlights of FDA's current registration of food facilities regulation are as follows:

- The owner, operator, or agent in charge of a domestic or foreign facility engaged in manufacturing/processing, packing, or holding food for consumption by humans or animals in

[1] The authorities of Treasury under section 701(b) of the FD&C Act (21 U.S.C. 371(b)) to jointly prescribe regulations with the Department of Health and Human Services for the efficient enforcement of section 801 of the FD&C Act were transferred to DHS when DHS was created by an act of Congress in 2002.

the United States is required to register the facility with FDA.

- The owner, operator, or agent in charge of a facility that is required to register may authorize an individual to register the facility on its behalf.
- Facilities covered under the interim final rule had to be registered by December 12, 2003.
- A foreign facility is exempt from registering if food from the facility undergoes further manufacturing/processing (including packaging) by another facility outside the United States. The foreign facility is not exempt from registration if the further manufacturing/processing (including packaging) activities of the subsequent facility are limited to affixing a label to a package or other de minimis activity.
- The following domestic and foreign facilities are also excluded from the registration requirement: Farms; retail food establishments; restaurants; nonprofit food establishments in which food is prepared for, or served directly to, the consumer; certain fishing vessels not engaged in processing; and facilities regulated exclusively, throughout the entire facility, by the U.S. Department of Agriculture (USDA) under the Federal Meat Inspection Act (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451, *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031, *et seq.*).
- Registrants must use Form FDA 3537 to register. This form is available either on the Internet or via mail or phone request. Registrants must use Form FDA 3537(a) to cancel their registrations.
- FDA strongly encourages electronic registration, which is quicker and more convenient for both facilities and FDA than registration by mail.
- To register electronically, a registrant may visit *http://www.fda.gov/furls,* which is available for registration 24 hours a day, 7 days a week. This Web site is available from wherever the Internet is accessible, including libraries, copy centers, schools, and Internet cafes, as well as through a foreign facility's U.S. agent or other authorized individual if the facility makes such arrangements.
- Regardless of the method of submission (paper or electronic), each registration must include the names, full addresses, and phone numbers for the facility, its parent company (if applicable), and the owner, operator and agent in charge; for a foreign facility, the name, address, and phone number, and, if no emergency contact is designated, the emergency contact phone number of the foreign facility's U.S. agent; for a domestic facility, an emergency contact phone number; all trade names the facility uses; applicable food product categories as identified in § 170.3 (21 CFR 170.3); and a statement certifying that the information submitted is true and accurate and, if the individual submitting the registration is not the owner, operator, or agent in charge of the facility, a statement in which the individual certifies that he/she is authorized to submit the registration.
- No registration fee is required.
- Updates to registration information or cancellation of registration must be submitted within 60 calendar days of any change to any of the required information previously submitted, except a change of the owner.
- If a facility has a new owner, the former owner must cancel the facility's registration within 60 calendar days of the change and the new owner must re-register the facility.
- Failure of a domestic or foreign facility to register, update, or cancel its registration in accordance with the regulation is a prohibited act under section 301(dd) of the FD&C Act.
- FDA will cancel a registration if the Agency independently verifies that the facility is no longer in business or has changed owners, and the owner, operator, or agent in charge of the facility fails to cancel the registration, or if FDA determines that the registration is for a facility that does not exist.
- The disposition of food imported or offered for import from an unregistered foreign facility is governed by the procedures set out in subpart I of part 1 (21 CFR part 1) (Prior Notice of Imported Food).
- Assignment of a registration number to a facility means that the facility is registered with FDA. Assignment of a registration number does not in any way convey FDA's approval or endorsement of a facility or its products.
- The list of registered facilities and registration documents submitted are not subject to public disclosure under 5 U.S.C. 552 (the Freedom of Information Act). Information derived from this list or these documents is also not subject to such disclosure to the extent that it discloses the identity or location of a specific registered facility.

### *B. The FDA Food Safety Modernization Act and Food Facility Registration*

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), signed into law on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. Section 102 of FSMA, entitled Registration of Food Facilities, amends section 415 of the FD&C Act regarding requirements for food facility registration along with other sections of the FD&C Act involving food facility registration. Further, other sections of FSMA include amendments that apply to facilities that are required to register under section 415 of the FD&C Act.

#### 1. Section 102 of FSMA: Registration of Food Facilities

Section 102 of FSMA includes a number of amendments to food facility registration requirements or sections of the FD&C Act involving food facility registration. First, section 102 of FSMA amends section 415 by requiring that certain additional information be included in registrations. More specifically, section 102(a)(1)(A) of FSMA amends section 415 to provide that registrations for domestic food facilities are required to contain the email address for the contact person of the facility, and registrations for foreign food facilities are required to contain the email address of the U.S. agent for the facility. Also, section 102(b)(1)(A) of FSMA provides that all food facility registrations are required to contain an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the FD&C Act. These FSMA amendments were self-implementing and became effective upon enactment of FSMA. These FSMA amendments are being included in this proposed rule to codify the provisions in the registration of food facilities regulations in 21 CFR part 1, subpart H.

Second, section 102 of FSMA amends section 415 with respect to updating food product category information required in food facility registrations. Before FSMA was enacted, section 415(a)(2) of the FD&C Act, as added by section 305 of the Bioterrorism Act, provided in relevant part that, when determined necessary by FDA ''through guidance,'' a registrant must submit a registration to FDA containing information necessary to notify FDA of the general food category (as identified in § 170.3) of food manufactured, processed, packed, or held at such facility. On July 17, 2003, FDA issued a guidance document stating that FDA had determined that the inclusion of food product categories in food facility registrations was necessary for a quick, accurate, and focused response to an actual or potential bioterrorist incident or other food-related emergency (see 68 FR 42415). Section 102(a)(1)(B) of FSMA amends section 415(a)(2) of the FD&C Act with respect to food product category information by authorizing FDA to determine other food product categories, including those not

specifically identified in § 170.3. Specifically, section 415(a)(2) of the FD&C Act, as amended by section 102(a)(1)(B) of FSMA, provides in relevant part that, when determined necessary by FDA ''through guidance,'' a registrant is required to submit a registration to FDA containing information necessary to notify FDA of the general food category (as identified in § 170.3 or any other food categories, as determined appropriate by FDA, including by guidance) of any food manufactured, processed, packed, or held at such facility. In October 2012, FDA issued a guidance entitled ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories.'' This guidance represents FDA's conclusion on the necessity of food product categories in food facility registrations and identifies other food product categories that are necessary and appropriate for food facility registration, as provided by section 415(a)(2) of the FD&C Act.

Third, section 102(a)(3) of FSMA amends section 415 to provide that food facilities required to register with FDA must renew their registrations with FDA every 2 years, between October 1 and December 31 of each even-numbered year, by submitting registration renewals to FDA. Further, section 102(a)(3) of FSMA directs FDA to provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility.

Fourth, section 102(b) of FSMA amends section 415(b) of the FD&C Act by adding new provisions authorizing FDA to suspend the registration of a food facility in certain circumstances. Specifically, if FDA determines that food manufactured, processed, packed, received, or held by a registered facility has a reasonable probability of causing serious adverse health consequences or death to humans or animals, FDA may by order suspend the registration of a facility that created, caused, or was otherwise responsible for such reasonable probability; or knew of, or had reason to know of, such reasonable probability and packed, received, or held such food. Under section 415(b)(4) of the FD&C Act, as amended by section 102(b) of FSMA, if the registration of a food facility is suspended, no person can import or export, or offer to import or export, food from the facility into the United States, or otherwise introduce food from the facility into interstate or intrastate commerce in the United States. Under section 301(d) of the FD&C Act, as amended by section 102(b) of FSMA, the introduction or delivery for introduction into interstate commerce of an article of food in violation of section 415 is a prohibited act. Further, section 801(l) of the FD&C Act, as amended by section 102(b) of FSMA, provides, in relevant part, that an article of food being imported or offered for import into the United States that is from a foreign facility for which a registration has been suspended under section 415 must be held at the port of entry for the article of food, and may not be delivered to the importer, owner, or consignee of the article. FDA intends to address the suspension of registration provisions in section 102(b) of FSMA in a separate rulemaking.

Section 102(b) of FSMA also authorizes FDA to require that all food facility registrations be submitted to FDA in an electronic format; however, such requirement cannot take effect before the date that is 5 years after the date of enactment of FSMA (*i.e.,* January 4, 2016).

Lastly, section 102(c) of FSMA directs FDA to amend the definition of the term ''retail food establishment'' in § 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include: (1) The sale of food products or food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed; (2) the sale and distribution of such food through a community supported agriculture program; and (3) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary. As discussed more fully in the paragraphs that follow, we are proposing to implement these provisions in this proposed rule.

2. Other FSMA Amendments Involving Food Facilities Required To Register Under Section 415 of the FD&C Act

In addition to amending section 415 of the FD&C Act and the other related sections of the FD&C Act as discussed in the preceding section, FSMA also amended the FD&C Act such that section 415 functions in connection with other food safety provisions. For instance, FSMA added section 418 of the FD&C Act (21 U.S.C. 350g), which establishes certain preventive control requirements for food facilities that are required to register under section 415. In general, section 418(a) requires the owner, operator, or agent in charge of a ''facility'' to evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls, monitor the performance of those controls, and maintain records of the monitoring. The term ''facility'' is defined in section 418(*o*)(2) as ''a domestic facility or a foreign facility that is required to register under section 415.''

In addition, section 201(a) of FSMA created section 421 of the FD&C Act (21 U.S.C. 350j), which also ties to section 415. In particular, section 421 requires the Agency to identify high-risk ''facilities'' and mandates more frequent inspections for domestic high-risk ''facilities'' than for domestic non-high-risk facilities. Section 421 also includes an inspection mandate for foreign facilities. For the purposes of section 421, the term ''facility'' refers to facilities that are required to register under section 415. (See section 421(e)). In addition, section 306 of FSMA added section 807(a)(1) of the FD&C Act (21 U.S.C. 384c(a)(1)), which provides that FDA may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415.

FSMA also created section 423 of the FD&C Act (21 U.S.C. 350*l*), which provides a ''responsible party'' an opportunity to voluntarily cease distribution and recall a food under specified circumstances and also provides FDA with authority to mandate a recall under specified circumstances. The term ''responsible party'' is defined by reference to the definition in section 417 of the FD&C Act (21 U.S.C. 350f), which in turn defines that term as a person that submits the registration under section 415(a) of the FD&C Act for a food facility that is required to register under section 415(a) of the FD&C Act, at which such article of food is manufactured, processed, packed, or held. (See section 417(a)(1) of the FD&C Act.) In addition, FSMA created section 808 of the FD&C Act (21 U.S.C. 384d), which provides for the recognition of accreditation bodies that accredit third-party auditors to conduct food safety audits of foreign food entities, including foreign food facilities registered under section 415.

Further, section 107 of FSMA amended the FD&C Act to provide FDA with the authority to collect fees related to reinspections of facilities required to register under section 415 of the FD&C Act. Specifically, section 107 of FSMA

added section 743(a)(1)(A) of the FD&C Act (21 U.S.C. 379j–31(a)(1)(A)), which provides FDA with the authority to assess and collect fees from domestic facilities (as defined in section 415(b) of the FD&C Act) and U.S. agents for foreign facilities (also as defined in section 415(b) of the FD&C Act) subject to reinspection to cover reinspection-related costs.

FSMA is not the only act in which Congress has linked food facility registration to specific food safety requirements. The Food and Drug Administration Amendments Act of 2007 (FDAAA) also tied food safety requirements to food facility registration. FDAAA amended the FD&C Act by creating section 417, which generally requires a ''responsible party'' to submit a report to FDA through the Reportable Food Registry after determining that an article of food is a reportable food as defined in section 417(a)(2) and further defined in section 201(ff) of the FD&C Act (21 U.S.C. 321(ff))). As stated previously, section 417 of the FD&C Act defines the term ''responsible party'' as a person that submits the registration under section 415(a) of the FD&C Act for a food facility that is required to register under section 415(a) of the FD&C Act, at which such article of food is manufactured, processed, packed, or held. (See section 417(a)(1) of the FD&C Act.)

As a result of these links between food facility registration and additional requirements in the FD&C Act, food facility registration now serves additional functions to those originally identified in the food facility registration regulations issued in 2003 and finalized in 2005 (68 FR 58894; 70 FR 57505). More specifically, the interim final rule noted that food facility registration would help FDA act quickly in responding to a threatened or actual bioterrorist attack on the U.S. food supply or to other food-related emergencies (68 FR 58894 at 58895). It also noted that registration would provide FDA with information about food facilities that would help FDA and other authorities determine the source and cause of an outbreak of foodborne illness, while also enabling FDA to notify more quickly the facilities that might be affected by the outbreak (68 FR 58894 at 58895). While food facility registration continues to serve all of those functions, with the passage of FSMA and FDAAA, food facility registration now also serves to determine the applicability of provisions in other sections of the FD&C Act, including sections 417, 418, 421, 423, 743, 807, and 808 of the FD&C Act. Thus, food facility registration now relates to many more food safety requirements than when the system was first implemented in 2003.

*C. Rulemaking Required by Section 103(c) of FSMA: On-Farm Activities*

Section 103(c)(1)(A) of FSMA, regarding Hazard Analysis and Risk-Based Preventive Controls, requires that the Secretary publish a notice of proposed rulemaking in the **Federal Register** to issue regulations with respect to ''activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership'' and ''activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership'' within the context of section 415 of the FD&C Act. Section 103(c)(1)(B) of FSMA provides that such rulemaking will ''enhance the implementation of . . . section 415 and clarify the activities that are included as part of the definition of the term 'facility' under such section 415.'' In the **Federal Register** of January 16, 2013 (78 FR 3646), we published a proposed rule entitled ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food'' to implement section 103 of FSMA and we discuss our proposal to revise the registration of food facilities regulations (part 1, subpart H) as specified by section 103(c)(1) of FSMA. In the **Federal Register** of September 29, 2014 (79 FR 58524), we published a supplemental notice of proposed rulemaking to amend the 2013 preventive controls proposed rule. That proposed rule is a separate rulemaking and not the subject of this rulemaking.

## II. Legal Authority

We are issuing this proposed rule under the FD&C Act, FSMA, and the Bioterrorism Act. We are proposing to codify the requirements of section 102 of FSMA that were self-implementing and effective upon enactment of FSMA, as discussed previously, in the Registration of Food Facilities Regulation (part 1, subpart H). In addition, we are proposing to implement other requirements of section 102 of FSMA, as discussed previously, including mandatory electronic registration submissions beginning in 2016 and amendments to the retail food establishment definition. Lastly, we are proposing other changes to improve the utility of the food facility registration database.

FDA's legal authority to implement requirements of section 102 of FSMA derives from section 102 of FSMA and sections 415, 301(dd), 801(l), and 701(a) of the FD&C Act. As discussed previously, section 415 of the FD&C Act requires food facilities that manufacture/process, pack, or hold food for consumption in the United States to register with FDA by submitting certain information to the Agency and updating such information as necessary. Section 415(a)(2) of the FD&C Act, as amended by section 102 of FSMA, requires, in relevant part, food facility registrations to include additional information, including the email addresses of contact persons for domestic facilities and U.S. agents for foreign facilities; an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the FD&C Act; and updated food product category information, if determined necessary and appropriate by FDA. Further, section 415(a)(3) of the FD&C Act, as amended by section 102 of FSMA, requires, in relevant part, food facilities required to register to renew their registrations with FDA between October 1 and December 1 of each even-numbered year, and directs FDA to provide for an abbreviated registration renewal process for registrants that have not had any changes to registration information since the registrant submitted the preceding registration or registration renewal for the facility involved. Section 301(dd) of the FD&C Act provides that failure to register in accordance with section 415 of the FD&C is a prohibited act. Section 801(l) of the FD&C Act provides that an article of food being imported or offered for import into the United States that is from a foreign facility for which a registration has not been submitted to FDA under section 415 (or for which a registration has been suspended under such section) must be held at the port of entry for the article of food, and may not be delivered to the importer, owner, or consignee of the article until the foreign facility is so registered. Section 701(a) of the FD&C Act authorizes FDA to issue regulations for the efficient enforcement of the FD&C Act. As discussed previously, section 102(c) of FSMA also directs FDA to amend the definition of the term ''retail food establishment'' in FDA's Registration of Food Facilities Regulation at § 1.227(b)(11).

As discussed in detail in the paragraphs that follow, FDA is proposing additional required data elements in food facility registrations to provide for more efficient and effective communications during a public health emergency and to provide FDA information that we can use to focus

and better deploy the Agency's limited inspectional resources. FDA's legal authority to implement these and other changes to improve the utility of the food facility registration database also derives from section 102 of FSMA and the sections of the FD&C Act described in the previous paragraph. Section 415(a)(2) of the FD&C Act requires foreign facilities to submit registrations to FDA that include the name of the U.S. agent for the facility. Further, FDA is relying on section 107 of FSMA and sections 421 and 704 (21 U.S.C. 374) of the FD&C Act in issuing these proposed changes. Section 107 of FSMA amended the FD&C Act to provide FDA with the authority to assess and collect certain fees from, *inter alia,* U.S. agents for foreign facilities (as defined in section 415(b) of the FD&C Act) subject to reinspection to cover reinspection-related costs. Section 704 gives FDA the authority to inspect factories, warehouses, and other establishments in which foods are manufactured, processed, packed, or held. Section 421 of the FD&C Act requires the Agency to identify high-risk facilities and mandates more frequent inspections for domestic high-risk facilities than for domestic non-high-risk facilities. FDA is also relying on section 305(d) of the Bioterrorism Act (Pub. L. 107–188), which directs FDA, in relevant part, to ensure adequate authentication protocols are used to enable identification of the registrant and validation of the registration data, as appropriate, for registrations submitted to FDA electronically. Thus, FDA has the authority to issue this proposed rule under section 305 of the Bioterrorism Act, sections 102 and 107 of FSMA, and sections 301(dd), 415,701(a), and 704 of the FD&C Act.

## III. The Proposed Rule

This proposed rule would revise FDA's current regulations in part 1, subpart H, regarding registration of food facilities in two fundamental ways. First, it would add new provisions to the current regulations to implement certain provisions of section 102 of FSMA or otherwise codify amendments of section 102 of FSMA that were self-implementing and effective upon enactment of FSMA, as discussed previously. Second, we are proposing changes to improve the utility of the food facility registration database. We are proposing to do this by proposing, among other things, to: (1) Require certain additional data elements in food facility registrations; (2) employ additional measures to verify certain information submitted in registrations; and (3) take additional steps to ensure that our registration database is up to date by identifying additional circumstances under which FDA will cancel registrations. The following description of the proposed rule describes both new provisions and changes to the existing regulations in part 1, subpart H.

### *A. Proposed Amendments to Registration of Food Facilities Under FSMA*

#### 1. Retail Food Establishment Definition

Under section 415 of the FD&C Act and FDA's registration regulation (21 CFR 1.226(c)), a retail food establishment is not required to register with FDA. A ''retail food establishment'' is defined in current § 1.227(b)(11) to mean an establishment that sells food products directly to consumers as its primary function. Under current § 1.227(b)(11), a retail food establishment may manufacture/process, pack, or hold food if the establishment's primary function is to sell from that establishment food, including food that it manufacturers/processes, packs, or holds, directly to consumers. A retail food establishment's primary function is to sell food directly to consumers if the annual monetary value of sales of food products directly to consumers exceeds the annual monetary value of sales of food products to all other buyers. The definition of retail food establishment also provides that the term ''consumers'' does not include businesses, and a ''retail food establishment'' includes grocery stores, convenience stores, and vending machine locations.

Section 102(c) of FSMA directs FDA to amend the definition of ''retail food establishment'' to clarify that, in determining the primary function of an establishment, the sale of food directly to consumers by such establishment includes: (1) The sale of food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed; (2) the sale and distribution of such food through a community supported agriculture program; and (3) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

The proposed amendment to the retail food establishment definition addresses off-farm sales by an establishment located on a farm. How these off-farm sales relate to an establishment's status as a retail food establishment is significant because if manufacturing/processing activities on a farm are part of a retail food establishment, they do not trigger the requirement to register. Otherwise, unless all food used in such activities is consumed on that farm or another farm under the same ownership, the manufacturing/processing operation is required to register (see § 1.227(b)(3)(ii)). If all sales from an on-farm manufacturing/processing operation must be made on-farm for that operation to qualify as a retail food establishment, then an on-farm establishment that sells processed food at a direct sales platform such as a farmer's market could not qualify as a retail food establishment and would be required to register. To prevent this, proposed § 1.227(b)(11) clarifies that all sales by an on-farm establishment do not have to be on the farm by specifically addressing how off-farm sales directly to consumers are to be counted in determining whether the on-farm establishment is a retail food establishment.

*a. Sale of food directly to consumers at a roadside stand or farmers' market.* Under proposed § 1.227(b)(11)(i), in determining the primary function of an establishment located on a farm, the sale of food directly to consumers from such establishment would include the sale of food directly to consumers by such establishment at a roadside stand or farmers' market. The roadside stand or farmer's market would not need to be on the farm where the establishment is located. For example, an establishment located on a farm that sells jams and jellies it manufacturers, along with produce it grows, directly to consumers at a farmers' market would consider those sales in determining its primary function and thus whether it would meet the requirements to be considered a retail food establishment. Note that whether the farmers' market would be a retail food establishment involves a separate primary function calculation involving only sales made at the farmers' market and would not include, for example, sales at the farm. This analysis is not affected by the proposed amendment and is similar to how primary function would be determined at a grocery or convenience store.

FDA is proposing that a farmers' market is a location where one or more local farmers assemble to sell from their farms directly to consumers. FDA is proposing that a roadside stand is a stand situated on the side of or near a road or thoroughfare at which a farmer sells food from his or her farm directly to consumers. These definitions are based on definitions found in 7 CFR 249.2, with modifications to more specifically describe foods sold by on-farm establishments at direct sales

platforms such as roadside stands and farmers' markets. We seek comments on this proposed amendment, and specifically, what, if any, limitations should be included such as distance of the roadside stand or farmers' market from the farm, for example, not more than 275 miles from the farm. In addition, we seek comments on the proposed definitions for farmers' market and roadside stand and if any of the terms within these proposed definitions should be further defined.

*b. Sale and distribution of food through a community supported agriculture program.* Under proposed § 1.227(b)(11)(ii), in determining the primary function of an establishment located on a farm, the sale of food directly to consumers from such establishment would also include the sale and distribution of such food through a community supported agriculture program. For example, an establishment located on a farm that sells apples it grows and apple pies it manufacturers directly to consumers through a CSA would consider those sales in determining its primary function and thus whether it would meet the requirements to be considered a retail food establishment.

Section 102(c) of FSMA provides that for the purposes of the retail food establishment definition, ''the term 'community supported agriculture program' has the same meaning given the term 'community supported agriculture (CSA) program' in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation).'' Under 7 CFR 249.2, a ''community supported agriculture (CSA) program'' means ''a program under which a farmer or group of farmers grows food for a group of shareholders (or subscribers) who pledge to buy a portion of the farmer's crop(s) for that season. State agencies may purchase shares or subscribe to a community supported agriculture program on behalf of individual SFMNP [Senior Farmers' Market Nutrition Program] participants.'' Accordingly, we are proposing that the term ''community supported agriculture program'' in proposed § 1.227(b)(11) have the same meaning used for the term in 7 CFR 249.2. We note that, under proposed § 1.227(b)(11)(ii), a CSA program would include CSA programs in which a group of farmers consolidate their crops at a central location for distribution to shareholders or subscribers.

*c. Sale and distribution of food at any other direct-to-consumer sales platforms.* Under proposed § 1.227(b)(11)(iii), in determining the primary function of an establishment located on a farm, the sale of food directly to consumers from such establishment would include the sale and distribution of such food at other direct-to-consumer sales platforms, including door-to-door sales; mail, catalog and Internet orders, including online farmers markets and online grocery delivery; religious or other organization bazaars, and State and local fairs. The specified direct sales platforms are common platforms for direct-to-consumer sales of foods from farms, and to the extent that such platforms typically provide direct-to-consumer sales of food from local farms, they are similar to farmers' markets and CSAs. We seek comments on the direct sales platforms we have specified and what, if any, other such direct sales platforms we should specify.

d. *Other issues.* As proposed, this amendment to the retail food establishment definition would be limited to on-farm establishments. We believe such a limitation is consistent with section 102(c) of FSMA, which addresses the sale of foods directly to consumers at specific locations (*i.e.,* roadside stands, farmers' markets, and community supported agriculture programs) where the food for sale directly to consumers is sourced directly from farms. We request comment on whether such a limitation is appropriate.

Further, proposed § 1.227(b)(11) provides for considering certain off-farm sales directly to consumers when determining an on-farm establishment's primary function, but does not provide for considering off-farm sales to businesses in the primary function calculation. In doing so, the proposal reflected section 102(c) of FSMA, which addresses only sales to consumers. We request comment on whether, in addition to implementing the specific clarification in section 102(c), we should provide that off-farm sales to businesses also be considered in determining the primary function of an on-farm establishment.

In addition, proposed § 1.227(b)(11) provides for, in determining the primary function of an on-farm establishment, considering the off-farm sales of ''food'' directly to consumers, which would include both food that has been manufactured/processed and food that has not (raw agricultural commodities). FDA requests comment on whether, in light of the reference to ''other than where the food was manufactured or processed'' in section 102(c)(1)(A) of FSMA or for other reasons, only the sale of processed foods off the farm should be considered in determining the primary function of an establishment located on a farm.

2. Biennial Registration Renewal and Abbreviated Registration Renewal Process

Section 415(a)(3) of the FD&C Act, as amended by section 102(a) of FSMA, requires that during the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration to FDA under section 415(a)(1) of the FD&C Act must submit to FDA a renewal registration containing the information described in section 415(a)(2) of the FD&C Act. This requirement went into effect upon enactment of FSMA. Food facilities were required to renew their registrations with FDA after the enactment of FSMA during the 2012 registration renewal period.

Proposed § 1.230(b) would require the owner, operator, or agent in charge of a facility to submit a registration renewal to FDA containing the information required under § 1.232 every other year, during the period beginning on October 1 and ending on December 31 of each even-numbered year. Under proposed § 1.230(b), the owner, operator, or agent in charge of a facility may authorize an individual to renew the facility's registration on its behalf. As discussed in section III.B.12.b, we are proposing to replace ''the owner, operator, or agent in charge of a facility'' with ''you'' throughout the regulation because ''you'' is defined in the regulation under current § 1.227(b)(14) to mean the owner, operator, or agent in charge of a facility that manufactures/processes, packs, or holds food for consumption in the United States.

Section 415(a)(3) of the FD&C Act, as amended by section 102(a)(3) of FSMA, directs FDA to provide for an abbreviated registration renewal process for any registrant that has not had any changes to its registration information since the registrant submitted the preceding registration or registration renewal for the facility. Proposed § 1.230(c) would provide for an abbreviated registration renewal process for registrations that do not have any changes to the information required under § 1.232 since the registrant submitted the preceding registration or registration renewal for the facility to FDA. The abbreviated registration renewal process would require a registrant to confirm that no changes have been made to the information required in the registration since the registrant submitted the preceding registration or registration renewal, confirm that FDA will be permitted to

inspect the facility at the times and in the manner permitted by the FD&C Act, and certify that the information submitted is truthful and accurate. FDA is proposing that registrants must use Form FDA 3537 to submit abbreviated registration renewals to FDA. This form will be available electronically at *www.fda.gov* or via mail or phone request until mandatory electronic registration and registration renewals begin in the 2016 registration renewal period, as described in proposed § 1.231(a)(2).

Proposed § 1.230(b) would codify in FDA's registration regulation the biennial registration renewal requirement of section 415(a)(3) of the FD&C Act (as added by section 102(a)(3) of FSMA), which is already in effect. Proposed § 1.230(c) would implement the provision of section 415(a)(3) of the FD&C Act providing for an abbreviated registration renewal process for registrants that have not had any changes to required registration information since such registrations submitted the preceding registration or registration renewal for the facility involved. The abbreviated registration renewal process was not available for the 2012 registration renewal period because section 102(a) of FSMA established new registration data elements, meaning all registrants would have had changes to their registration information since such registrations were previously submitted or updated.

3. Mandatory Electronic Submission of Food Facility Registration and Registration Renewals

Section 415(b)(5)(B) of the FD&C Act, as added by section 102(b) of FSMA, provides that FDA may require that registration under section 415 be submitted to FDA in an electronic format. However, section 415(b)(5)(B) specifies that such requirement may not take effect before the date that is 5 years after the date of enactment of FSMA, which is January 4, 2016. Proposed § 1.231(a)(2) would provide that beginning January 4, 2016, electronic registration will be mandatory, unless a waiver has been granted for the registrant. In addition, proposed § 1.231(a)(2) would require mandatory electronic registration renewals beginning in the 2016 registration renewal period. Proposed § 1.231(b) would also provide that beginning January 4, 2016, registration or registration renewals by mail or fax would no longer be permitted, unless a waiver has been granted for the registrant. Such waivers are further discussed in section III.B.11.

FDA tentatively concludes that mandatory electronic submission of registration and registration renewals would provide a number of advantages over submission of registration and registration renewals on the FDA paper form, including the following:

- The mandatory electronic system would improve the timeliness and accuracy of submissions.
- The electronic transmission of information would be easier and more efficient for both industry and FDA than the use of paper forms. For example, a registrant would receive onscreen feedback if the information submitted was not complete, reducing errors and time and cost of communicating with FDA. Similarly, electronic transmission of the information would reduce significantly the time and cost associated with processing paper forms and communicating with industry concerning errors on those forms.
- Information search and retrieval time would be reduced, allowing quicker access to the information in the database.
- FDA has strongly encouraged electronic registration for the benefit of both FDA and the registrant. FDA tentatively concludes that the majority of facilities, both in the United States and abroad, have access to the Internet, either within their facilities or parent companies or through public libraries, copy centers, schools, or Internet cafes, as well as through a foreign facility's U.S. agent if the facility makes such arrangements. If the U.S. agent does not have Internet access onsite, the agent may register the facility electronically from a local library or other public facility that offers Internet access.
- FDA is able to accept electronic registrations from anywhere in the world where the Internet is available 24 hours a day, 7 days a week.
- Electronic registration also enables a facility to be registered more quickly than if registering by mail. Registration by mail can take several weeks to several months, depending on the efficiency of the mail system, the number of paper registrations that FDA would need to enter manually into the system, whether the Agency would have to return an incomplete or illegible form to a registrant, and because FDA would have to subsequently mail the registration number and receipt of registration to the registrant.

We are seeking comments on the proposed requirements for mandatory electronic registration and registration renewals to begin in the year 2016. We are also requesting comments and data on the number of facilities, if any, that believe they would be unable to register or renew their registrations electronically, and the reasons for such belief, such as, no access to the Internet or for religious beliefs. In addition, as further discussed in section III.B.11, we are seeking comments on our proposal to allow for a waiver from the requirement for mandatory registration and registration renewals beginning in 2016.

4. Email Address for the Contact Person as Required Information

Section 415(a)(2) of the FD&C Act, as amended by section 102(a) of FSMA, requires, among other things, that a registration for a domestic facility contain the email address for the contact person of the facility. This requirement went into effect upon enactment of FSMA. Proposed § 1.232(b)(1) would require the email address for the contact person of a domestic facility be included in the registration. Proposed § 1.232(b)(1) would codify in FDA's registration regulation the requirement of section 415(a)(2) of the FD&C Act that a registration for a domestic facility contain the email address for the contact person of the facility.

FDA has received questions from some registrants related to the requirement that a registration for a domestic facility include the email address for the contact person of the facility. Specifically, some registrants have indicated that they are unable to obtain email addresses or otherwise use computers or similar electronic devices because of their religious beliefs. While section 415(a)(2) of the FD&C Act requires a registration for a domestic food facility to include the email address for the contact person of the facility, such contact person is not required to be the owner, operator, or agent in charge. Accordingly, a registrant can provide the email address of a third-party contact person in a registration (to be used for email communications between FDA and the facility), meaning that the registrant would not be required to obtain an email address or otherwise use a computer or similar electronic device within this context.

As further discussed throughout this document, it is critical that FDA be able to contact facilities in a quick manner in the event of a threatened or actual terrorist attack, an outbreak of foodborne illness, or other food-related emergency. Moreover, section 415(a)(2) of the FD&C Act, as amended by FSMA, specifically requires domestic facilities to submit the email addresses of contact persons in food facility registrations. For these reasons, FDA tentatively concludes that all registrations for

domestic facilities are required to include the email addresses of a contact person of the facility. However, FDA recognizes that because of religious beliefs some registrants may disfavor the use of email communications between FDA and the facility in non-emergency situations, such as for routine communications, where the Agency can communicate with the facility by postal mail. We request comment on whether proposed § 1.232 should be modified to allow for registrants to request that the Agency only use email communications in emergency situations, such as during a terrorist attack, an outbreak of foodborne illness, or other food-related emergency.

5. Email Address for the U.S. Agent as Required Information

Section 415(a)(2) of the FD&C Act, as amended by section 102(a) of FSMA, requires, among other things, that a registration for a foreign facility contain the email address of the U.S. agent for the foreign facility. This requirement went into effect upon enactment of FSMA. Proposed § 1.232(c)(1) would require that a registration for a foreign facility include the email address of the foreign facility's U.S. agent in addition to the U.S. agent's name, full address, and phone number. Proposed § 1.232(c)(1) would therefore codify in FDA's registration regulation the requirement of section 415(a)(2) of the FD&C Act that a registration for a foreign facility contain the email address of the foreign facility's U.S. agent.

6. Assurance Statement That FDA Will Be Permitted To Inspect

Section 415(a)(2) of the FD&C Act, as amended by section 102(b) of FSMA, also requires, among other things, that food facility registrations contain an assurance that the Secretary (and by delegation, FDA) will be permitted to inspect such facility at the times and in the manner permitted by the FD&C Act. This requirement went into effect upon enactment of FSMA. Proposed § 1.232(a)(9) would codify such requirement in FDA's registration regulations. Specifically, proposed § 1.232(a)(9) would require a food facility registration to include a statement in which the owner, operator, or agent in charge provides an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the FD&C Act.

7. Consequences of Failing To Renew Registration

Currently, § 1.241 specifies the consequences of failing to register, update, or cancel a food facility registration. As described in current § 1.241(a), the failure of an owner, operator, or agent in charge of a food facility to register its facility, to update required elements of its facility's registration, or to cancel its registration in accordance with part 1, subpart H is a prohibited action under section 301(dd) of the FD&C Act. Accordingly, as further described in current § 1.241(a), the consequences of failing to register, update, or cancel a food facility registration include civil injunction proceedings under section 302 of the FD&C Act (21 U.S.C. 332), criminal penalties under section 303 of the FD&C Act (21 U.S.C. 333), and debarment of a person who has been convicted of a felony relating to importation of food into the United States under section 306 of the FD&C Act (21 U.S.C. 335a).

Proposed § 1.241(a) would amend current § 1.241(a) by adding the failure to renew a food facility registration among the list of actions related to food facility registration that could subject a person to the consequences specified in § 1.241(a). As discussed in section II, section 415(a)(3) of the FD&C Act, as amended by section 102(a) of FSMA, requires registrants to renew their facility registrations with FDA every other year. This requirement went into effect upon enactment of FSMA. Further, section 301(dd) of the FD&C Act provides that the failure to register in accordance with section 415 is a prohibited act. On June 2, 2014, FDA issued a guidance entitled ''Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food'' stating that FDA will consider a registration to be expired if the registration is not renewed, as required by section 415(a)(3) of the FD&C Act, and the failure of a food facility to renew its registration with FDA, as required by section 415(a)(3) of the FD&C Act, means that the facility has failed to register in accordance with section 415 of the FD&C Act and thereby has committed a prohibited act under section 301(dd) of the FD&C Act (Ref. 1).

Accordingly, in addition to proposing to amend § 1.241(a), we are proposing to add proposed § 1.241(b) to specify that FDA will consider a registration for a food facility to be expired if the registration is not renewed, as required by § 1.230(b), and FDA will consider a food facility with an expired registration to have failed to register in accordance with section 415 of the FD&C Act. In addition, as discussed more fully in section III.B.10, under proposed § 1.241(c), FDA would cancel a registration that is expired for failure to renew if the facility has failed to renew its registration in accordance with proposed § 1.230(b).

*B. Other Proposed Amendments to Registration of Food Facilities*

1. U.S. Agent Information Sharing and Responsibilities

Section 415(a)(1)(B) of the FD&C Act provides in relevant part that the registration of a foreign food facility must include the name of the U.S. agent for the facility. Currently, § 1.227(b)(13) defines a U.S. agent, in relevant part, as a person (as defined in section 201(e) of the FD&C Act) residing or maintaining a place of business in the United States whom a foreign facility designates as its agent for purposes of food facility registration. In addition, § 1.227(b)(13)(i) currently provides that the U.S. agent acts as a communications link between FDA and the foreign facility for both routine and emergency situations and that FDA will contact the U.S. agent when an emergency occurs, unless the registration specifies another emergency contact (see also 68 FR 58894 at 58915). Further, § 1.227(b)(13)(ii) currently provides that FDA will treat representations by the U.S. agent as those of the foreign facility, and will consider information or documents provided to the U.S. agent the equivalent of providing the information or documents to the foreign facility.

Section 107 of FSMA amended the FD&C Act to provide U.S. agents with an additional role. Specifically, section 107 of FSMA added section 743(a)(1)(A) of the FD&C Act, which provides FDA with the authority to assess and collect fees from the U.S. agent for each foreign facility subject to reinspection to cover reinspection-related costs.

In order to further enable U.S. agents to serve their intended role, we are proposing to amend § 1.227(b)(13)(ii). Specifically, we are proposing to add that the U.S. agent of a foreign facility may view the information submitted in the foreign facility's registration. Making registration information available to U.S. agents would allow agents to obtain the most current information contained in FDA's registration database. U.S. agents could use such information to be in contact with foreign facilities, thereby enabling U.S. agents to more efficiently and effectively function as communications links between foreign food facilities and FDA. (See § 1.227(b)(13)(i) (establishing that a U.S. agent ''acts as a communications link between FDA and the foreign facility for both emergency and routine communications'').) Further, U.S. agents could use such information to better represent foreign facilities when

communicating with FDA. (See § 1.227(b)(13)(ii) (specifying that FDA will treat representations by the U.S. agent as those of the foreign facility).) The proposal is also consistent with the status of information and documents provided to U.S. agents. Indeed, FDA's current regulations establish that ''information or documents provided to the U.S. agent [are] the equivalent of providing the information or documents to the foreign facility.'' (§ 1.227(b)(13)(ii).)

In proposing to make information submitted in a foreign facility's registration available to the U.S. agent for that facility, we have considered FDA's regulations governing public information (21 CFR part 20) among other factors. Section 20.21 (21 CFR 20.21) provides that any record of FDA that is disclosed in an authorized manner to any member of the public is available for disclosure to all members of the public (subject to certain exceptions). If U.S. agents had the same status as any member of the public, making registration information available to U.S. agents for review likely would constitute disclosure to the public and obligate FDA to make the same records available to any person who requests them under the Freedom of Information Act (FOIA). FDA tentatively concludes, however, that U.S. agents for foreign facilities do not have the same status as any member of the public within the context of registration for such facilities. Indeed, FDA's current registration regulations establish that U.S. agents function as stand-ins for foreign facilities with respect to communications and information sharing. Specifically, FDA's regulations establish that a U.S. agent ''acts as a communications link between FDA and the foreign facility for both emergency and routine communications.'' (§ 1.227(b)(13)(i).) Further, FDA's regulations establish that ''information or documents provided to the U.S. agent [are] the equivalent of providing the information or documents to the foreign facility.'' (§ 1.227(b)(13)(ii).) Put another way, making information or documents available to a U.S. agent has the same status as making information or documents available to a foreign facility. Thus, making registration information available for review to U.S. agents is the equivalent to making that information available for review to the U.S. agent's foreign facility. FDA tentatively concludes, therefore, that the requirement for uniform access in § 20.21 would not be triggered by FDA's proposed amendment to § 1.227(b)(13)(ii). FDA invites comments on this tentative conclusion.

For this same reason, FDA also tentatively concludes that making foreign facilities' registration information available to U.S. agents is consistent with the disclosure provision in section 415(a)(5) of the FD&C Act. That provision of the FD&C Act provides, in relevant part, that FDA's list of registered food facilities and registration documents submitted to FDA under section 415 shall not be subject to disclosure under FOIA. That provision also provides that information derived from such list shall not be subject to disclosure under FOIA to the extent that it discloses the identity or location of a specific registered person. Because § 1.227(b)(13)(ii) establishes that ''information or documents provided to the U.S. agent [are] the equivalent of providing the information or documents to the foreign facility,'' FDA's proposal to allow U.S. agents to view a foreign facility's registration information would not result in any disclosures. That is, allowing U.S. agents to view foreign facilities' registration information is the equivalent to allowing foreign facilities to view that information. Accordingly, FDA tentatively concludes that its proposal to amend § 1.227(b)(13)(ii) is consistent with the disclosure provision in section 415(a)(5) of the FD&C Act.

2. Verification Procedures for U.S. Agent

Proposed § 1.231(a)(5) and (b)(7) would provide that after a foreign facility completes its registration or updates its U.S. agent information as part of registration renewal, FDA will email the person identified as the U.S. agent for the foreign facility, using the email address for the person identified as the U.S. agent in the facility's registration, to verify that the person has agreed to serve as the facility's U.S. agent. FDA would not confirm the foreign facility's registration or registration renewal until that person confirms that the person agreed to serve as the U.S. agent for the foreign facility. In addition, with respect to initial registrations, FDA will not provide the facility with a registration number until that person confirms that the person agreed to serve as the U.S. agent for the foreign facility. Proposed § 1.231(a)(5) would apply this verification requirement to electronic registrations, and proposed § 1.231(b)(7) would apply this requirement to registrations submitted by mail or fax. Under proposed § 1.234(c)(2) and (d)(5), this verification step would also take place when foreign facilities update U.S. agent information. Those proposed provisions provide that when updating U.S. agent information, FDA will email the person identified as the U.S. agent for the foreign facility, using the email address for the person identified as the U.S. agent in the facility's registration, to verify that the person has agreed to serve as the U.S. agent. Under proposed § 1.234(c)(2) and (d)(5), FDA would not provide an update confirmation until that person confirms that the person agreed to serve as the U.S. agent for the foreign facility. Proposed § 1.234(c)(2) would apply this verification requirement to electronic updates, and proposed § 1.234(d)(5) would apply this requirement to updates submitted by mail or fax.

We are proposing this verification step for three reasons. First, we have learned that in some cases persons identified as U.S. agents in foreign food facility registrations were unaware that they had been so identified, and had not in fact agreed to serve as U.S. agents. Adding a verification step would help ensure that FDA's registration database is accurate and up to date. Second, the verification step would allow FDA to more efficiently enforce section 743 of the FD&C Act. As stated elsewhere in this proposed rule, section 743(a)(1)(A) of the FD&C Act authorizes FDA to assess and collect fees from the U.S. agent for each foreign facility subject to reinspection to cover reinspection-related costs. Verifying that individuals identified as U.S. agents in foreign facilities' registrations have actually agreed to serve as U.S. agents for those facilities would help ensure that FDA is assessing and collecting foreign facility reinspection fees from the appropriate individuals and allow for efficient enforcement of section 743 of the FD&C Act. Third, section 305(d) of the Bioterrorism Act (Pub. L. 107–188) directs FDA, in relevant part, to ensure adequate authentication protocols are used to enable identification of the registrant and validation of the registration data, as appropriate, for registrations submitted to FDA electronically. FDA tentatively concludes that a verification step for U.S. agent information would serve as an authentication protocol and help validate registration data concerning U.S. agents, including in those registrations submitted electronically.

We seek comments on these proposed provisions, including on whether the proposed email verification step will be effective in preventing the unauthorized listing of persons as U.S. agents. Further, we seek comment on the effectiveness of this proposed email verification step in connection with two

other ideas about which we request comment elsewhere in this document: The idea for a U.S. Agent Voluntary Identification System discussed in section III.C., and the idea to require Data Universal Numbering System (D–U–N–S®) numbers for U.S. agents discussed in section III.B.3. We also seek comments on what alternative approaches, if any, FDA should take to prevent unauthorized U.S. agent listings.

3. Proposed Requirement for D–U–N–S® Number and Verification Procedures

Proposed § 1.232(a)(2) would require the D–U–N–S® number of a domestic and foreign facility be included in the facility's registration. This requirement would function in connection with proposed § 1.231(a)(3) and (b)(5), which provide that after a facility completes its registration or updates its D–U–N–S® number as part of registration renewal, FDA will verify the accuracy of the food facility's D–U–N–S® number and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with the facility's registration. Under proposed § 1.231(a)(3) and (b)(5), FDA would not confirm a food facility's registration or registration renewal until FDA verifies the accuracy of its D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with the facility's registration. With respect to initial registrations, proposed § 1.231(a)(3) and (b)(5) would also provide that FDA would not provide a facility with a registration number until FDA verifies the accuracy of its D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with the facility's registration. Proposed § 1.231(a)(3) would apply this verification requirement to electronic registrations, and proposed § 1.231(b)(5) would apply this requirement to registrations submitted by mail or fax. The requirement to submit D–U–N–S® numbers would also function in connection with proposed § 1.234(c)(2) and (d)(5), which provide that FDA will perform the same verification step after facilities complete their registration updates. Under proposed § 1.234(c)(2) and (d)(5), FDA would not provide an update confirmation until FDA verifies the accuracy of the food facility's D–U–N–S® number and also verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with the facility's registration. Proposed § 1.234(c)(2) would apply this verification requirement to electronic updates, and proposed § 1.234(d)(5) would apply this requirement to updates submitted by mail or fax.

Dun & Bradstreet assigns and maintains a database of the D–U–N–S® numbers, which serve as unique identifiers (codes) of business entities. A D–U–N–S® number is a unique nine-digit sequence provided by Dun & Bradstreet that can be specific for each site. The site-specific number is a widely recognized business identification tool and serves as a useful resource for FDA in identifying and verifying certain business information submitted by a user. Upon application, each physical location of a business entity may be assigned a distinct site-specific nine-digit D–U–N–S® number. D–U–N–S® Numbers are proprietary to and controlled by Dun & Bradstreet (D&B).

If a food facility has not obtained a D–U–N–S® number, it may obtain one for no cost directly from Dun & Bradstreet (*http://www.dnb.com*). If a registrant does not include a D–U–N–S® number for its facility in a registration, FDA intends to make arrangements for obtaining a D–U–N–S® number for the facility by providing a direct link to Dun and Bradstreet in the registration system. FDA intends to allow a registrant attempting to register a facility without a D–U–N–S® number to temporarily save its registration information in the registration system and return to the registration system to complete its registration once the required D–U–N–S® number is obtained. Having registration information saved in the registration system, however, would not be equivalent to completing a registration. As discussed previously, under proposed § 1.231(a)(3) and (b)(5), FDA would not confirm a food facility's registration or registration renewal until FDA verifies the accuracy of its D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with the facility's registration.

FDA's tentative decision to require and verify D–U–N–S® numbers is grounded in the statutory objective of efficiently enforcing the food safety and other requirements of the FD&C Act. By requiring D–U–N–S® numbers of facilities, FDA would be able to verify the facility-specific address information associated with those numbers. Such verification would increase the accuracy of FDA's food facility registration database. As a consequence, FDA investigators would have access to more accurate food facility information, and would therefore be able to more efficiently identify and locate food facilities for inspection. As a result, FDA would be able to more efficiently conduct inspections under section 704 to enforce the food safety and other requirements of the FD&C Act.

FDA's tentative decision to require D–U–N–S® numbers in food facility registration is also consistent with FDA's mandate under section 415(a)(5) of the FD&C Act to compile and maintain an up-to-date list of registered food facilities, as well as the requirement in section 415(a)(2) of the FD&C Act that registrants submit information necessary to notify FDA of the name and address of each facility at which the registrant conducts business. Indeed, the verification that D–U–N–S® numbers provides would help ensure that the food facility list is up to date and contains accurate information concerning the addresses of food facilities. Moreover, an up-to-date list that includes information necessary to notify FDA of the name and address of food facilities would aid FDA in efficiently responding to a terrorist threat or other food-related emergency. Finally, FDA's tentative decision to require D–U–N–S® numbers is consistent with the direction contained in section 305(d) of the Bioterrorism Act (Pub. L. 107–188) to ensure adequate authentication protocols to enable identification of the registrant and validation of the registration data for registrations submitted to FDA electronically. FDA tentatively concludes that verifying information in connection with a D–U–N–S® number for a food facility would provide FDA with a protocol to enable FDA to identify food facilities and verify certain registration information for those facilities. We are seeking comment on these proposed provisions.

In addition to requesting comment on the proposals related to requiring facility-specific D–U–N–S® numbers, we request comment on whether FDA should require use of a different facility identifier and, if so, what that identifier should be. If you recommend that FDA use a different identifier, we request comment on whether FDA should verify that identifier and whether FDA should verify facility-specific address information in connection with that identifier. We also request comment on whether FDA should also require that the registrations of foreign facilities also include a D–U–N–S® number or other identifier for the facility's U.S. agent. To the extent FDA does pursue a D–U–N–S® number requirement, we seek comment on whether, as with the D–U–N–S® number for food facilities, FDA

should verify the accuracy of the U.S. agent D–U–N–S® numbers and whether FDA should verify that the contact information associated with the D–U–N–S® numbers is the same contact information submitted as part of the foreign food facilities' registrations. In addition, we request comment on whether FDA should perform such verification after a facility completes or updates its registration, and whether FDA should verify this information prior to confirming a food facility's registration, prior to confirming a registration renewal, prior to providing an update confirmation, and prior to providing the facility with a registration number when the facility first registers. If you recommend that FDA require that registrations of foreign facilities include an identifier other than a D–U–N–S® number for their U.S. agents, we request comment on whether FDA should verify that identifier and whether FDA should verify contact information in connection with that identifier.

We are requesting comment related to requiring D–U–N–S® numbers and other identifiers for U.S. agents because FDA has encountered instances in which foreign food facilities have included invalid U.S. agent information in their registrations. We are considering whether to require D–U–N–S® numbers or other identifiers for U.S. agents and verify the information associated with such numbers in order to increase the accuracy and reliability of the U.S. agent information. We also believe that more accurate U.S. agent information would allow FDA to more efficiently enforce section 743 of the FD&C Act, which authorizes FDA to assess and collect fees from the U.S. agent for each foreign facility subject to reinspection to cover reinspection-related costs. In addition, and as noted elsewhere in this proposed rule, section 305(d) of the Bioterrorism Act (Pub. L. 107–188) directs FDA, in relevant part, to ensure adequate authentication protocols are used to enable identification of the registrant and validation of the registration data, as appropriate, for registrations submitted to FDA electronically. FDA believes that requiring D–U–N–S® numbers or other identifiers and verifying information associated with such numbers could serve as an authentication protocol and help validate registration data concerning U.S. agents, including in those registrations submitted electronically. We seek comment on whether the D–U–N–S® numbers or other identifiers for U.S. agents and verification of such numbers and related information would, in fact, increase the accuracy and reliability of the U.S. agent information. We also seek comment on any burdens that requiring D–U–N–S® numbers or other identifiers for U.S. agents would entail, both for foreign facilities and any persons registered as U.S. agents.

4. Proposed Requirement for Email Address of Owner, Operator or Agent in Charge Who Authorized a Third Party To Act on Behalf of the Facility and Verification Procedure

The only individuals permitted to register a facility are the owner, operator, or the agent in charge of the facility or an individual authorized to register the facility on behalf of the owner, operator, or agent in charge. (Section 415(a)(1) of the FD&C Act; §§ 1.225 and 1.232 (21 CFR 1.225 and 1.232).) Currently, § 1.232(i) provides that if the individual submitting the registration form is not the owner, operator, or agent in charge of the facility, the registration must include a statement in which the individual certifies that the information submitted is true and accurate, certifies that he/she is authorized to submit the registration, and identifies by name, address, and telephone number, the individual who authorized submission of the registration. We are proposing to recodify this provision at § 1.232(a)(10), and also to add the email address of the individual who authorized submission of the registration to the list of required information identifying the individual who authorized submission of such registrations. Proposed § 1.230(b) would apply this requirement to registration renewals. Thus, for registrations and registration renewals submitted by an individual who is not the owner, operator, or agent in charge, such submissions would be required to include a statement in which the individual certifies that the information submitted is true and accurate, certifies that he/she is authorized to submit the registration, and identifies by name, address, email address, and telephone number, the individual who authorized submission of the registration. In addition, proposed § 1.234(a) would provide that updates not submitted by the owner, operator, or agent in charge of the facility must include the email address of the owner, operator, or agent in charge who authorized submission of the update, and proposed § 1.235(b)(5) would provide this same email address requirement for cancellations not submitted by the owner, operator, or agent in charge of the facility.

These requirements would function in connection with proposed §§ 1.231(a)(4) and (b)(6), 1.234(c)(3) and (d)(6), and 1.235(c)(3) and (d)(6), which provide a verification step for electronic registrations and registration renewals, mail/fax registrations and registration renewals, electronic updates, mail/fax updates, electronic cancellations, and mail/fax cancellations not submitted by the owner, operator or agent in charge of the facility. Specifically, these proposals provide that after completion of such submissions, FDA will email the individual identified as the owner, operator, or agent in charge who authorized the submission to verify that the individual in fact authorized the submission on behalf of the facility. Under proposed § 1.231(a)(4) and (b)(6), FDA would not confirm the registration or provide a registration number until that individual confirms that he or she authorized the registration. With respect to registration renewals, proposed § 1.231(a)(4) and (b)(6) provide that FDA would not provide a confirmation of the registration renewal until the individual confirms that he or she authorized the registration renewal. Under proposed § 1.234(c)(3) and (d)(6), FDA would not confirm a registration update until the individual identified as the owner, operator, or agent in charge who authorized the update confirms that he or she in fact authorized the update on behalf of the facility. And under proposed § 1.235(c)(3) and (d)(6), FDA would not confirm a registration cancellation until the individual identified as the owner, operator, or agent in charge who authorized the update confirms that he or she in fact authorized the cancellation on behalf of the facility. Proposed § 1.231(a)(4) would apply this verification requirement to electronic registrations and registration renewals; proposed § 1.231(b)(6) would apply the verification requirement to registration and registration renewals submitted by mail or fax; proposed § 1.234(c)(3) would apply the verification requirement to electronic updates; proposed § 1.234(d)(6) would apply the verification requirement to updates submitted by mail or fax; proposed § 1.235(c)(3) would apply the verification requirement to electronic cancellations; and proposed § 1.235(d)(6) would apply the verification requirement to cancellations submitted by mail or fax.

We are proposing this email requirement and verification step to address a problem with unauthorized third party registration submissions that FDA has encountered in the course of implementing food facility registration. In some cases, this has resulted in duplicate registrations for foreign food facilities. In other cases, registrations

have been created for facilities that do not in fact manufacture/process, pack, or hold food for consumption in the United States. Unauthorized third party registrations threaten the accuracy of FDA's food facility registration database, resulting in false entries that make it more difficult for the Agency to use its database to respond to food-related emergencies, as well as to identify food facilities for inspection. Such registrations also create potential problems for the facilities that are the subject of the unauthorized registrations. We tentatively conclude that the proposed email address and verification requirements are necessary to ensure the accuracy and truthfulness of food facility registrations. By requiring the email address of the owner, operator, or agent who authorizes third party registration submissions and using that email address to conduct a verification step, we believe that we would incentivize authorized, truthful registration submissions. As such, we tentatively conclude that these proposals would assist FDA in efficiently meeting its statutory obligation under section 415(a)(5) of the FD&C Act to compile and maintain an up-to-date list of food facilities. We further tentatively conclude that these proposals would help in ensuring compliance with section 415(a)(1) of the FD&C Act. Under section 415(a)(1) of the FD&C Act and §§ 1.225 and 1.232, the only individuals permitted to register a facility are the owner, operator, or agent in charge of the facility or an individual authorized to register the facility on behalf of the owner, operator, or agent in charge. Registrations submitted by non-authorized individuals would not be in compliance with those provisions. In addition, we tentatively conclude that the proposed email address and verification step requirements would assist FDA in achieving the key objectives of food facility registration. Those objectives include using the registration database to prevent and respond to food-related emergencies, and meeting them requires an accurate and up-to-date list of registered facilities. Finally, we tentatively conclude that the proposals are consistent with section 305(d) of the Bioterrorism Act (Pub. L. 107–188), which directs FDA, in relevant part, to ensure adequate authentication protocols are used to enable identification of the registrant and validation of the registration data, as appropriate, for registrations submitted to FDA electronically. FDA tentatively concludes that the proposed verification step for registration submissions made by individuals other than the owner, operator, or agent in charge would serve as an authentication protocol and help validate registration data.

We seek comment on these proposed provisions, including on whether the proposed email verification step will be effective in preventing the unauthorized submission of registrations, registration renewals, updates, and cancellations. We also seek comment on whether we should require any alternative or additional checks to ensure that the individual registering a facility is authorized to do so by the owner, operator, and agent in charge. For instance, should FDA require that owners, operators, or agents in charge create some type of authorization documentation to provide documentation for the fact that the owner, operator or agent in charge has authorized the individual to make a registration submission? If so, should such documentation be required to be submitted to FDA or maintained at the facility? Should such documentation include a letter signed by the owner, operator, or agent in charge authorizing the individual to make a registration submission? Are there other types of documentation that would provide another check that is necessary to ensure that the owner, operator, or agent in charge in fact provided authorization?

5. Proposal To Require Certain Information in Food Facility Registration That Is Currently Optional

*a. Preferred mailing address information.* Proposed § 1.232(a)(3) would require that domestic and foreign food facilities provide a preferred mailing address if such mailing address is different from the mailing address of the facility. We are proposing to require this information because we need to be able to efficiently contact food facilities with information regarding potential food-related emergencies and, when applicable, information regarding a suspension of a food facility's registration. If food facilities provide preferred mailing addresses that are different from the mailing address of a food facility, FDA would be able to more efficiently contact food facilities and share such information. Proposed § 1.232(a)(3) would therefore assist FDA in efficiently enforcing section 415 of the FD&C Act. We are seeking comments on this proposed provision.

*b. Email address for the owner, operator or agent in charge of the facility.* Currently § 1.232(c) requires a food facility registration to include the name, address, and phone number of the owner, operator, or agent in charge of domestic and foreign facilities, but does not require that individual's email address. Proposed § 1.232(a)(6) would add email address to the contact information required for the owner, operator, or agent in charge of the facility (for both domestic and foreign facilities). Although the FSMA amendments provide that registrations for domestic food facilities are now required to contain the email address for the contact person of the facility, often the contact person for the facility is not the same as the owner, operator, or agent in charge of the facility. We are proposing to require email addresses for the owner, operator, or agent in charge of food facilities in order to facilitate quick communications with those individuals. Such communications may be necessary in the event of food-related emergencies and, where applicable, suspensions of a food facility's registration. Accordingly, we tentatively conclude that such information is necessary for FDA's efficient enforcement of section 415 of the FD&C Act.

We are proposing this requirement in addition to the requirements in §§ 1.232(a)(10), 1.230(b), 1.234(a), and 1.235(b)(5) discussed earlier in this document with respect to registrations, registration renewals, updates, and cancellations submitted by individuals other than the owner, operator, or agent in charge of the facility. For such submissions, we are proposing in §§ 1.232(a)(10), 1.230(b), 1.234(a), and 1.235(b)(5) to require the email address of the owner, operator, or agent in charge who authorized such submissions. We realize that in some cases the owner, operator, or agent in charge email address in proposed § 1.232(a)(6) may be the same email address as the email address for the owner, operator, or agent in charge who authorized third party registration submissions in proposed §§ 1.232(a)(10), 1.230(b), 1.234(a), and 1.235(b)(5). In some cases, however, the email addresses might differ.

We are seeking comments on this proposed provision. Further, we are seeking comments on whether a waiver for this proposed requirement should be available in limited circumstances such as when and if the religious beliefs of an owner, operator or agent in charge prevent that individual from obtaining an email address. We are also seeking comments on how a food facility should request such a waiver, including whether such waivers should be requested in writing.

*c. Type of activity conducted at the facility.* Proposed § 1.232(a)(8) would

require the type of activity conducted at the facility for each food product category identified. In addition, proposed § 1.232(a)(8) would require facilities to choose among the following activity types: (1) Ambient human food storage warehouse/holding facility; (2) Refrigerated human food warehouse/holding facility; (3) Frozen human food warehouse/holding facility; (4) Interstate conveyance caterer/catering point; (5) Contract Sterilizer; (6) Labeler/Relabeler; (7) Manufacturer/Processor; (8) Farm Mixed-Type Facility; (9) Packer/Repacker; (10) Salvage Operator (Reconditioner); (11) Animal food warehouse/holding facility; and (12) Other Activity. Facilities would be permitted to select more than one activity type for each food product category identified. The ''Other Activity'' option would only be available if the facility engages in an activity that is not covered by the other options. Facilities that select ''Other Activity'' would be required to enter text onto the food facility registration form describing the activity.

FDA believes that information regarding activity type is necessary to assist the Agency in using its limited resources efficiently, including with regard to inspectional oversight. Among other purposes, food facility registration was designed to provide FDA with a complete list of foreign and domestic facilities that manufacture/process, pack, or hold food for consumption into the United States. In the approximately 10 years since food facility registration was originally implemented, the list of facilities has helped FDA accomplish one of its most important regulatory activities: Scheduling and planning inspections of establishments in which foods are manufactured/processed, packed, or held under section 704 of the FD&C Act. Specifically, FDA has used the food facility registration list to identify food facilities for inspection.

Although the creation of food facility registration has led to improvements in FDA's ability to identify food facilities for inspection, the limited nature of the information provided through food facility registration has meant that the information has not functioned as the most efficient tool for planning inspections. For instance, registrants have not been required to provide the Agency with such basic information as whether a facility manufactures/processes or holds foods, or both. The difference between manufacturing/processing and holding is important. FDA might prepare for inspections of manufacturing/processing and holding facilities quite differently, and might assign different personnel for the different types of inspections. With information about activity type, however, the Agency would be better able to prepare investigators for inspections and assign appropriate investigators. This would provide for more efficient use of the Agency's limited inspectional resources, as sending appropriate, well-prepared investigators helps ensure that inspections are thorough and meaningful. Requiring information regarding activity type would therefore allow for the more efficient use of FDA's inspectional authority under section 704.

The activity type requirement would serve additional purposes as well. Information about a facility's activity type would provide FDA with important information regarding a facility's role in the U.S. food supply system. This would allow FDA to better assess the facility's potential impact in cases of bioterrorist incidents or other food-related emergencies. Better information about a facility's impact would assist FDA in using its limited resources efficiently during such incidents, for instance helping the Agency identify manufacturers/processors that may receive contaminated ingredients or frozen storage facilities impacted by power outages. The improved information would also allow FDA to communicate more quickly and efficiently on various non-emergency issues, such as new regulatory requirements or policies.

In addition, the activity type information would aid FDA in implementing FSMA's mandate to determine inspectional frequency based on safety risks. Specifically, section 201(a) of FSMA created section 421 of the FD&C Act, which requires the Agency to identify high-risk facilities and mandates more frequent inspections for domestic high-risk facilities than for domestic non-high-risk facilities. For the purposes of section 421, the term ''facility'' refers to facilities that are required to register under section 415. (See section 421(e).) Section 421(a)(1) sets forth the factors for FDA to use in identifying high-risk facilities, which include ''[a]ny . . . criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.'' (Section 421(a)(1)(F).) Among the criteria the Agency has deemed necessary and appropriate for this purpose are type of activity conducted at the facility (manufacturer/processor, packer/repacker, etc.). Because section 421's risk-based inspection mandate applies to facilities registered under section 415, and because the Agency has identified information about the type of activity conducted at a facility as an important factor to consider when identifying high-risk facilities under section 421, FDA tentatively concludes that the proposed activity type requirement for registration would allow the Agency to more efficiently enforce section 421.

For all of these reasons, FDA tentatively concludes that section 415 of the FD&C Act, along with sections 421, 701(a), and 704, authorize FDA to require the submission of the activity type information specified in this proposed rulemaking.

Although proposed § 1.232(a)(8) lists the specific activity types that food facilities must select, the proposed provision does not define those activity types. FDA is requesting comments on whether it should define the specified activity types in FDA's food facility registration regulations. To the extent that FDA does define the activity types, FDA anticipates that the Agency would model the activity type definitions from the definitions for establishment types contained in the Agency's Field Management Directive (Ref. 2), while also modifying the Field Management Directive definitions to reflect the nature of activities conducted by registered food facilities and the information required on other parts of the food facility registration form. FDA tentatively concludes that modeling the activity type definitions from the Field Management Directive definitions would allow for the efficient use of FDA inspectional resources. FDA investigators are already familiar with the Field Management Directive, and consistency between the food facility registration and Field Management Directive definitions would minimize confusion about the nature of activities performed at food facilities. FDA's tentative definitions for food facility activity types for food facilities that are required to register under section 415 of the FD&C Act are as follows:

- Ambient human food storage warehouse/holding facility: A facility that holds or stores food for human consumption at ambient air temperatures (approximately 21 °C/70 °F). Examples include storage tanks and grain elevators.
- Refrigerated human food warehouse/holding facility: A facility that holds or stores food products for human consumption at refrigerated temperatures (approximately 4 °C/40 °F–0 °C/32 °F).
- Frozen human food warehouse/holding facility: A facility that holds or stores food for human consumption at frozen temperatures (approximately 0 °C/32 °F or below).

• Interstate conveyance caterer/catering point: A facility that prepares complete or partial meals or drinks from raw or partially processed materials for service to passengers or crew aboard an interstate conveyance or for consumption by these groups at a location other than where prepared.

• Contract Sterilizer: A facility that performs sterilization or irradiation of foods or components of foods.

• Labeler/Relabeler: A facility that affixes the original labeling to a food product or changes in any way the labeling on a food product without affecting the product or its container.

• Manufacturer/Processor: A non-farm facility that makes food from one or more ingredients, or synthesizes, prepares, treats, modifies, or manipulates food, including food crops or ingredients. For purposes of this activity type option, examples of manufacturing/processing activities are cutting, peeling, trimming, washing, waxing, eviscerating, rendering, cooking, baking, freezing, cooling, pasteurizing, homogenizing, mixing, formulating, bottling, milling, grinding, extracting juice, distilling, or packaging.

• Farm Mixed-Type Facility: An establishment that grows and harvests crops or raises animals and may conduct other activities within the farm definition in § 1.227, but also conducts activities that require the establishment to be registered.

• Packer/Repacker: A facility that packs a food product or products into different containers without making any change in the form of the product.

• Salvage Operator (Reconditioner): A facility that deals in the resale and reconditioning of damaged foods.

• Animal food warehouse/holding facility (*e.g.,* storage facilities, including storage tanks, grain elevators): A facility that holds or stores food for animal consumption at any temperature.

FDA requests comment on whether the above definitions provide sufficient information for food facilities to select from the activity type options. To the extent that the definitions do not provide sufficient information, FDA requests comment on how the activity type definitions should be amended. In addition to seeking comment on whether and how to define the above activity types, FDA seeks comment on whether the activity types listed in proposed § 1.232(a)(8) encompass the full range of activities conducted by registered food facilities and whether they are otherwise appropriate. FDA selected the list of activity types in proposed § 1.232(a)(8) because that list largely reflects the optional activity types on current Form FDA 3537. At the same time, we are proposing several modifications to the current optional list of activity types. The modifications are designed to help FDA communicate more quickly with food facilities in the case of food-related emergencies, as well as to more accurately reflect the types of activities conducted at human and animal food facilities. Such modifications include dividing the optional activity type of ''warehouse/holding facility'' for facilities that hold food for human consumption into three subcategories. Those three subcategories would be ''ambient human food temperature warehouse/holding facility,'' ''refrigerated human food warehouse/holding facility,'' and ''frozen human food warehouse/holding facility.'' These additional subcategories would enable FDA to more quickly alert facilities potentially affected by an emergency food incident if FDA receives information indicating the type of facility affected. For example, if FDA receives information indicating that refrigerated or frozen warehouses/holding facilities could be affected by power outages, FDA would be able to communicate with such facilities about the incident. For animal food warehouse/holding facilities, however, FDA is not proposing to modify the activity types (that are currently optional) on current Form FDA 3537. FDA has tentatively concluded that the nature of animal food warehouse/holding facilities differs from human food warehouse/holding facilities, and that the current list of activity types—which has only one option for warehouse/holding—sufficiently enables FDA to respond quickly in the case of emergencies related to animal food. Indeed, animal food warehouse/holding facilities typically hold or store animal food at ambient temperature, negating the need for FDA to have information about the temperature storage conditions at animal food facilities.

In addition, FDA is proposing to add a ''farm mixed-type facility'' activity type option. FDA is proposing to add this activity type option in order to help the Agency efficiently inspect farm mixed-type facilities. The expertise required to inspect such facilities may differ from the expertise required to inspect non-farm manufacturing/processing facilities. Information about whether a facility is a farm mixed-type facility would therefore allow FDA to identify appropriate investigators to conduct such inspections.

Another change FDA is proposing to make from the optional activity types on current Form FDA 3537 is to eliminate the ''commissary'' activity type option. FDA is proposing this change because the Agency has tentatively concluded that the other activity type options listed in proposed § 1.232(a)(8)(i) through (a)(8)(xi) sufficiently address the types of activities conducted by facilities that identify as commissaries and that are required to register under section 415 of the FD&C Act.

Finally, FDA seeks comment on whether low-acid and acidified food processing should be treated as activity types, or whether there should be food product category options related to low-acid canned foods and acidified foods, or both. Currently, low-acid food and acidified food processing are optional activity types on current Form FDA 3537. In addition, FDA identified low-acid canned food products and acidified foods as food product categories in the October 2012 guidance the Agency issued concerning food product categories. (See ''Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories.'') As a result of the October 2012 guidance, low-acid foods and acidified foods have been listed on Form FDA 3537 as food product categories, while also being included as optional activity types. FDA recognizes that it may be confusing and redundant for there to be both food product categories and activity type categories related to low-acid canned foods and acidified foods. FDA also recognizes that the food product categories for low-acid canned foods and acidified foods may be broad in certain circumstances and may encompass a number of foods for which there may also be other applicable food categories. For example, a low-acid food might also be a baby food, which is another food product category option. And an acidified food might also be a fruit or fruit product, which is also another food product category option. A facility that manufactures/processes, packs, or holds low-acid food that is a baby food or an acidified food that is fruit or fruit product might therefore be confused about which food product categories to select. Accordingly, FDA seeks comment on whether low-acid and acidified foods should be included in only one portion of Form FDA 3537. We further seek comment on whether to include these products in the activity type section or the food product category section of Form FDA 3537. We also seek comment on all aspects of our proposal related to requiring food facilities to identify the type of activity conducted at the facility for each food product category identified.

*d. Email address of the emergency contact of a domestic facility.* Proposed

§ 1.232(b)(2) would add an email address to the emergency contact information registrants are required to provide for a domestic facility. Thus, in addition to the emergency contact phone number required under current § 1.232(e), registrants would also be required to provide an emergency contact email address. This proposed change would not affect the role of the emergency contact information. The emergency contact information would continue to be used in the event that we need to correspond with the facility during a terrorist threat or other food-related emergency. The purpose of requiring an email address is that such information would provide an efficient method of reaching the emergency contact in addition to the already required emergency contact phone number. We realize that in some cases the emergency contact email address may be the same email address as the email address for the facility contact person required in proposed § 1.232(b)(1) for domestic facilities. Consequently, proposed § 1.232(b)(2) would require an emergency contact email address to be provided only if that email address is different from the facility contact person email address required in proposed § 1.232(b)(1). Accordingly, the email address for the facility contact person required in proposed § 1.232(b)(1) would serve as the default emergency contact email address unless a facility provides a different emergency contact email address. We are seeking comments on this proposed provision.

6. Proposal To Identify and Update Food Product Categories

Proposed § 1.232(a)(7) would retain the requirement in current § 1.232(g) that food facilities provide information regarding food product categories, but would change that requirement to be consistent with the changes FDA has made to food product categories in response to the FSMA amendments.

Section 415(a)(2) of the FD&C Act, as added by section 305 of the Bioterrorism Act, provided in relevant part that, when determined necessary by FDA ''through guidance,'' a registrant must submit a registration to FDA containing information necessary to notify FDA of the general food category (as identified in § 170.3) of food manufactured, processed, packed, or held at such facility. On July 17, 2003, FDA issued a guidance document stating that FDA had determined that the inclusion of food product categories in food facility registrations was necessary for a quick, accurate, and focused response to an actual or potential bioterrorist incident or other food-related emergency (see 68 FR 42415). On October 10, 2003, FDA issued an interim final rule that also required facilities to submit registrations to FDA containing information regarding applicable food product categories as identified in § 170.3. Specifically, current § 1.232(g) provides that food facility registrations include applicable food product categories as defined in § 170.3, unless facilities check either ''most/all human food product categories,'' according to § 1.233(j), or ''none of the above mandatory categories'' because a facility manufactures/processes, packs, or holds a food that is not identified in § 170.3. On October 3, 2005, FDA issued a final rule for food facility registration, which generally confirmed the interim final rule (70 FR 57505).

As discussed previously, section 102 of FSMA amends section 415(a)(2) of the FD&C Act, to now provide, in relevant part, that, when determined necessary by FDA ''through guidance,'' a registrant is required to submit a registration to FDA containing information necessary to notify FDA of the general food category (as identified in § 170.3 or any other food categories, as determined appropriate by FDA, including by guidance) of any food manufactured, processed, packed, or held at such facility. In October 2012, FDA issued a guidance document entitled ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories'' (Ref. 3). This guidance document represents FDA's conclusion on the necessity of food product categories in food facility registrations and identifies additional food product categories, as provided by section 415(a)(2) of the FD&C Act. In the guidance document, FDA explained that because of Congress's explicit statutory authorization to effectuate a binding requirement based on findings in a guidance, the document is not subject to the usual restrictions in FDA's good guidance practice (GGP) regulations, such as the requirements that guidances not establish legally enforceable responsibilities and that they prominently display a statement of the document's nonbinding effect (21 CFR 10.115(d) and (i)).

Proposed § 1.232(a)(7) would be consistent with FDA's October 2012 guidance and the FSMA amendments. Specifically, the proposed provision would require that a food facility registration include applicable food product categories of any food manufactured/processed, packed, or held at the facility, as identified on Form FDA 3537. FDA intends to address any further amendments of the food product categories contained on FDA Form 3537, if necessary and appropriate, through updates to the guidance document ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories.'' We are seeking comments on this proposed provision.

7. Proposal To Remove List of Optional Items Included in the Registration

Proposed § 1.233 would provide that FDA encourages, but does not require, registrants to submit items that are indicated as optional on the Form FDA 3537. This proposed amendment would remove the list of optional items currently codified in § 1.233. We are proposing this change for two reasons. First, we are proposing elsewhere in this document to convert several of the optional items in current § 1.233 into required items in proposed § 1.232. Second, we believe FDA recommendations for optional items to include in food facility registrations are better addressed in guidance documents that follow our GGP regulations in 21 CFR 10.115. We are seeking comments on this proposed amendment.

8. Proposal To Require Immediate Updates to Incorrect Registration Information

Proposed § 1.231(a)(6) would require a food facility to immediately update any previously submitted registration information that was incorrect at the time of submission of an electronic registration or registration renewal. This proposal is consistent with the current requirement in § 1.231(b)(6) for registrations submitted by mail or fax, as well as with the current requirement in § 1.231(c)(10) for registrations submitted by CD–ROM. Under current § 1.231(b)(6) and (c)(10), any information that was incorrect at the time of submission of a registration submitted by mail or fax or CD–ROM must be immediately updated. Under the proposed rule, § 1.231(b)(6) would be recodified as § 1.231(b)(9). (Current § 1.231(c)(10) would not be recodified, as FDA is proposing to no longer allow registration submissions to be submitted by CD–ROM.) That requirement would also apply to registration renewals submitted by mail or fax, as we are proposing for all of the requirements in § 1.231(b) to apply to both registrations and registration renewals submitted by mail or fax.

We are proposing to require the immediate update of incorrect information submitted in electronic

registrations and registration renewals so that the requirement to immediately update incorrect information applies equally to registration submissions that are made electronically and by mail or fax. When FDA first implemented food facility registration in 2003, the Agency was concerned that a requirement for immediate updates of electronically submitted incorrect information would burden the food facility registration data system. Now, however, we have no such concerns. Due to advances in technology, we are confident in the ability of our data systems to maintain functionality while frequent updates are made in the system. Additionally, the majority of registrants now submit their registrations electronically, and FDA is proposing to require electronic registration beginning in 2016. With so many electronic registrations, the accuracy of the registration database depends on food facilities providing correct information. We tentatively conclude that the requirement for immediate updates of incorrect information submitted in electronic registrations and registration renewals would help ensure that FDA's registration database is accurate and up to date. Such an outcome would be consistent with FDA's mandate under section 415(a)(5) of the FD&C Act to compile and maintain an up-to-date list of food facilities. It would also be consistent with the requirement in section 415(a)(2) of the FD&C Act that registrants notify FDA ''in a timely manner'' of changes to the registration information they submit under that provision. Importantly, a more accurate and up-to-date registration database would help FDA more efficiently and effectively prevent and respond to food-related emergencies. To the extent that any incorrect information is relevant to FDA in planning for inspections, the proposed requirement would also aid the Agency in more efficiently and effectively locating and identifying food facilities for inspection. We request comments on this proposed provision.

9. Proposal To Change Requirement To Update and Cancel Registration Within 60 Calendar Days

Proposed § 1.234(a) and § 1.235(a) would shorten the time period for a food facility to update or cancel its registration from 60 calendar days to 30 calendar days. Specifically, proposed § 1.234(a) would require facilities to update their registration information, previously submitted under § 1.232, within 30 calendar days, replacing the 60-calendar-day requirement in current § 1.234(a). Proposed § 1.234(a) would not amend the other requirements in current § 1.234(a). For instance, it would not amend the requirement that such updates occur when there is any change to any of the information previously submitted under § 1.232 (*e.g.,* change of operator, agent in charge, or U.S. agent), except a change of the owner. It would similarly not amend the provision that owners, operators, or agents in charge may authorize an individual to update a facility's registration. Proposed § 1.235(a) would also replace a 60-calendar-day requirement with a 30-calendar-day requirement, providing that facilities cancel their registrations within 30 calendar days of the reason for cancellation (*e.g.,* facility ceases operations, ceases providing food for consumption in the United States, or is sold to a new owner) instead of the 60 calendar days in current § 1.235(a).

We are proposing to shorten the time period for updates and cancellations because we have learned over the past 10 years of food facility registration that: (1) We need registration information to be accurate and (2) for such information to be accurate, it needs to be more timely. For instance, we need to know as soon as possible when vital contact information has changed and when a facility has changed the food products it manufactures/processes, packs, or holds. We also need to know as soon as possible when a facility ceases operations or has been sold to a new owner. This information is important in both scheduling inspections and in responding to actual or threatened terrorist attacks and other food-related emergencies. Furthermore, the proposed timeframe is consistent with FDA's requirement under section 415(a)(5) of the FD&C Act to maintain an up-to-date list of facilities that are registered, as well as with registrants' obligation under section 415(a)(2) of the FD&C Act to notify FDA ''in a timely manner'' of changes to registration information. For these reasons, we tentatively conclude that the expedited receipt of updates to registration information and cancellations would help promote the efficient enforcement of section 415 of the FD&C Act.

10. Proposal To Cancel Registrations in Additional Circumstances

Currently, § 1.241(b) provides that FDA will cancel a registration if FDA independently verifies that the facility is no longer in business or has changed owners, and the owner, operator, or agent in charge of the facility fails to cancel the registration, or if FDA determines that the registration is for a facility that does not exist. Proposed § 1.241(c) would amend the regulation by also providing that FDA will cancel a registration if the Agency independently verifies that the facility is not required to register, if information about the facility's address was not updated in a timely manner in accordance with § 1.234(a), or if the registration was submitted to the Agency by a person not authorized to submit the registration under § 1.225. Proposed § 1.241(c) would further amend the regulation by also providing that FDA will cancel a registration if the facility's registration has expired because the facility has failed to renew the registration in accordance with § 1.230(b).

FDA is proposing to cancel registrations in these additional circumstances based on our experiences with invalid registrations during the approximately 10 years we have spent administering food facility registration, as well as to improve the utility of the food facility registration database and to make registration cancellations more consistent with the FSMA amendments. Examples of such invalid registrations have included instances in which an importer has registered a foreign food facility and listed himself as the U.S. agent as well as the owner, operator, or agent in charge for the facility without the facility's authorization. There have also been instances in which other third parties have created duplicate registrations for foreign food facilities, without authorization from the foreign facilities. Such registrations do not comply with food facility registration requirements and undermine the main objectives of food facility registration. The only individuals permitted to register a facility are the owner, operator, or the agent in charge of the facility or an individual authorized to register the facility on behalf of the owner, operator, or agent in charge. (Section 415 (a)(2) of the FD&C Act; §§ 1.225 and 1.232.) Registration information submitted to FDA must be true and accurate. (§ 1.232(i).) Where a registration is submitted to the Agency by an unauthorized person, the registration is not submitted in accordance with section 415 of the FD&C Act and FDA's registration regulations. Further, such registrations are less likely to be accurate or complete because unauthorized persons generally do not have access to a facility's information. Registrations containing false, inaccurate, or incomplete information hinder the Agency's ability to act quickly in responding to a threatened or actual terrorist attack on the U.S. food supply or other food-related emergency. Moreover, such registrations could hinder the Agency's

ability to enforce or implement other provisions of the FD&C Act, including conducting facility inspections. Finally, such registrations could adversely impact food facilities as such facilities may not be aware that a person is falsely submitting information to the Agency on the facility's behalf.

As to our proposal to cancel registrations when a facility has failed to renew its registration in accordance with § 1.230(b), this proposal is designed to respond to the FSMA amendments. As discussed elsewhere in this document, FSMA amended section 415 of the FD&C Act to require food facilities that are required to register with FDA to renew their registrations with FDA every other year. Cancelling the registrations of facilities that have failed to do so would allow FDA to efficiently enforce the renewal requirement. It would also allow FDA to efficiently implement its obligation under section 415(a)(5) of the FD&C Act to maintain an up-to-date list of facilities that are registered—as would the proposals to cancel registrations for facilities that are not required to register and registrations submitted to the Agency by unauthorized officials. A registration database that includes unnecessary, un-updated, or unauthorized entries would not be an up-to-date list of food facilities required to register with FDA under section 415 of the FD&C Act.

As to our proposal to cancel registrations when information about the facility's address was not updated in a timely manner in accordance with proposed § 1.234(a), this proposal is designed to assist FDA in using its limited inspectional resources efficiently. Inaccurate address information makes it difficult for FDA investigators to efficiently inspect food facilities, as investigators may invest time traveling to a particular address location only to find that the facility is not located there. FDA tentatively concludes that canceling registrations where a food facility has failed to update its address information in a timely manner in accordance with proposed § 1.234(a) would increase the accuracy of the address information contained in FDA's food facility registration database, and would therefore enable FDA investigators to more efficiently locate food facilities for inspection. FDA also tentatively concludes that such cancellations would allow FDA to efficiently implement its obligation under section 415(a)(5) to maintain an up-to-date list of facilities that are registered and would be consistent with the requirement in section 415(a)(2) of the FD&C Act that facilities notify FDA in a ''timely manner'' as to changes in their registration information, including their address information. We have also tentatively concluded that canceling registrations where a facility has failed to update its address information would supplement the requirement in FSMA that food facilities participate in biennial registration. Biennial registration renewal serves as a general mechanism to ensure all registrations are accurate and up to date, while cancellations based on failure to update allow FDA to respond to specific facilities that have failed to update address information. In addition, in enacting biennial registration renewal, Congress did not eliminate the requirement in section 415(a)(2) of the FD&C Act that registrants provide updates to their registration information in a ''timely manner.'' Instead, Congress added biennial renewal as a supplemental requirement. Thus, biennial renewal and the proposal to cancel registrations based on un-updated address information would both operate to improve the accuracy of FDA's food facility registration database, but would provide different mechanisms for doing so.

Proposed § 1.241(c) would maintain the requirement in current § 1.241(b) that FDA will cancel registrations in the specified circumstances if the Agency ''independently verifies'' those circumstances. Specifically, proposed § 1.241(c) would provide that FDA will cancel registrations if it ''independently verifies'' that the facility is no longer in business or has changed owners, and the owner, operator, or agent in charge of the facility fails to cancel the registration, or if FDA determines that the registration is for a facility that does not exist, is not required to register, or where the information about the facility's address was not updated in a timely manner in accordance with § 1.234(a) or the registration was submitted by a person not authorized to submit the registration under § 1.225. In maintaining the ''independently verif[y]'' requirement, we realize that each potential cancellation is likely to present unique facts, and thus may require the Agency to take an individualized approach in independently verifying the circumstances that merit registration cancellation. Nevertheless, we believe that in many cases it would be appropriate for us to send notices to facilities facing potential cancellation indicating our intent to cancel their registrations and the basis for such cancellations. We anticipate that we would send such notices prior to canceling registrations. We also anticipate that, when appropriate, if the circumstances meriting possible cancellation are corrected within 30 days after notice is provided, we would not cancel the registration. We anticipate that it would not be appropriate to provide the 30-day window for corrective action if the basis for cancellation is an expired registration due to failure to renew a registration in accordance with § 1.230(b). In such circumstances, we anticipate that a facility would have already received notice of its obligation to renew its registration, and therefore would have already have had the amount of time specified in section 415(a)(3) of the FD&C Act—the period beginning on October 1 and ending on December 31 of each even-numbered year—to renew its registration. Accordingly, when a facility's registration has expired due to failure to renew, we do not anticipate that FDA would need to provide the facility with additional time to take corrective action prior to canceling that facility's registration. We further anticipate that if facilities do not respond within 30 days, or if corrective action is otherwise not taken within that time period, we would determine that we conducted an independent verification and would then cancel the registration. If a facility believes its registration was cancelled in error, the facility would be able to contact the FDA Industry Systems Help Desk via telephone at 1–800–216–7331 or 301–575–0156.

Finally, proposed § 1.241(c) would maintain the requirement in current § 1.241(b) that if FDA cancels a facility's registration, FDA will mail a confirmation of the cancellation to the facility at the address provided in the facility's registration.

We are seeking comments on proposed § 1.241(c), as well as the Agency's approach to independently verifying the circumstances that may merit registration cancellation.

11. Proposal To Provide for a Waiver Request From Submitting Your Registration Electronically

As discussed previously, section 415(b)(5)(B) of the FD&C Act, as added by section 102(b) of FSMA, provides that FDA may require that registrations under section 415 be submitted to FDA in an electronic format. Section 415(b)(5)(B) specifies that such requirement may not take effect before the date that is 5 years after the date of enactment of FSMA, which is January 4, 2016. Proposed § 1.231(a)(2) would provide that beginning January 4, 2016,

electronic registration will be mandatory, unless a waiver has been granted for the registrant. Proposed § 1.245 would allow a registrant to request a waiver from the electronic registration requirement. Specifically, proposed § 1.245 would provide that a registrant may request such a waiver by submitting a written request to FDA explaining why it is not reasonable for the registrant to submit a registration or registration renewal electronically to FDA. FDA tentatively concludes that reasons for why it may not be reasonable for a registrant to submit a registration or registration renewal to FDA electronically may include conflicting religious beliefs or where a registrant does not have reasonable access to the Internet. We are seeking comments on this proposed provision and what, if any, other such reason should be considered for granting a waiver from the mandatory electronic registration and email requirements. We are also seeking comments on what information should be provided in a written request for a waiver from the electronic registration requirement.

12. Other Proposed Modifications to Registration of Food Facilities Regulations

*a. Proposal to delete date from § 1.230(a)—When must you register*? Current § 1.230(a) provides that the owner, operator, or agent in charge of a facility that manufactures/processes, packs, or holds food for consumption in the United States must register the facility no later than December 12, 2003. It also provides that the owner, operator, or agent in charge of a facility that begins to manufacture/process, pack, or hold food for consumption in the United States on or after December 12, 2003, must register before the facility begins such activities. The regulation contains the December 12, 2003, deadline because the Bioterrorism Act required facilities subject to food facility registration requirements to register with FDA no later than December 12, 2003. Because the December 12, 2003, deadline has now passed and is no longer relevant, we are proposing to delete the reference to that deadline in proposed § 1.230(a). Thus, proposed § 1.230(a) would contain no deadline, and would instead provide that owners, operators, or agents in charge must register before the facility begins to manufacture, process, pack, or hold food for consumption in the United States. We are seeking comments on this proposed modification.

In addition, proposed § 1.230(a) would retain the provision in current § 1.230(a) that owners, operators and agents in charge may authorize an individual to register the facility on their behalf. Currently, registrations submitted by such authorized individuals must include a statement from such individuals certifying that the information submitted is truthful and accurate and the individual is authorized to submit the registrations on the facility's behalf, and the individual must identify by name, address, and telephone number the individual who authorized submission of the registration. (21 CFR 1.232(i).) The certification statement also states that anyone who makes a materially false, fictitious, or fraudulent statement to the U.S. Government is subject to criminal penalties under 18 U.S.C. 1001. (Under the proposed rule, this certification provision would be recodified at § 1.232(a)(10)). Further, as discussed in section III.B.4., for registrations submitted by individuals other than the owner, operator, or agent in charge, we are proposing to add the email address to the information required for identifying the individual who authorized submission of the registration on behalf of the facility. In addition, we are proposing that FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration to verify that the individual in fact authorized submission of the registration on behalf of the facility. Further, we are proposing that FDA will not confirm the registration or provide a registration number until that individual confirms that he or she authorized the registration submission.

*b. Proposal to replace ''owner, operator, or agent in charge of a facility'' with ''you'' and make other minor changes.* We are proposing to replace the phrase ''owner, operator, or agent in charge of a facility'' throughout the codified at part 1, subpart H, with the term ''you'' as defined in current § 1.227(b)(14) as ''you or registrant means the owner, operator, or agent in charge of a facility that manufactures/processes, packs, or holds food for consumption in the United States.'' We are seeking comments on this proposed modification. In addition, we are proposing to replace the word ''cannot'' in current § 1.227(b)(13) with the term ''may not.'' Accordingly, the pertinent sentence in that provision would provide that, ''A U.S. agent *may not* be in the form of a mailbox, answering machine or service, or other place where an individual acting as the foreign facility's agent is not physically present'' (emphasis added). We are proposing this change to make clear that we are not concerned about a U.S. agent's ability to be in the form of a mailbox, answering machine, or service, or other place where a U.S. agent is not physically present, but rather that we do not authorize a U.S. agent to be in such forms or locations. We are also seeking comments on this proposed modification.

*c. Proposal to delete option for CD–ROM submissions.* We are proposing to delete the option to submit, update, and cancel multiple registrations by CD–ROM. Specifically, we are proposing to remove the option to use CD–ROM for multiple registration submissions in current § 1.231(c), as well as the option to use CD–ROM for updates of multiple submissions in current § 1.234(e) and for cancellations of multiple registrations in current § 1.235(e). FDA is proposing to make these changes because the Agency has tentatively concluded that this method of submitting, updating, and canceling registrations is outdated and obsolete. The Agency has only received 11 CD–ROM submissions since the registration requirements took effect. We are seeking comments on this proposal.

*C. Request for Comment on Establishment of a U.S. Agent Voluntary Identification System*

We are requesting comments on whether we should issue a future guidance document to provide for the creation of a U.S. Agent Voluntary Identification System (VIS or the system), or otherwise create such a system. As currently envisioned, the system would be designed to ensure the accuracy of U.S. agent information and enable U.S. agents to independently identify the facility or facilities for which the agent has agreed to serve. Specifically, the system would allow a U.S. agent to directly provide FDA with the agent's contact information (that is, the same contact information required for foreign food facility registration) and the name of the facility or facilities for which the agent has agreed to serve. Currently, FDA only receives U.S. agent contact information through foreign food facility registrations, many of which are submitted and updated by the facility, rather than the U.S. agent for the facility. The new system would allow agents to provide information about themselves, including their name, mailing address, phone number, email address, and emergency contact phone number, as well as the name of the facility or facilities for which the agent agrees to serve. After a U.S. agent has provided such information to FDA through the system, the Agency would provide the U.S. agent with an

identification number. The U.S. agent could then provide the identification number to foreign facilities that the U.S. agent agrees to represent as a U.S. agent. The foreign facilities, in turn, would have the option of providing the identification number for the U.S. agent in its registration rather than the specific U.S. agent's contact information required for food facility registrations (*e.g.,* address, email address, phone number). After using the identification number, and if the foreign facility name matches a facility name the U.S. agent identified in the system, the U.S. agent contact information in the system would then be linked and automatically populated in the foreign facility registration. When the confirmation copy of a foreign facility registration is sent to the U.S. agent, the confirmation copy would be sent to the contact information provided by the U.S. agent to ensure that the U.S. agent is aware of the connection with each foreign facility registration.

As we envision the voluntary system, U.S. agents would have discretion as to whom they provide their U.S. agent identification numbers. Because U.S. agents would be notified any time a foreign facility registers with FDA using their U.S. agent identification numbers, U.S. agents would have the opportunity to contact FDA in the event the U.S. agent is falsely identified in a food facility registration. U.S. agents would also have the ability to directly update or correct their contact information themselves. If we implement the voluntary U.S. agent verification system, we anticipate that we would also create update requirements that would mirror the update requirements for food facility registration (*i.e.,* 30 calendar days from any of the information previously submitted, as proposed elsewhere in this document). When a foreign facility uses an identification number for a registered U.S. agent and the name of the facility matches the facility name the agent has identified, we would consider the use of that identification a verification for purposes of proposed § 1.231(b)(6), and would therefore provide the facility with a registration number without FDA taking any additional steps to verify the U.S. agent as provided in proposed § 1.231(b)(6). Because the use of an identification number would constitute verification for purposes of proposed § 1.231(b)(6), foreign facilities would have an incentive to use U.S. agents registered in the system. Additionally, because U.S. agents would have direct access to a list of facilities listing them as U.S. agent, they would have an incentive to use the identification system, which we anticipate will limit the number of unauthorized and/or fraudulent U.S. agent listings. We would consider the use by a foreign facility of a U.S. agent identification number to be confirmation that the U.S. agent agrees to serve in that capacity for that foreign facility. If, however, the person designated as the U.S. agent then contacts FDA to state that the person did not agree to serve as the U.S. agent or declines the assignment, FDA would provide the facility with 30 calendar days to correct the U.S. agent information. If the facility does not take correction action, FDA would then take appropriate action.

We are seeking comment on creating this voluntary system because we find merit in the notion that a system that allows U.S. agents to provide their own contact information is likely to increase the accuracy of U.S. agent contact information and reduce the number of unauthorized and/or fraudulent U.S. agent listings.

If we pursue this system, we would follow our Good Guidance Practice regulations in 21 CFR 10.115. We are seeking comments on the proposed U.S. Agent Voluntary Identification System.

## IV. Preliminary Regulatory Impact Analysis

### *A. Overview*

FDA has examined the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all 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, and other advantages; distributive impacts; and equity). FDA has developed a PRIA that presents the benefits and costs of this proposed rule (Ref. 4). FDA believes that the proposed rule will not be a significant regulatory action as defined by Executive Order 12866.

For interested persons, the detailed PRIA (Ref. 4) is available at *http://www.regulations.gov* (enter Docket No. FDA–2002–N–0323), and is also available on FDA's Web site at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/ucm440616.htm.*

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. We expect compliance costs generated by this proposed rule to be small. Nevertheless, we are unsure whether this proposed rule would have a significant economic impact on a substantial number of small entities and have analyzed various regulatory options to examine the impact on small entities.

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

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2013) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

### *D. Public Access to the Analyses*

The analyses that FDA has performed in order to examine the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), are available to the public in the docket for this proposed rule (Ref. 4).

## V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). A description of these provisions is given in the *Description* section of this document with an estimate of the annual reporting burden. Included in the burden estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comment 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.

*Title:* Registration of Food Facilities (OMB Control Number 0910–0502)—Revision.

*Description of Respondents:* Respondents to this collection of information are owners, operators, or agents-in-charge of domestic or foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States.

*Description:* FDA is proposing to amend its regulations governing food facility registration. We are proposing to codify the requirements of section 102 of FSMA that were self-implementing and effective upon enactment of FSMA. In addition, we are proposing to implement other requirements of section 102 of FSMA, as discussed previously, including mandatory electronic registration submissions beginning in 2016 and amendments to the retail food establishment definition. Lastly, we are proposing other changes to improve the utility of the food facility registration database. As discussed in the preamble to the proposed rule, FDA has the authority to issue this proposed rule under section 305(d) of the Bioterrorism Act, sections 102 and 107 of FSMA, and sections 301(dd), 415, 421, 701(a) 704 and 801(l) of the FD&C Act.

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), enacted on January 4, 2011, amended section 415 of the FD&C Act to require, among other things, that registrants for food facilities renew registrations biennially (section 415(a)(3) of the FD&C Act). FSMA also amended section 415 of the FD&C Act to require that food facility registrations include the email address for the contact person of a domestic facility and the email address of the United States agent for a foreign facility, as well as an assurance that FDA will be permitted to inspect the facility (section 415(a)(2) of the FD&C Act). These requirements went into effect upon enactment of FSMA. In addition, section 415(a)(2) of the FD&C Act, as amended by FSMA, also provides that, when determined necessary by FDA ''through guidance,'' a food facility is required to submit to FDA information about the general food category of a food manufactured, processed, packed, or held at such facility, as determined appropriate by FDA, including by guidance. FDA issued a guidance document entitled ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories'' in October 2012.

To comply with the statutory deadline under the provisions of FSMA, FDA initially obtained a 6-month OMB approval of these self-implementing FSMA reporting burdens under the emergency processing provisions of the PRA, and subsequently obtained a 3-year approval of these requirements under the same assigned OMB control number 0910–0502. OMB extended the approval for an additional 3 years in 2013. The current expiration date of the information collection is August 31, 2016.

The proposed rule would require food facilities to submit additional registration information to FDA with initial registrations, updates, and biennial renewals. The proposed rule would make the submission of the following currently optional information mandatory: (1) Preferred mailing address; (2) email address for the owner, operator, or agent in charge; (3) type of activity conducted at the facility; and (4) email address of the emergency contact of a domestic facility. In addition, the proposed rule would require food facilities to submit a D–U–N–S Number and, for registrations submitted by individuals other than the owner, operator, or agent in charge, the email address for the owner, operator, or agent in charge who authorized the registration submission on behalf of the facility. The proposed rule would also require mandatory electronic registration submissions beginning in 2016, which we estimate would cause some food facilities to submit a request for a waiver from that requirement. Finally, the proposed rule would establish a verification procedure for registration submissions made by individuals other than the owner, operator, or agent in charge, as well as a verification procedure for U.S. Agents.

Registration is one of several tools implemented under the Bioterrorism Act that enables FDA to act quickly in responding to a threatened or actual terrorist attack on the U.S. food supply or other food-related emergency by giving FDA information about facilities that manufacture/process, pack, or hold food for consumption in the United States. Further, in the event of an outbreak of foodborne illness, such information helps FDA determine the source and cause of the event. In addition, registration information enables FDA to quickly notify food facilities that might be affected by an outbreak, terrorist attack, threat, or other emergency. The proposed amendments will further enhance FDA's capabilities with respect to responding to food safety issues, and in addition, provide FDA with information that we can use to focus and better utilize our limited inspection resources.

The currently approved reporting burden for food facility registration under OMB control number 0910–0502 is 468,117 hours. The estimated reporting burden for food facility registration under the proposed rule is 413,153 hours, a decrease of 54,964 hours. This decrease is due in large part to a reduction in the number of registered food facilities, which we believe is reflective of the fact that the 2012 biennial registration renewal cycle appears to have had the effect of removing many out-of-date registrations from the registration system. We are proposing to make additional changes to the currently approved reporting burden as well. Since obtaining the FSMA-related emergency OMB approval and subsequent 3-year approval, we have refined our estimates for the time required to comply with the self-implementing FSMA provisions. As we explain in detail in the preliminary economic impact analysis, this is in part because we no longer assume that it will take domestic and foreign facilities different amounts of time to comply with the provisions of the proposed rule. It is also in part because the option to submit abbreviated registration renewals did not previously exist and in part because we have revised additional assumptions.

FDA revises its estimate of the one-time burden of the FSMA-related provisions of the proposed rule on registered facilities as follows:

TABLE 2—ESTIMATED ONE-TIME REPORTING BURDEN [1]

| Activity/21 CFR section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| All facility registrations (1.230–1.233) | 172,274 | 1 | 172,274 | 0.18 (11 mins) | 31,584 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

To determine the number of facilities in table 2, we assume that some of the participants in the 2012 biennial registration renewal cycle were new registrants. We do not consider those new registrations in estimating the total burden associated with the FSMA requirements. FDA used the the Small Business Administraiton's (SBA's) estimate that 12 percent of all businesses are new. Although SBA's estimate does not necessarily mean that 12 percent of all food facilities are new, we nevertheless find the SBA's estimate sufficiently relevant to apply to food facilities. We therefore estimate that 12 percent of currently registered food facilities were not registered at the time of the 2012 registration renewal cycle. As such, we estimate that 88 percent of currently registered food facilities, or 172,274 facilities, were registered in 2012.

Using our updated estimates for the time required to comply with the self-implementing FSMA provisions, we now estimate that the requirement for an email address for a domestic facility's contact person and a foreign facility's U.S. Agent will take 1 minute. We also now estimate that the assurance statement required by FSMA will take 5 minutes to provide and that the post-FSMA changes to food product categories will not result in any additional burden for facilities.

We also estimate the one-time burden from the new data elements in the proposed rule. We estimate that the average burden per response would be increased by the new data elements in the proposed rule. FDA believes that the new information will be readily available to the firms. We estimate that entering the four additional pieces of information that are currently optional would require, on average, an additional minute for each new data element per response. The four additional pieces of information that are currently optional are: (1) Preferred mailing address; (2) email address for the owner, operator, or agent in charge; (3) type of activity or type of storage conducted at the facility; and (4) email address of the emergency contact of a domestic facility. In addition, we estimate that entering a D–U–N–S® Number would require, on average, an additional minute per response. Thus, we estimate that these five proposed new data elements will require a total of 5 additional minutes. We estimate that the submission of the FSMA data elements and proposed new data elements would jointly increase the one-time burden from those activities by a total of 11 minutes (0.18 hour). The estimated one-time burden for currently registered facilities is therefore 172,274 facilities × 0.18 hours = 31,584 hours.

FDA estimates the annual burden of the proposed rule's revision of this information collection as follows:

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity/21 CFR section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total |
|---|---|---|---|---|---|
| New domestic facility registrations (1.230–1.233) | 9,795 | 1 | 9,795 | 2.7 | 26,447 |
| New foreign facility registrations (1.230–1.233) | 13,697 | 1 | 13,697 | 8.7 | 119,164 |
| Updates (1.234) | 68,518 | 1 | 68,518 | 1.5 | 102,777 |
| Cancellations (1.235) | 6,390 | 1 | 6,390 | 1 | 6,390 |
| Biennial renewals (1.235) | 97,883 | 1 | 97,883 | 0.38 (23 minutes) | 37,196 |
| Waiver requests (1.245) | 1,061 | 1 | 1,061 | 0.17 (10 minutes) | 180 |
| Third party registration verification procedure | 41,256 | 1 | 41,256 | 0.25 (15 minutes) | 10,314 |
| U.S. Agent verification procedure | 57,070 | 1 | 57,070 | 0.5 (30 minutes) | 28,535 |
| Total Hours | | | | | 331,002 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The currently approved annual reporting burden for food facility registration under OMB control number 0910–0502 is 468,117 hours. The estimated reporting burden for food facility registration under the proposed rule is 332,971 hours, a decrease of 135,146 hours. This decrease is due to the recently reduced number of active registrations in the food facility registration database.

Our estimates of the number of facilities that will submit new facility registrations are based on estimates by SBA that 12 percent of all businesses each year are new. As such, we estimate that 12 percent of registrations (or 23,500 registrations) are from new facilities entering the market. We are proposing to make additional changes to the currently approved reporting burden as well. As discussed previously, FDA obtained a 6-month emergency OMB approval of the self-implementing FSMA reporting burdens, and subsequently obtained a 3-year approval of these requirements. As described in the preliminary economic impact analysis, we estimate that 68,518 respondents will file updates, a decrease from the estimated number of 118,530 respondents reported in the 2013 request for extension, and we estimate that 97,883 respondents will file biennial renewals, a decrease from the

estimated number of 224,930 respondents reported in the 2013 request for extension. These decreases are due to recent reductions in the number of active registrations in the food facility registration database.

Prior to FSMA, FDA estimated that the average burden associated with new domestic and foreign facility registrations was a respective 2.5 and 8.5 hours. (See 75 FR 30033, May 28, 2010.) We expect that the proposed rule would add an additional 11 minutes to that burden as a result of the proposed new data elements. Based on estimates by SBA that 12 percent of all businesses are new, we estimate that all new facilities each year will be equal to 12 percent of the total number of registered facilities. Thus, we estimate that each year there will be 9,795 new domestic and 13,697 new foreign facility registrations, and that the average burden for those new registrations will be of 2.7 hours (2.5 hours plus 11 minutes) for new domestic facility registrations and 8.7 hours (8.5 hours plus 11 minutes) for new foreign facility registrations, as reported in table 28, rows 1 and 2) (p. 64 of Ref. 4).

The proposed rule would also shorten the time period for updates from 60 calendar days to 30 calendar days. The average burden per response for updates would increase from 1.2 hours to 1.54 hours (difference of 0.34 hours, or about 20 minutes), as reported in table 28, row 3 (p. 64 of Ref. 4).

This proposed rule would also establish an abbreviated renewal process, which modifies our previous estimate that on average it would take 0.5 hours per renewal. With the option for an abbreviated renewal process, we estimate that half the facilities will take 15 minutes per renewal using the abbreviated renewal process and that half of facilities will take 30 minutes. This alters our previous estimate of 0.5 hours to submit a renewal to an average of 0.38 hours (23 minutes) to submit a renewal, as reported in table 28, row 5 (p. 64 of Ref. 4). This estimate takes into account that some registered firms would be able to take advantage of the abbreviated renewal process, while other firms would take more time to prepare and submit the renewal, as discussed in the preliminary economic impact analysis. We have not changed our estimate of the average burden per response for cancellations because the proposed rule does not add new data elements for cancellations.

If the rule is finalized as proposed, it would mandate the electronic submission of food facility registrations, while also allowing respondents to submit a request for waiver of the requirement to electronically submit their registration. As described in the preliminary economic impact analysis, we estimate that, on average, 1,061 facilities will seek a waiver each year. We also estimate that it would take a respondent 10 minutes to prepare the proposed waiver request submission and attach it to their paper Form FDA 3537 registration submission. Thus, the total annual burden of submitting waiver requests is estimated to be 180 hours ($1{,}061 \times 0.17$ hours), as reported in table 28, row 6 (p. 64 of Ref. 4).

If the rule is finalized as proposed, it would establish a verification procedure for registrations submitted by individuals other than the owner, operator, or agent-in-charge (third party registrations), as well as a verification procedure for U.S. Agents. To verify third-party registrations, FDA would send an email to the owner, operator, or agent in charge with a link allowing the owner, operator, or agent in charge to either confirm or deny that he or she authorized the registration submission on behalf of the facility. In connection with requiring his verification process, the proposed rule would add email address to the list of required information identifying the individual who authorized submission of registrations submitted by individuals other than the owner, operator, or agent in charge. As described in the preliminary economic impact analysis, we estimate that it would take an owner, operator, or agent in charge 15 minutes (0.25 hour) to participate in FDA's verification procedure. This estimate includes the time required to enter the email address of the owner, operator, or agent in charge who authorized the submission. We further estimate that 82,513 registrations would be affected once every other year, or 41,257 annually. Thus, the total annual burden of these verifications is estimated to be 10,314 hours ($41{,}257 \times 0.25$ hour = 10,314 hours), as reported in table 28, row 7 (p. 64 of Ref. 4).

To verify the U.S. Agent, FDA would send an email to the U.S. Agent at the email address provided by the registrant. The email address would include a link that would connect the U.S. Agent to FDA's food facility registration module, allowing the U.S. Agent to either accept or decline assignment with the facility. If the U.S. Agent accepts the assignment, FDA would also email the facility of the U.S. Agent's acceptance. If, however, a U.S. Agent declines the assignment, the issuance of the registration number could be delayed. We estimate that the burden that will result from the verification procedure would be about 30 minutes (0.5 hours). We also estimate that 114,139 registrations would be affected once every 2 years, or 57,070 facility registrations annually. Thus, the total annual burden of these verifications is estimated to be 28,535 hours ($57{,}070 \times 0.5$ hour = 28,535 hours), as reported in table 28, row 8 (p. 64 of Ref. 4).

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3407(d)), the Agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection to the Office of Information and Regulatory Affairs, OMB.

To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Registration of Food Facilities.'' These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

## VI. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## VII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule, if finalized, would not contain policies that would 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. Accordingly, we tentatively conclude that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

## VIII. Request for Comments

We invite public comment on the matters specified in this document as well as any other matters concerning this proposed rule that are of interest.

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

## IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (We have verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA, ''Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food'' (*http://www.fda.gov/downloads/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/UCM399369.pdf*), accessed on March 27, 2015.
2. FDA, ''Field Management Directives,'' (*http://www.fda.gov/ICECI/Inspections/FieldManagementDirectives/ucm096034.htm*), accessed on March 27, 2015.
3. FDA, ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories,'' (*http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/FoodDefense/ucm324778.htm*), accessed on March 27, 2015.
4. FDA, ''Preliminary Regulatory Impact Analysis,'' 2014.

**List of Subjects in 21 CFR Part 1**

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 1 be amended as follows:

## PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for 21 CFR part 1 is revised to read as follows:

**Authority:** 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 343, 350c, 350d, 350j, 352, 355, 360b, 362, 371, 374, 379j–31, 381, 382, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264; Pub. L. 107–188, 116 Stat. 594, 668–69.

■ 2. Revise § 1.227 (b)(11) and (13) to read as follows:

### § 1.227 What definitions apply to this subpart?

* * * * *

(b) * * *

(11) *Retail food establishment* means an establishment that sells food products directly to consumers as its primary function. The term ''retail food establishment'' includes facilities that manufacture, process, pack, or hold food if the establishment's primary function is to sell from that establishment food, including food that it manufactures, processes, packs, or holds, directly to consumers. A retail food establishment's primary function is to sell food directly to consumers if the annual monetary value of sales of food products directly to consumers exceeds the annual monetary value of sales of food products to all other buyers. The term ''consumers'' does not include businesses. A ''retail food establishment'' includes grocery stores, convenience stores, and vending machine locations. Sale of food directly to consumers from an establishment located on a farm includes sales by that establishment directly to consumers:

(i) At a roadside stand (a stand situated on the side of or near a road or thoroughfare at which a farmer sells food from his or her farm directly to consumers) or farmers' market (a location where one or more local farmers assemble to sell food from their farms directly to consumers);

(ii) Through a community supported agriculture program. Community supported agriculture (CSA) program means a program under which a farmer or group of farmers grows food for a group of shareholders (or subscribers) who pledge to buy a portion of the farmer's crop(s) for that season. This includes CSA programs in which a group of farmers consolidate their crops at a central location for distribution to shareholders or subscribers; and

(iii) At other such direct-to-consumer sales platforms, including door-to-door sales; mail, catalog and Internet order, including online farmers markets and online grocery delivery; religious or other organization bazaars; and State and local fairs.

* * * * *

(13) *U.S. agent* means a person (as defined in section 201(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(e))) residing or maintaining a place of business in the United States whom a foreign facility designates as its agent for purposes of this subpart. A U.S. agent may not be in the form of a mailbox, answering machine or service, or other place where an individual acting as the foreign facility's agent is not physically present.

(i) The U.S. agent acts as a communications link between FDA and the foreign facility for both emergency and routine communications. The U.S. agent will be the person FDA contacts when an emergency occurs, unless the registration specifies another emergency contact.

(ii) FDA will treat representations by the U.S. agent as those of the foreign facility, and will consider information or documents provided to the U.S. agent the equivalent of providing the information or documents to the foreign facility. FDA will consider the U.S. agent the equivalent of the registrant for purposes of sharing information and communications. The U.S. agent of a foreign facility may view the information submitted in the foreign facility's registration.

(iii) Having a single U.S. agent for the purposes of this subpart does not preclude facilities from having multiple agents (such as foreign suppliers) for other business purposes. A firm's commercial business in the United States need not be conducted through the U.S. agent designated for purposes of this subpart.

* * * * *

■ 3. Revise § 1.230 to read as follows:

### § 1.230 When must you register or renew your registration?

(a) *Registration.* You must register before your facility begins to manufacture, process, pack, or hold food for consumption in the United States. You may authorize an individual to register the facility on your behalf.

(b) *Registration renewal.* You must submit a registration renewal containing the information required under § 1.232 every other year, during the period beginning on October 1 and ending on December 31 of each even-numbered year. You may authorize an individual to renew a facility's registration on your behalf. If the individual submitting the registration renewal is not the owner, operator, or agent in charge of the facility, the registration renewal must also include a statement in which the individual certifies that the information submitted is true and accurate, certifies that he/she is authorized to submit the registration renewal, and identifies by name, address, email address, and

telephone number, the individual who authorized submission of the registration renewal. Each registration renewal must include the name of the individual submitting the registration renewal, and the individual's signature (for the paper option).

(c) *Abbreviated registration renewal process.* If you do not have any changes to the information required under § 1.232 since you submitted the preceding registration or registration renewal for your facility, you may use the abbreviated registration renewal process. If you use the abbreviated registration renewal process, you must confirm that no changes have been made to the information required under § 1.232 since you submitted the preceding registration or registration renewal, confirm that FDA will be permitted to inspect the facility at the times and in the manner permitted by the Federal Food, Drug, and Cosmetic Act, and certify that the information submitted is truthful and accurate. You must use Form FDA 3537 to submit abbreviated registration renewals to FDA.

■ 4. Revise § 1.231 to read as follows:

**§ 1.231 How and where do you register or renew your registration?**

(a) *Electronic registration and registration renewal.* (1) To register or renew a registration electronically, you must go to *http://www.fda.gov/furls,* which is available for registration 24 hours a day, 7 days a week. This Web site is available from wherever the Internet is accessible, including libraries, copy centers, schools, and Internet cafes. An individual authorized by the owner, operator, or agent in charge of a facility may also register a facility electronically.

(2) Beginning on January 4, 2016, you must submit your registration or registration renewal to FDA electronically, unless you have been granted a waiver under § 1.245.

(3) After you complete your electronic registration, FDA will verify the accuracy of your facility's Data Universal Numbering System (D–U–N–S® number) and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not confirm your registration or provide you with a registration number until FDA verifies the accuracy of your facility's D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. With respect to electronic registration renewals, after you complete your electronic registration renewal, FDA will provide you with an electronic confirmation of your registration renewal. When you update your facility's D–U–N–S® number as part of your electronic registration renewal, FDA will verify the accuracy of your facility's D–U–N–S® number and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not provide you with an electronic confirmation of your registration renewal until FDA verifies the accuracy of your D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration.

(4) For electronic registrations not submitted by the owner, operator, or agent in charge of the facility, after completion of the electronic registration, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration to verify that the individual in fact authorized submission of the registration on behalf of the facility. FDA will not confirm the registration or provide a registration number until that individual confirms that he or she authorized the registration submission. With respect to electronic registration renewals, after completion of the electronic registration renewal, FDA will provide an electronic confirmation of the registration renewal. For electronic registration renewals not submitted by the owner, operator, or agent in charge of the facility, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration renewal to verify that the individual in fact authorized submission of the registration renewal on behalf of the facility. FDA will not provide an electronic confirmation of the registration renewal until that individual confirms that he or she authorized the registration renewal.

(5) For a foreign facility, after you complete your electronic registration, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as your U.S. agent, to verify that the person has agreed to serve as your U.S. agent. FDA will not confirm your registration or provide you with a registration number until that person confirms that the person agreed to serve as your U.S. agent. With respect to electronic registration renewals, after you complete your electronic registration renewal, FDA will provide you with an electronic confirmation of your registration renewal. When you update information about your U.S. agent as part of your electronic registration renewal, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as your U.S. agent, to verify that the person has agreed to serve as your U.S. agent. FDA will not provide you with an electronic confirmation of your registration renewal until that person confirms that the person agreed to serve as your U.S. agent.

(6) If any information you previously submitted was incorrect at the time of submission, you must immediately update your facility's registration as specified in § 1.234.

(7) You will be considered registered once FDA electronically transmits your confirmation and registration number.

(b) *Registration or registration renewal by mail or fax.* Before January 4, 2016, if you do not have reasonable access to the Internet through any of the methods described in paragraph (a) of this section, you may register or renew a registration by mail or by fax. Beginning January 4, 2016, you must submit your registration or registration renewal to FDA electronically, unless you have been granted a waiver under § 1.245.

(1) You must register or renew a registration (including abbreviated registration renewals) using Form FDA 3537. You may obtain a copy of this form by writing to the U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy. (HFS–681), College Park, MD 20993, or by requesting the form by phone at 1–800–216–7331 or 301–575–0156.

(2) When you receive the form, you must fill it out completely and legibly and either mail it to the address in paragraph (b)(1) of this section or fax it to 301–436–2804.

(3) If any required information on the form is incomplete or illegible when FDA receives it, FDA will return the form to you for revision, provided that your mailing address or fax number is legible and valid. When returning a registration form for revision, FDA will use the means by which the form was received by the Agency (*i.e.,* by mail or fax).

(4) FDA will enter complete and legible mailed and faxed registration submissions into its registration system, as soon as practicable, in the order FDA receives them.

(5) After you complete your registration, FDA will verify the accuracy of your facility's D–U–N–S® number and will also verify that the

facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not confirm your registration or provide you with a registration number until FDA verifies the accuracy of your facility's D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. With respect to registration renewals, after you complete your registration renewal by mail or fax, FDA will provide you with a confirmation of your registration renewal. When you update your facility's D–U–N–S® number as part of your registration renewal, FDA will verify the accuracy of your facility's D–U–N–S® number and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not provide you with a confirmation of your registration renewal until FDA verifies the accuracy of your D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration.

(6) For registrations not submitted by the owner, operator, or agent in charge of the facility, after completion of the registration by mail or fax, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration to verify that the individual in fact authorized submission of the registration on behalf of the facility. FDA will not confirm the registration or provide a registration number until that individual confirms that he or she authorized the registration submission. With respect to registration renewals, after completion of the registration renewal by mail or fax, FDA will provide a confirmation of the registration renewal. For registration renewals not submitted by the owner, operator, or agent in charge of the facility, FDA will email the individual identified as the owner, operator or agent in charge who authorized submission of the registration renewal to verify that the individual in fact authorized the submission of the registration renewal on behalf of the facility. FDA will not provide a confirmation of the registration renewal until that individual confirms that he or she authorized the registration renewal.

(7) For a foreign facility, after you complete your registration by mail or fax, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as the U.S. agent in your registration, to verify that the person has agreed to serve as your U.S. agent. FDA will not confirm your registration or provide you with a registration number until that person confirms that the person agreed to serve as your U.S. agent. With respect to registration renewals, after you complete your registration renewal by mail or fax, FDA will provide you with a confirmation of your registration renewal. When you update information about your U.S. agent as part of your registration renewal, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as your U.S. agent, to verify that the person has agreed to serve as your U.S. agent. FDA will not provide you with a confirmation of your registration renewal until that person confirms that the person agreed to serve as your U.S. agent.

(8) FDA will mail or fax a copy of the registration as entered, confirmation of registration, and your registration number. When responding to a registration submission, FDA will use the means by which the registration was received by the Agency (*i.e.,* by mail or fax).

(9) If any information you previously submitted was incorrect at the time of submission, you must immediately update your facility's registration as specified in § 1.234.

(10) Your facility is considered registered once FDA enters your facility's registration data into the registration system and the system generates a registration number.

(c) *Fees.* No registration fee is required.

(d) *Language.* You must submit all registration information in the English language except an individual's name, the name of a company, the name of a street, and a trade name may be submitted in a foreign language. All information, including these items, must be submitted using the Latin (Roman) alphabet.

■ 5. Revise § 1.232 to read as follows:

**§ 1.232 What information is required in the registration?**

(a) For a domestic and foreign facility, the following information is required:

(1) The name, full address, and phone number of the facility;

(2) The D–U–N–S® number of the facility;

(3) The preferred mailing address, if different from that of the facility;

(4) The name, full address, and phone number of the parent company, if the facility is a subsidiary of the parent company;

(5) All trade names the facility uses;

(6) The name, full address, phone number, and email address of the owner, operator, or agent in charge of the facility;

(7) The applicable food product categories of any food manufactured/processed, packed, or held at the facility as identified on Form FDA 3537;

(8) The type of activity conducted at the facility for each food product category identified. You may select more than one activity type for each food product category identified. The activity type options are as follows:

(i) Ambient human food storage warehouse/holding facility;

(ii) Refrigerated human food warehouse/holding facility;

(iii) Frozen human food warehouse/holding facility;

(iv) Interstate conveyance caterer/catering point;

(v) Contract Sterilizer;

(vi) Labeler/Relabeler;

(vii) Manufacturer/Processor;

(viii) Farm Mixed-Type Facility;

(ix) Packer/Repacker;

(x) Salvage Operator (Reconditioner);

(xi) Animal food warehouse/holding facility;

(xii) Other Activity.

(9) A statement in which the owner, operator, or agent in charge provides an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the Federal Food, Drug, and Cosmetic Act;

(10) A statement in which the owner, operator, or agent in charge certifies that the information submitted is true and accurate. If the individual submitting the form is not the owner, operator, or agent in charge of the facility, the registration must also include a statement in which the individual certifies that the information submitted is true and accurate, certifies that he/she is authorized to submit the registration, and identifies by name, address, email address and telephone number, the individual who authorized submission of the registration. Each registration must include the name of the individual registering the facility submitting the registration, and the individual's signature (for the paper option).

(b) For a domestic facility, the following additional information is required:

(1) The email address for the contact person of the facility;

(2) An emergency contact phone number and email address if different from the email address for the contact person in paragraph (b)(1) of this section.

(c) For a foreign facility, the following additional information is required:

(1) The name, full address, phone number, and email address of the foreign facility's U.S. agent;

(2) An emergency contact phone number and email address.

■ 6. Revise § 1.233 to read as follows:

**§ 1.233 Are there optional items included in the registration form?**

Yes. FDA encourages, but does not require, you to submit items that are indicated as optional on the Form FDA 3537 that you submit.

■ 7. Revise § 1.234 to read as follows:

**§ 1.234 How and when do you update your facility's registration information?**

(a) *Update requirements.* You must update a facility's registration within 30 calendar days of any change to any of the information previously submitted under § 1.232 (*e.g.,* change of operator, agent in charge, or U.S. agent), except a change of the owner. You may authorize an individual to update a facility's registration on your behalf. For updates not submitted by the owner, operator, or agent in charge of the facility, the update must provide the email address of the owner, operator, or agent in charge who authorized submission of the update.

(b) *Cancellation due to ownership changes.* If the reason for the update is that the facility has a new owner, the former owner must cancel the facility's registration as specified in § 1.235 within 30 calendar days of the change and the new owner must submit a new registration for the facility as specified in § 1.231. The former owner may authorize an individual to cancel a facility's registration.

(c) *Electronic update.* (1) To update your registration electronically, you must update at *http://www.fda.gov/furls.*

(2) After you complete your electronic update, FDA will provide you with an electronic confirmation of your update. When updating D–U–N–S® number information, FDA will verify the accuracy of your facility's D–U–N–S® number and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not provide you with an electronic confirmation of your registration update until FDA verifies the accuracy of your facility's D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. For foreign facilities, when updating information about your U.S. agent, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as your U.S. agent, to verify that the person has agreed to serve as your U.S. agent. FDA will not provide you with an electronic confirmation of your registration update until that person confirms that the person agreed to serve as your U.S. agent.

(3) For electronic updates not submitted by the owner, operator, or agent in charge of the facility, after completion of the electronic update, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the update to verify that the individual in fact authorized submission of the update on behalf of the facility. FDA will not confirm the update to the registration until that individual confirms that he or she authorized the update.

(4) Your registration will be considered updated once FDA transmits your update confirmation, unless notified otherwise.

(d) *Update by mail or fax.* Before January 4, 2016, if you do not have reasonable access to the Internet through any of the methods described in § 1.231(a), you may update your facility's registration by mail or by fax. Beginning January 4, 2016, electronic updates will be mandatory, unless a waiver under § 1.245 has been granted.

(1) You must update your registration using Form FDA 3537. You may obtain a copy of this form by writing to the U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy. (HFS–681), College Park, MD 20993 or by requesting the form by phone at 1–800–216–7331 or 301–575–0156.

(2) When you receive the form, you must legibly fill out the sections of the form reflecting your updated information and either mail it to the address in paragraph (d)(1) of this section or fax it to 301–436–2804.

(3) If the information on the form is incomplete or illegible when FDA receives it, FDA will return the form to you for revision, provided that your mailing address or fax number is legible and valid. When returning a registration form for revision, FDA will use the means by which the registration was received by the Agency (*i.e.,* by mail or fax).

(4) FDA will enter complete and legible updates into its registration system as soon as practicable, in the order FDA receives them.

(5) FDA will then mail to the address or fax to the fax number on the registration form a copy of the update as entered and confirmation of the update. When responding to an update submission, FDA will use the means by which the form was received by the Agency (*i.e.,* by mail or fax). After you complete your update by mail or fax, FDA will verify the accuracy of your facility's D–U–N–S® number and will also verify that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. FDA will not provide a confirmation of your registration update until FDA verifies the accuracy of your facility's D–U–N–S® number and verifies that the facility-specific address associated with the D–U–N–S® number is the same address associated with your registration. For foreign facilities, when updating information about your U.S. agent, FDA will email the person identified as the U.S. agent for your foreign facility, using the email address for the person identified as your U.S. agent, to verify that the person has agreed to serve as your U.S. agent. FDA will not provide you with a confirmation of your registration update until that person confirms that the person agreed to serve as your U.S. agent.

(6) For registration updates not submitted by the owner, operator, or agent in charge of the facility, after completion of the registration update by mail or fax, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration update to verify that the individual in fact authorized submission of the update on behalf of the facility. FDA will not confirm the registration update until that individual confirms that he or she authorized the update.

(7) If any update information you previously submitted was incorrect at the time of submission, you must immediately resubmit your update.

(8) Your registration will be considered updated once FDA enters your facility's update data into the registration system and the system generates an update confirmation.

■ 8. Revise § 1.235 to read as follows:

**§ 1.235 How and when do you cancel your facility's registration information?**

(a) *Notification of registration cancellation.* You must cancel a registration within 30 calendar days of the reason for cancellation (*e.g.,* your facility ceases operations, ceases providing food for consumption in the United States, or is sold to a new owner).

(b) *Cancellation requirements.* The cancellation of a facility's registration must include the following information:

(1) The facility's registration number;

(2) Whether the facility is domestic or foreign;

(3) The facility name and address;

(4) The name, address, and email address (if available) of the individual submitting the cancellation;

(5) For registration cancellations not submitted by the owner, operator, or agent in charge of the facility, the email address of the owner, operator, or agent in charge who authorized submission of the registration cancellation; and

(6) A statement certifying that the information submitted is true and accurate, and that the person submitting the cancellation is authorized by the facility to cancel its registration.

(c) *Electronic cancellation.* (1) To cancel your registration electronically, you must cancel at *http://www.fda.gov/furls.*

(2) Once you complete your electronic cancellation, FDA will automatically provide you with an electronic confirmation of your cancellation.

(3) For registration cancellations not submitted by the owner, operator, or agent in charge of the facility, after completion of the registration cancellation, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration cancellation to verify that the individual in fact authorized submission of the registration cancellation on behalf of the facility. FDA will not confirm the registration cancellation until that individual confirms that he or she authorized the registration cancellation.

(4) Your registration will be considered cancelled once FDA transmits your cancellation confirmation.

(d) *Cancellation by mail or fax.* Before January 4, 2016, if you do not have reasonable access to the Internet through any of the methods described in § 1.231(a), you may cancel your facility's registration by mail or fax. Beginning January 4, 2016, you must cancel your registration electronically unless a waiver under § 1.245 has been granted.

(1) You must cancel your registration using Form FDA 3537a. You may obtain a copy of this form by writing to the U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy. (HFS–681), College Park, MD 20993 or by requesting the form by phone at 1–800–216–7331 or 301–575–0156.

(2) When you receive the form, you must completely and legibly fill out the form and either mail it to the address in paragraph (d)(1) of this section or fax it to 301–436–2804.

(3) If the information on the form is incomplete or illegible when FDA receives it, FDA will return the form to you for revision, provided that your mailing address or fax number is legible and valid. When returning a cancellation form for revision, FDA will use the means by which the cancellation was received by the Agency (*i.e.,* by mail or fax).

(4) FDA will enter complete and legible mailed and faxed cancellations into its registration system as soon as practicable, in the order FDA receives them.

(5) FDA will mail to the address or fax to the fax number on the cancellation form a copy of the cancellation as entered and confirmation of the cancellation. When responding to a cancellation, FDA will use the means by which the form was received by the Agency (*i.e.,* by mail or fax).

(6) For registration cancellations not submitted by the owner, operator, or agent in charge of the facility, after completion of the registration cancellation by mail or fax, FDA will email the individual identified as the owner, operator, or agent in charge who authorized submission of the registration cancellation to verify that the individual in fact authorized submission of the registration cancellation on behalf of the facility. FDA will not confirm the registration cancellation until that individual confirms that he or she authorized the registration cancellation.

(7) If any information you previously submitted was incorrect at the time of submission, you must immediately resubmit your cancellation.

(8) Your registration will be considered cancelled once FDA enters your facility's cancellation data into the registration system and the system generates a confirmation.

(e) *Cancellation by CD–ROM for multiple submissions.* If, for example, you do not have reasonable access to the Internet through any of the methods described in § 1.231(a), you may cancel your facilities' registrations using a CD–ROM.

■ 9. Revise § 1.241 to read as follows:

**§ 1.241 What are the consequences of failing to register, update, renew, or cancel your registration?**

(a) Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) prohibits the doing of certain acts or causing such acts to be done. Under section 302 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 332), the United States can bring a civil action in Federal court to enjoin a person who commits a prohibited act. Under section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), the United States can bring a criminal action in Federal court to prosecute a person who is responsible for the commission of a prohibited act. Under section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a), FDA can seek debarment of any person who has been convicted of a felony relating to importation of food into the United States. Failure of an owner, operator, or agent in charge of a domestic or foreign facility to register its facility, renew the registration of its facility, update required elements of its facility's registration, or cancel its registration in accordance with the requirements of this subpart is a prohibited act under section 301(dd) of the Federal Food, Drug, and Cosmetic Act.

(b) FDA will consider a registration for a food facility to be expired if the registration is not renewed, as required by § 1.230(b). Thus, if you previously submitted a registration to FDA, but do not submit a registration renewal to FDA during the period beginning on October 1 and ending on December 31 of each even-numbered year, FDA will consider the registration for the facility to be expired. FDA will consider a food facility with an expired registration to have failed to register in accordance with section 415 of the Federal Food, Drug, and Cosmetic Act.

(c) FDA will cancel a registration if FDA independently verifies that the facility is no longer in business or has changed owners, and the owner, operator, or agent in charge of the facility fails to cancel the registration, or if FDA determines that the registration is for a facility that does not exist, is not required to register, or where the information about the facility's address was not updated in a timely manner in accordance with § 1.234(a) or the registration was submitted by a person not authorized to submit the registration under § 1.225. Also, FDA will cancel a registration if the facility's registration has expired because the facility has failed to renew its registration in accordance with § 1.230(b). If FDA cancels a facility's registration, FDA will mail a confirmation of the cancellation to the facility at the address provided in the facility's registration.

(d) If an article of food is imported or offered for import into the United States and a foreign facility that manufactured/processed, packed, or held that article of food has not registered in accordance with this subpart, the disposition of the article of food shall be governed by the procedures set out in subpart I of this part.

■ 10. Add § 1.245 to subpart H to read as follows:

**§ 1.245 Waiver request.**

Under § 1.231(a)(2) and (b), beginning January 4, 2016, you must submit your registration or registration renewal to FDA electronically unless FDA grants a waiver from such requirement. To request a waiver from such requirement, you must submit a written request to FDA that explains why it is not reasonable for you to submit your registration or registration renewal to FDA electronically. You must submit your request to: U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy. (HFS–681), College Park, MD 20993.

Dated: April 1, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

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# FEDERAL REGISTER

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Part IV

## The President

Proclamation 9251—National Public Health Week, 2015

Federal Register
Vol. 80, No. 68
Thursday, April 9, 2015

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9251 of April 6, 2015**

## National Public Health Week, 2015

**By the President of the United States of America**

**A Proclamation**

Last year, as Ebola spread in West Africa—overwhelming public health systems and threatening to cross more borders—American women and men responded with extraordinary courage and dedication, traveling to the front lines of the outbreak and leading preparedness efforts here at home. Driven by their sense of duty and a commitment to serving a cause greater than themselves, public health professionals rose to the challenge at home and abroad and turned the tide of an epidemic. They demonstrated what is possible when America leads and when we make policy based on sound science and good judgment. Their efforts represent what is best about our national character and embody the most basic human instinct: to leave our children a safer, healthier, more prosperous world.

As a Nation, we must continue to support public health with the same sense of purpose and fierce determination. This week, we join together to declare our intent to rise to the challenges of a changing world and meet our moral obligations to protect the health of our country and the well-being of the next generation.

America's public health is deeply tied to the health of our environment. As our planet becomes more interconnected and our climate continues to warm, we face new threats to our safety and well-being. In the past three decades, the percentage of Americans with asthma has more than doubled, and climate change is putting these individuals and many other vulnerable populations at greater risk of landing in the hospital. Rising temperatures can lead to more smog, longer allergy seasons, and an increased incidence of extreme-weather-related injuries and illnesses.

My Administration is dedicated to combating the health impacts of climate change. As part of my Climate Action Plan, we have proposed the first-ever carbon pollution limits for existing power plants—standards that would help Americans live longer, healthier lives. And as we continue to ensure the resilience of our health care system, we are working to prepare our health care facilities to handle the effects of a changing planet. Climate change is no longer a distant threat. Its effects are felt today, and its costs can be measured in human lives. Every person, every community, and every nation has a duty to protect the health of all our children and grandchildren, and my Administration is committed to leading this effort.

The United States has faced challenges before, and each time we have boldly taken responsibility for our destiny and reached for the future we knew was possible. Today, vaccines prevent diseases that once devastated nations—and we should do more to spread the facts about their benefits. After 5 years of the Affordable Care Act, more than 16 million uninsured Americans have gained health insurance coverage, and this achievement has cut the ranks of the uninsured by nearly one-third.

We are shifting the focus of our country's health care system from sickness and disease to wellness and prevention. First Lady Michelle Obama's *Let's Move!* initiative is working to make it easier for parents and children to make healthy choices about the food they eat and the exercise they get every day. With partners around the world, the United States launched

the Global Health Security Agenda to help prevent, detect, and respond to outbreaks before they become epidemics. And my Administration is taking aggressive, coordinated actions to slow the emergence and prevent the spread of antibiotic-resistant bacteria.

Public health is the foundation for a brighter tomorrow. When we invest in the safety and well-being of all Americans, we enrich our communities, bolster our economy, and strengthen our Nation. During National Public Health Week, we recognize public health professionals and all who care for the welfare of others, and we recommit to doing everything within our power to build a world where every child can enjoy the limitless possibilities of a healthy life.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 6 through April 12, 2015, as National Public Health Week. I call on all citizens, government agencies, private businesses, non-profit organizations, and other groups to join in activities and take action to improve the health of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of April, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

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